

“Licensed premises” means premises licensed under Part III of the Liquor Act, 1912, and includes clubs registered under that Act. No. 34, 1946.

“Referendum” means the referendum to be conducted under this Part.

“This Part” means this Part of this Act, and includes the Schedule to this Act.

(2) A reference in this Part to the Liquor Act, 1912, shall be construed as a reference to that Act as amended by subsequent Acts.

(3) A reference in this Part to the Parliamentary Electorates and Elections Act, 1912, shall be construed as a reference to that Act as amended by subsequent Acts.

4. The question of the hour at which licensed premises shall close, shall be submitted by way of a referendum to the electors qualified to vote for the election of members of the Legislative Assembly. Referendum
on closing
hour.

The question shall be so submitted to the electors within twelve months after the date upon which the Assent of His Majesty to this Act is signified.

5. (1) Subject to this Part the provisions of the Parliamentary Electorates and Elections Act, 1912, and any regulations made thereunder shall, so far as they are applicable, apply to and in respect of the referendum as if it were an election, and for the purposes of the referendum references in any such provision shall be read as follows:— Application
of Act No.
41, 1912, *cf.*
Act No. 2,
1930, s. 5.

- (a) a reference to a writ shall be read as a reference to the writ for the referendum;
- (b) a reference to a polling-day shall be read as a reference to the day fixed by the writ for the referendum for the taking of the votes of the electors;
- (c) a reference to a poll shall be read as a reference to the taking of the votes of the electors for the purposes of the referendum;
- (d) a reference to an election shall be read as a reference to the referendum;
- (e) a reference to electoral matter or to electoral papers shall be read as a reference to corresponding matter or papers in relation to the referendum;
- (f)

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- (f) a reference to a ballot-paper, ballot-box, or other thing shall be read as a reference to a ballot-paper, ballot-box, or corresponding thing in relation to the referendum;
- (g) any reference to "this Act" or "this Part" shall be read as a reference to the provisions or Part, as the case may be, of the Act applicable to the referendum.
- (2) For the purposes of the referendum—
- (a) each returning officer shall, subject to the directions of the Electoral Commissioner, make the necessary arrangements for the taking of the votes of the electors in his electoral district;
- (b) a ballot-paper shall not be rejected as informal except for a reason specified in this Part or in the regulations made thereunder;
- (c) the vote of an elector shall be marked on his ballot-paper in the manner directed by this Part;
- (d) upon the adjournment of a poll by any deputy, such deputy shall forthwith give notice thereof to the returning officer;
- (e) where any polling stands adjourned the returning officer shall not transmit his statement of the result of the voting in his district to the Electoral Commissioner until the poll so adjourned has been finally closed and the ballot-papers transmitted to the returning officer.

DIVISION 2—*Writ for the referendum.*

6. A writ for the referendum may be issued by the Governor. The writ shall be directed to the Electoral Commissioner.

7. (1) The writ may be in or to the effect of the Form A in the Schedule to this Act, and shall appoint a day for taking the votes of the electors, and a day for the return of the writ.

(2) The day appointed for taking the votes of the electors shall be a Saturday, and shall be not later than the fortieth day from the date of the issue of the writ.

8. The Electoral Commissioner shall forthwith after the receipt of the writ—

(a) endorse on the writ the date of receipt by him;

(b)

Issue of writ for referendum.
cf. Act No. 2, 1930, s. 6.

Form of writ, &c.
cf. *Ibid*, s. 7.

Duties of Electoral Commissioner upon receipt of the writ.
cf. *Ibid*, s. 9.

- (b) cause to be inserted in the Gazette and in two or more newspapers circulating in the State a notification of the receipt of the writ, and of the days appointed for the taking of the votes of the electors and for the return of the writ; No. 34, 1946.
- (c) forward a copy of the writ to the returning officer for each electoral district.

9. (1) At the referendum only those electors who would be entitled to vote if the referendum were an election shall be admitted to vote. Electors who may be admitted to vote at referendum. cf. Act No. 2, 1930, s. 10.

(2) Nothing in this section shall be deemed to entitle any person who is disqualified from voting to vote.

DIVISION 3—*Voting at the referendum.*

10. The voting at the referendum shall, subject to this Part, be taken on the day appointed by the writ for taking the votes of the electors. Voting day. cf. *Ibid.* s. 11.

11. The polling places and subdivisions appointed and established under the laws for the time being in force relating to elections shall be polling places and subdivisions for the purposes of the referendum. Polling places. cf. *Ibid.* s. 12.

12. Each elector shall vote only once at the referendum. One vote only. cf. *Ibid.* s. 13.

13. (1) The voting at the referendum shall be by ballot. Voting to be by ballot. cf. *Ibid.* s. 14.

(2) Upon receipt of a ballot-paper, other than an absent voter's ballot-paper or a postal ballot-paper, the elector shall, without delay retire alone to some unoccupied compartment of the booth and there in private record his vote on the ballot-paper.

(3) The elector shall record his vote by placing the number "1" in the square opposite the closing hour for which he desires to give his first preference vote, and shall give contingent votes for all the remaining closing hours by placing the numbers "2" and "3" in the squares opposite those closing hours respectively, so as to indicate by numerical sequence the order of his preference for them.

(4) After recording his vote on the ballot-paper the elector shall—

- (a) fold the ballot-paper so as to conceal the vote marked thereon and to show clearly the signature or initials of the returning officer or deputy,
and

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and then forthwith openly and without unfolding it deposit it in the ballot-box;

(b) then quit the booth.

Ballot-papers.
cf. Act No. 2, 1930, s. 15.

14. (1) The ballot-papers to be used at the referendum shall be in or to the effect of the Form B in the Schedule to this Act.

Absent voters' ballot-papers.

(2) For the purposes of voting under the provisions relating to absent voters contained in the Parliamentary Electorates and Elections Act, 1912, the ballot-papers to be used at the referendum shall be in or to the effect of the Form C in the Schedule to this Act.

Postal voters' applications and ballot papers.

(3) For the purposes of voting under the provisions relating to voting by post contained in the Parliamentary Electorates and Elections Act, 1912, the form of ballot-paper to be used at the referendum shall be in or to the effect of the Form D in the Schedule to this Act.

(4) An absent voter or a postal voter shall mark his vote on the ballot-paper in accordance with the directions set out on the ballot-paper.

DIVISION 4.—*Scrutineers.*

Scrutineers.
cf. Act No. 42, 1919, s. 46.

15. (1) Licensed publicans' organisations and temperance organisations may respectively appoint—

(a) one scrutineer, but not more than one, for any polling booth;

(b) such number of scrutineers as may be prescribed by regulations made under this Part to be present at the counts conducted in pursuance of sections sixteen, twenty-two and twenty-three of this Act by the returning officer, and by the Electoral Commissioner.

For the purposes of this subsection each place or table at which a returning officer or a deputy returning officer presides shall be deemed to be a separate polling booth.

(2) Any person who presents himself as a scrutineer shall satisfy the returning officer or deputy returning officer or officer in charge of the counting, as the case may be, that he is an authorised representative of the organisations on behalf of which he claims to act.

(3)

(3) Where two or more persons claim to act as the scrutineer or scrutineers appointed by either of the organisations above referred to, and a dispute arises as to the person or persons entitled so to act, the returning officer, or deputy returning officer or officer in charge of the counting, as the case may be, shall decide who shall act, and his decision shall be final. No. 34, 1946.

(4) Every scrutineer before acting as such shall make and sign before the Electoral Commissioner, returning officer, or deputy (as the case may be), a declaration in or to the effect of the form prescribed by regulations made under this Part.

DIVISION 5—*Proceedings after close of poll.*

16. As soon as is practicable after the close of the poll the returning officer and every deputy at the polling place at which each presides shall, in the presence and subject to the inspection of such of the scrutineers as choose to be present, and the poll clerks (if any), but of no other persons, open the ballot-box and proceed to count the number of first preference votes recorded for each closing hour. Conduct of scrutiny.
cf. Act No. 2, 1930,
s. 19.

17. (1) A ballot-paper (including a postal voter's ballot-paper and an absent voter's ballot-paper) shall be informal if— Informal ballot-papers.
cf. *Ibid.*
s. 20.

- (a) it is not duly signed or initialled by the returning officer or deputy; or
- (b) the voter has failed to indicate the number of his preference in respect of any of the closing hours set out on the ballot-paper; or
- (c) it has upon it any mark or writing not authorised by this Part to be put upon it, which, in the opinion of the returning officer, will enable any person to identify the voter.

(2) Informal ballot-papers shall be rejected at the scrutiny.

18. Notwithstanding anything to the contrary in this Act a ballot-paper shall not, by reason of any marking thereon not authorised or required by this Part be treated as informal, or be rejected at the scrutiny if, in the opinion Saving of informality in certain cases.
cf. *Ibid.*
s. 21.

No. 34, 1946. opinion of the returning officer, the voter's intention is clearly indicated on the ballot-paper.

Duties of deputy.
cf. Act No. 2, 1930,
s. 22.

19. Immediately after ascertaining the total number of first preference votes recorded in favour of each closing hour, each deputy shall make up—

- (a) in one parcel, the ballot-papers which have been used in voting at his polling booth during the referendum;
- (b) in a second separate parcel, the ballot-papers which have remained unused thereat;
- (c) in a third separate parcel, the certified copies of rolls supplied to the said deputy, signed by him, and all books, rolls, and papers kept or used by him during the polling;

and shall seal up the said several parcels; and shall permit any of the scrutineers who may desire to do so to affix his or their seals to such parcels and shall endorse the same severally with a description of the contents thereof, and with the name of the district and polling place, and the date of the polling; and sign with his name the said endorsement; and shall transmit the said parcels to the returning officer.

Statement of result, account of ballot-papers, &c.
cf. *Ibid.*
s. 23.

20. Each deputy shall, together with the parcels aforesaid, transmit to the returning officer a list of the total number of first preference votes recorded for each closing hour, and also an account in which such deputy shall charge himself with the number of ballot-papers originally delivered to him, and the number (if any) written out by him, specifying therein the number thereof delivered to and used by voters and the number not so delivered or left unused; and every such list and account respectively shall be verified as well by the signatures of the said deputy and the poll clerk (if any) as also by the signatures of such of the scrutineers as are present and consent to sign the same.

Returning officers' parcels.
cf. *Ibid.*
s. 24.

21. The returning officer shall, in respect of the polling booth at which he himself has presided, make up in separate parcels in like manner as is herein required of deputy returning officers, all ballot-papers used or unused,

unused, and all books, rolls, and papers kept or used by him at such polling booth; and shall seal up and also permit to be sealed up by the scrutineers, and shall endorse in like manner as aforesaid the several parcels; and shall also make out in respect of the said booth the like list as is herein required in the case of deputy returning officers, which said list shall be verified by the signature of the returning officer, the poll clerk (if any) and scrutineers in the manner aforesaid.

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22. (1) The returning officer shall, as soon as practicable after the close of the poll, in the presence of such of the scrutineers as choose to be present, and with such assistance as he may deem necessary, proceed to count the number of first preference votes recorded for each closing hour on all ballot-papers (not rejected as informal), including postal and absent voters' ballot-papers, used in connection with the poll for his district.

Poll for
the district.
cf. Act No.
2, 1930,
s. 25.

(2) The returning officer shall as soon as is practicable after the count has been completed—

- (a) prepare and sign and permit to be signed by such of the scrutineers as are present and wish to sign the same a certificate setting out in relation to the votes recorded at all the polling places in or for his district—
 - (i) the number of first preference votes recorded for each closing hour;
 - (ii) the number of ballot-papers rejected as informal;
- (b) arrange the used ballot-papers (not rejected as informal) under the respective closing hours by placing in a separate packet all those papers for which the first preference is given for the same closing hour;
- (c) make up in one parcel all the packets referred to in paragraph (b) of this subsection, and in a separate parcel all ballot-papers which he has rejected as informal;

(d)

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- (d) transmit to the Electoral Commissioner the parcels referred to in paragraph (c) of this subsection, together with the certificate prepared and signed by him pursuant to paragraph (a) of this subsection;
- (e) comply with the provisions of section one hundred and twenty-seven of the Parliamentary Electorates and Elections Act, 1912, except in so far as those provisions relate to used ballot-papers.

(3) It shall be permissible for the returning officer to accept information as to the votes polled at Lord Howe Island which is transmitted to him by cable or wireless and which he is satisfied is authentic in lieu of the list referred to in section twenty of this Act.

DIVISION 6.—Electoral Commissioner to ascertain result.

Ascertain-
ment of
result of
referendum.

23. (1) Upon receipt of the parcels and certificates transmitted to him pursuant to paragraph (d) of subsection two of section twenty-two of this Act, the Electoral Commissioner shall in the presence of such of the scrutineers as choose to be present and with such assistance as he may deem necessary proceed to ascertain the result of the referendum in accordance with this section.

(2) The aggregate number of first preference votes recorded in all electoral districts for each closing hour shall be counted. For the purpose of such count the Electoral Commissioner may accept the figures set out in the certificate of the various returning officers transmitted to him in pursuance of section twenty-two of this Act.

(3) The closing hour in respect of which the largest number of first preference votes has been recorded, shall, if that number constitutes an absolute majority of votes, be the closing hour chosen by the electors.

(4)

(4) If no closing hour has received an absolute majority of first preference votes, the Electoral Commissioner shall make a second count. **No. 34, 1946.**

(5) On the second count, the closing hour which has received the fewest number of first preference votes shall be excluded, and each ballot-paper counted to that closing hour shall be counted to the closing hour next in the order of the voter's preference.

(6) The closing hour which has then received an absolute majority of votes shall be the closing hour chosen by the electors.

(7) If at the first count two or more closing hours have an equal number of votes, and one of them has to be excluded, the Electoral Commissioner shall determine between them by lot which of them shall be excluded.

(8) In this section—

The expression "an absolute majority of votes" means a greater number than one-half of the whole number of ballot-papers counted.

The expression "determine by lot" means determine in accordance with the following direction:—

The closing hours concerned having been written on similar slips of paper, and the slips having been folded so as to prevent identification and mixed and drawn at random, the closing hour which is first drawn shall be excluded.

24. (1) At any time before endorsing the writ the Electoral Commissioner may, if he thinks fit (and shall, if so directed by the Governor), direct the returning officer for any district to make a recount of the ballot-papers contained in any parcel relating to his district. **Recount.**
cf. Act No. 2, 1930, s. 26.

(2) The officer conducting a recount shall have the same powers as if the recount were the scrutiny, and may reverse any decision in relation to the scrutiny as to the allowance or admission or disallowance or rejection of any ballot-paper.

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Ballot-
papers to
be sent to
Clerk of
Legisla-
tive
Assembly.

25. Having ascertained the result of the referendum the Electoral Commissioner shall in respect of each electoral district make up in one parcel the used ballot-papers (other than those which have been rejected as informal) and in another parcel the ballot-papers rejected as informal. He shall seal up the several parcels; and shall permit any of the scrutineers who may desire to do so to affix his or their seals to such parcels; and shall endorse the same severally with a description of the contents thereof respectively, and the name of the electoral district to which they relate, and the date of the polling, and sign with his name the said endorsement; and shall forthwith forward the parcels to the Clerk of the Legislative Assembly to be by him safely kept until the dissolution of Parliament.

DIVISION 7.—*Return of writ.*Return of
writ

26. (1) The Electoral Commissioner shall endorse on the writ a statement setting out the closing hour which has been chosen by the electors, as ascertained in accordance with this Part, and shall sign the statement and shall return the writ with the statement endorsed thereon to the Governor.

(2) The Electoral Commissioner shall cause a copy of the statement to be published in the Gazette; and the statement so published shall, subject to this Part, be conclusive evidence of the result of the referendum.

DIVISION 8.—*Disputed returns.*Reference
to Supreme
Court.
cf. Act No.
2, 1930,
s. 28.

27. Any question respecting the validity of the referendum, or of any return or statement showing the voting on the referendum, may be referred by resolution of the Legislative Council or of the Legislative Assembly to the Supreme Court, and the Supreme Court shall have jurisdiction to hear and determine the question.

Question.
cf. *Ibid.*
s. 29.

28. Where any question is referred to the Supreme Court under this Division, the President of the Legislative Council or the Speaker of the Legislative Assembly (as the case may be) shall transmit to the Prothonotary a statement of the question upon which the determination of the Court is desired.

29.

29. The Supreme Court, in relation to a reference under this Division, shall sit as on open court, and shall have the powers conferred by the Parliamentary Electorates and Elections Act, 1912, on the Court of Disputed Returns, so far as they are applicable.

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Powers of Court.
cf. Act No. 2, 1930, s. 30.

30. The Electoral Commissioner shall be entitled and the Supreme Court may allow any other person to be represented and heard upon the hearing of the reference.

Electoral Commissioner.
cf. *Ibid.* s. 31.

31. The procedure in relation to a reference under this Division shall be as prescribed by Rules of Court or in default of Rules of Court by the Supreme Court or a judge thereof.

Procedure.
cf. *Ibid.* s. 32.

32. After hearing and determination of any reference under this Division the Prothonotary shall forthwith forward to the Clerk of the Parliaments or to the Clerk of the Legislative Assembly, as the case may be, a copy of the determination of the Supreme Court.

Order to be sent to House affected.
cf. *Ibid.* s. 33.

33. The referendum or any return or statement showing the voting on the referendum shall not be avoided on account of any delay in relation to the taking of the votes of the electors or in relation to the making of any statement or return or on account of the absence or error of or omission by any officer which did not affect the result of the referendum:

Immaterial errors not to vitiate referendum.
cf. *Ibid.* s. 34.

Provided that where any elector was, on account of the absence or error of or omission by any officer, prevented from voting at the referendum, the court shall not, for the purpose of determining whether the absence or error of or omission by the officer did or did not affect the result of the referendum, admit any evidence of the way in which the elector intended to vote.

DIVISION 9.—*Regulations.*

34. (1) The Governor may make regulations not inconsistent with this Part prescribing all matters which are required to be prescribed or which are necessary or convenient to be prescribed for carrying out or giving effect to this Part.

Regulations.
cf. *Ibid.* s. 35.

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(2) Where the time allowed to do any act is insufficient, and an alteration or extension of such time and any alteration of dates consequent thereon is expedient, the regulations may declare that such alteration shall be made, and thereupon the same shall be made and take effect accordingly.

(3) The regulations shall be published in the Gazette and shall take effect from the date of publication or from a later date to be specified in the regulations.

(4) The regulations shall be laid before both Houses of Parliament within fourteen sitting days after publication if Parliament is in session, and if not then within fourteen sitting days after the commencement of the next session.

(5) If either House of Parliament passes a resolution of which notice has been given at any time within fifteen sitting days after the regulations have been laid before such House disallowing any regulation or part thereof, such regulation or part shall thereupon cease to have effect.

DIVISION 10.—*Offences.*

Construction
of Division.
cf. Act No.
2, 1930,
s. 36.

35. The provisions of this Division shall be construed as being in addition to such of the provisions of the Parliamentary Electorates and Elections Act, 1912, as are applicable to the referendum.

Supply of
meat, drink,
or entertain-
ment, &c.
cf. *Ibid.*
s. 37.

36. Any person who, after the issue of a writ for the referendum and before the votes have been taken in pursuance thereof, supplies to an elector any meat, drink, or entertainment, or horse or carriage hire, with a view to influence his vote in connection with the referendum shall be guilty of an offence and shall be liable to a penalty not exceeding two hundred pounds or imprisonment for one year.

Bribery.
cf. *Ibid.*
s. 38.

37. Any person who gives, confers, or procures, or promises, or offers to give or confer, or to procure or attempt to procure, any money, property, or benefit of any kind, to, upon, or for any elector or any other person—

(a) in order to influence the elector in his vote in connection with the referendum; or

(b)

- (b) in order to induce the elector to refrain from voting at the referendum; or No. 34, 1948.
- (c) in order to induce the elector to support or oppose any closing hour,

shall be guilty of an offence, and shall be liable to a penalty not exceeding two hundred pounds or imprisonment for one year.

38. Any elector who asks for, receives, or obtains, or agrees or attempts to receive or obtain any money, property, or benefit of any kind for himself or any other person upon the understanding that his vote in connection with the referendum shall be influenced thereby, or shall be given in any particular manner, or that he will refrain from voting at the referendum, or that he will support or oppose any closing hour submitted or to be submitted to the electors at the referendum shall be guilty of an offence, and shall be liable to a penalty not exceeding two hundred pounds or imprisonment for one year. Receipt of bribe by elector. cf. Act No. 2, 1930, s. 39.

39. Any person who—

- (a) threatens, offers, or suggests any violence, injury, punishment, damage, loss, or disadvantage to an elector or any other person— Undue influence. cf. *Ibid.* s. 40.
- (i) in order to influence the elector in his vote in connection with the referendum; or
- (ii) in order to induce the elector to refrain from voting at the referendum; or
- (iii) in order to induce the elector to support or oppose any closing hour submitted or to be submitted to the electors at the referendum; or

(b) uses, causes, inflicts, or procures any violence, injury, punishment, damage, loss or disadvantage towards, to or upon any elector or any other person, for or on account of any such vote, refraining from voting, support, or opposition, shall be guilty of an offence, and shall be liable to a penalty not exceeding two hundred pounds or imprisonment for one year.

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Misleading
advertise-
ments, &c.cf. Act No.
2, 1930,
s. 41.**40.** (1) Every person who—

- (a) prints, publishes, or distributes any advertisement or document containing a representation of a ballot-paper, or any representation apparently intended to represent a ballot-paper, and having thereon any directions intended or likely to mislead or improperly to interfere with any elector in or in relation to the casting of his vote at the referendum; or
- (b) prints, publishes, or distributes any advertisement or document containing any untrue or incorrect statement intended or likely to mislead or improperly to interfere with any elector in or in relation to the casting of his vote at the referendum,

shall be guilty of an offence, and shall be liable to a penalty not exceeding one hundred pounds.

(2) This section shall not prevent the printing, publishing or distributing of any advertisement or document (not otherwise illegal) which contains instructions how to vote in favour of or against any closing hour or closing hours submitted or to be submitted to the electors at the referendum, if those instructions are not intended or likely to mislead any elector in or in relation to the casting of his vote.

Misconduct
at public
meeting.
cf. *Ibid.*
s. 42.

41. (1) Any person who, at a public meeting to which this section applies, acts in a disorderly manner for the purpose of preventing the transaction of the business for which the meeting is held shall be guilty of an offence, and shall be liable to a penalty not exceeding five pounds.

(2) This section applies to any lawful public meeting held in relation to the referendum between the date of the issue of the writ for the referendum and the date of the return of the writ.

DIVISION 10.—*Effect of Referendum.*

Closing
hour for
licensed
premises.

42. (1) On and after the date upon which the statement referred to in section twenty-six of this Act is published in the Gazette pursuant to that section, the provisions

provisions of the Liquor Act, 1912, in so far as they prescribe that six o'clock in the evening shall be the hour at which licensed premises shall close shall be read and construed as if the closing hour specified in the statement so published in the Gazette were substituted for six o'clock. No. 34, 1946.

(2) Where the closing hour so specified is nine o'clock or ten o'clock, subsection one of section fifty-seven of the Liquor Act, 1912, shall be construed as including a provision prohibiting a licensee from keeping his licensed premises open for the sale of liquor, or selling or supplying or delivering liquor, or permitting the same to be consumed on the said premises on any day between the hours of six thirty o'clock in the evening and seven thirty o'clock in the evening otherwise than under and in accordance with a permit issued under section 57A of that Act.

(3) Where the closing hour so specified is nine o'clock or ten o'clock, paragraph (c) of subsection one of section fifty-seven of the Liquor Act, 1912, shall be construed as including a provision excepting from its operation the period between the hour fixed for the closing of the poll at any election referred to in that paragraph and the closing hour so specified.

**PART III.—MISCELLANEOUS AMENDMENTS OF THE
LIQUOR ACTS.**

43. This Part of this Act shall commence upon a day to be appointed by the Governor and notified by proclamation published in the Gazette. Commence-
ment.

44. The Liquor Act, 1912, as amended by subsequent Acts, is amended— Amendment
of Act No.
42, 1912.

(a) by omitting from section three the definition of "Spirit merchant"; Sec. 3.
(Interpre-
tation.)

(b) by omitting the proviso to section four; Sec. 4.
(Boundaries
of licensing
districts.)

(c)

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(Licensing
courts.)

(c) (i) by omitting subsection seven of section five and by inserting in lieu thereof the following subsection:—

(7) (a) Subject to paragraphs (b) and (c) of this subsection every licensing court for a licensing district shall be held in some court-house of a petty sessions district comprised within such licensing district, or in some other building appointed for that purpose in the proclamation defining such district or subsequently notified in the Gazette by the Minister.

(b) Any application or matter prescribed by regulations under subsection two of section eleven of this Act may be heard, determined or dealt with at any convenient court-house or place either within or outside the licensing district within which the premises to which such application or matter relates are situated.

(c) A licensing court may, under and subject to the provisions of subsection four of section twelve of this Act, adjourn the court to a court-house in another district.

(d) In any case in which an application is determined under paragraph (b) or paragraph (c) of this subsection outside the licensing district in which the premises in respect of which the application is made are situated, the records in connection with such determination shall be forwarded to the clerk of the licensing court for such licensing district and shall be filed by him.

(ii) by inserting at the end of subsection nine of the same section the following paragraph:—

This subsection shall not be construed to disqualify a person from hearing and determining any matter by reason only of the fact that he is a member of a club, unless the matter relates to the club of which he is a member. (iii)

- (iii) by inserting in subsection ten of the same section after the figures "1919" the words "or the hearing and determination of an appeal under paragraph (b) of subsection five of section one hundred and seventy of this Act." No. 34, 1946.
- (iv) by inserting in subsection eleven of the same section after the words "the district in" the words "or for";
- (v) by inserting in subsection twelve of the same section after the figures "1919" the words "or in respect of the hearing and determination of an appeal under paragraph (b) of subsection five of section one hundred and seventy of this Act."
- (d) (i) by omitting from subsection one of section ten the words "hereinafter provided" and by inserting in lieu thereof the words "provided in this Act"; Sec. 10.
(Hearing of applications.)
- (ii) by inserting at the end of the same subsection the words "or the court dispenses with such personal attendance;"
- (e) by omitting section eleven and by inserting in lieu thereof the following section:— Sec. 11.
11. (1) Licensing courts for all purposes authorised by this Act may be held from time to time as required. At least twenty-one days notice of the holding of such court shall be given by affixing the same on the outer door or front of the court-house or building in which the court is to be held. Holding of licensing courts.
- (2) Notwithstanding anything contained in subsection one of this section no such notice of the holding of a licensing court shall be necessary where the court is held solely for the purpose of hearing, determining or dealing with such applications or matters as may be prescribed by regulations made under this Act.

(f)

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Sec. 12.
(Adjourn-
ment.)

(f) (i) by inserting at the end of subsection two of section twelve the words "and if no member is present, a justice may adjourn the court";

(ii) by omitting subsection four of the same section and by inserting in lieu thereof the following subsections:—

(4) If upon the hearing of any application or matter under this Act any party to the proceedings requires an adjournment, the court may, upon such terms as to costs or otherwise as it thinks just, adjourn the hearing to the same or any other court-house or building within the district, or if all parties to the proceedings consent thereto, to any court-house or building in any other licensing district.

(5) Where an application is made to the licensing court for a district for the removal of a license or of a certificate of registration of a club from premises situated within that district to premises situated within another district, the court may of its own motion, and notwithstanding anything to the contrary in this Act, adjourn the court to any court-house or building in such last-mentioned district.

Further
amendment
of Act No.
42, 1912.Sec. 13.
(Exemp-
tions.)cf. Act No.
42, 1912,
s. 13.

45. The Liquor Act, 1912, as amended by subsequent Acts, is further amended—

(a) (i) by omitting paragraph (1) of section thirteen and by inserting in lieu thereof the following paragraph:—

(1) wine, cider or perry in quantities of not less than two gallons of any one kind of such liquor at any one time, and provided that the following conditions are observed, namely, that such wine, cider or perry—

(a) is the produce of fruit grown within Australia;

(b)

- (b) to the extent of at least seventy per centum is made by him and to the extent to which it is not made by him is used only for the purpose of blending with wine, cider or perry made by him; No. 34, 1946.
- (c) is sold or offered for sale, and is delivered at the place at which such person makes wine, cider or perry, and then only between the hours of ten in the morning and six in the evening on days when the premises of a licensed publican may lawfully be open for the sale of liquor;
- (d) is not consumed or intended to be consumed on the premises where the same is made sold or offered for sale;
- (e) is delivered and taken away from such premises at one time and not by instalments; and
- (f) is not sold, offered for sale, supplied or delivered in quantities exceeding five gallons at any one time except to the holder of a license under this Act.

(ii) by omitting paragraph (4) of the same section and by inserting in lieu thereof the following paragraph:—

(4) liquor in any canteen established under a permit issued under the hand of the Minister at any construction camp or works of a public nature.

Every application for a permit under this paragraph shall be referred to the licensing court for inquiry and report, and no such

permit

No. 34, 1946.

permit shall be issued by the Minister except upon the recommendation of the licensing court. Such permit may be issued subject to such terms and conditions as to the hours within which liquor may be sold under the permit and the circumstances in which liquor may be so sold as the licensing court shall determine. Any such permit may be revoked by the Minister at any time if he thinks fit so to do.

(iii) by omitting from paragraph (7) of the same section the words "before the same" and by inserting in lieu thereof the words "to the holder of a license under this Act, before such liquor";

(iv) by inserting after paragraph (8) of the same section the following new paragraphs:—

(9) sheriff or sheriff's officer, bailiff or member of the police force selling by auction or otherwise any liquor taken in execution or similar process or any liquor ordered to be forfeited to His Majesty by or under this or any other Act—

or shall apply to

(10) the sale of liquor by or on behalf of the Commissioner for Railways to any passenger on a train, where such liquor is sold for consumption on such train with a meal provided by or on behalf of the Commissioner for Railways.

Sec. 14 (2)
(Obsolete
provision.)

(b) by omitting the proviso to paragraph (2) of section fourteen;

Sec. 15.
(Publicans'
licenses.)

(c) by omitting from section fifteen the words "six o'clock in the morning" and by inserting in lieu thereof the words "ten o'clock in the morning";

(d)

- (d) by inserting at the end of section 15A the following words “such liquor being supplied and delivered at and taken away from such premises at one and the same time and not by instalments. And for the purposes of this section there shall be two descriptions of liquor, namely—
- (a) malted liquor;
- (b) liquor other than malted liquor.”
- (e) by omitting from section sixteen the words “of the vessel therein named” and by inserting in lieu thereof the words “for the time being of a particular vessel named in the license”;
- (f) (i) by omitting from section eighteen the word “seven” and by inserting in lieu thereof the word “ten”;
- (ii) by inserting in the same section after the word “applicant” the words “or of an inspector”;
- (iii) by inserting at the end of the same section the words “Such condition may be withdrawn on the request of the applicant at any subsequent renewal provided that the premises are suitable for the consumption of liquor thereon”;
- (g) (i) by omitting from section twenty the words “in some licensing district” and by inserting in lieu thereof the words “in respect of premises situated within the licensing district within which the booth or stand license is to be exercised”;
- (ii) by inserting at the end of the same section the following new subsection:—
- (2) (a) Where an application for a booth or stand license is made as prescribed by a person who is not the holder of a publican’s license as aforesaid, and such person proves to the satisfaction of the court or licensing magistrate that the application is made by **him**

No. 34, 1948.

Sec. 15A.
(Spirit merchant’s
license.)Sec. 16.
(Packet
licenses.)Sec. 18.
(Australian
wine
licenses.)Sec. 20.
(Booth or
stand
licenses.)

No. 34, 1946.

him on behalf of and with the authority of a non-proprietary association in which is vested the land or the control and management of the land on which any athletic or other sports or race-meeting or function for public amusement or fair is held or is proposed to be held, or on behalf of and with the authority of a non-proprietary association which conducts or proposes to conduct any such athletic or other sports, or race-meeting or function for public amusement or fair, the court or licensing magistrate may, if it is satisfied that it would be in the interests of the public so to do, grant the application of such person, notwithstanding the fact that he is not the holder of a publican's license.

(b) Every license granted under this subsection shall be subject to any conditions and provisions imposed by the licensing court or licensing magistrate granting the application.

(c) Regulations may be made under this Act prescribing all matters necessary or convenient to be prescribed for enforcing the observance by the holder of the license and by the non-proprietary association on whose behalf the application was made, of any conditions and provisions imposed under paragraph (b) of this subsection, and of any other terms, conditions and provisions which may be included in the regulations.

(d) In this subsection—

“Fair” includes any agricultural, horticultural, pastoral or industrial show.

“Non-proprietary association” means a corporation or club or other unincorporated body of persons, which under

its

its constitution, or under any law No. 34, 1946.
which governs its activities—

- (a) is required to apply the profits, if any, and other income of the corporation, club or body to the promotion of its objects or to purposes provided in any such law; and
- (b) is prohibited from paying dividends or distributing profits or income to the shareholders or members of the corporation, club or body.

“Race-meeting” has the meaning ascribed thereto in the Gaming and Betting Act, 1912, as amended by subsequent Acts.

- (h) (i) by inserting at the end of paragraph (b) of Sec. 21.
subsection one of section twenty-one the (Fees.)
words “or any neighbouring premises in which the licensee temporarily carried on business pursuant to an authority given under section forty of this Act, and including all liquor delivered by him or on his behalf upon, or purchased by him for any booth or stand in respect of which a license was, during the said period of twelve months, granted to him or to any other person”;
- (ii) by inserting at the end of paragraph (d) of the same subsection the following words:—
In this paragraph the expression “persons licensed to sell liquor” includes not only persons licensed under this Act but also persons licensed to sell liquor in any State or Territory of the Commonwealth of Australia, under any law for the time being in force in such State or Territory.
- (iii) by omitting from the same subsection all (Obsolete provisions.)
words following the words “two pounds per day”;

(i)

No. 34, 1946.

Sec. 22.

(Returns.)

- (i) (i) by inserting at the end of paragraph (a) of subsection one of section twenty-two the words:—

In the case of a person who is the holder of a publican's license there shall be included in such gross quantity all liquor delivered upon or purchased for any neighbouring premises in which such holder carried on business pursuant to an authority given under section forty of this Act, and also all liquor delivered by him or on his behalf upon or purchased by him for any booth or stand in respect of which a license was during the said period of twelve months, or portion thereof, as the case may be, granted to him or to any other person;

- (ii) by inserting in subsection two of the same section after the word "shall" the words "during the month of January in each year";

- (iii) by inserting at the end of the same subsection the words "In this subsection the expression 'persons licensed to sell liquor' includes not only persons licensed under this Act, but also persons licensed to sell liquor in any State or Territory of the Commonwealth of Australia, under any law for the time being in force in such State or Territory";

- (iv) by inserting in subsection three of the same section after the words "subsection one" the words "or subsection two (as the case may be)";

Sec. 23.
(Board to assess fee.)

Board to fix fee.

- (j) (i) by omitting subsection one of section twenty-three and by inserting in lieu thereof the following subsection:—

(1) The board shall fix the amount of any license fee payable on a percentage basis, on renewal of a license, and the amount so fixed shall be final and conclusive, unless the

board

board in its absolute discretion reassesses the amount in which case the reassessment shall be final and conclusive. No. 34, 1946

- (ii) by omitting from subsection three of the same section the words "the Colonial Treasurer, and (except as to railway refreshment licenses)";
- (k) (i) by omitting from subsection one of section twenty-four the words "the quarterly" and by inserting in lieu thereof the word "a"; Sec. 24.
(Applica-
tions for
licenses.)
- (ii) by omitting from the same subsection the words "the outer side or front of the principal entrance door" and by inserting in lieu thereof the words "some conspicuous part";
- (iii) by inserting in the same subsection after the word "holden" the words "The court shall decide whether or not such notice has been posted in such a manner as to invite public attention to the application";
- (iv) by omitting the proviso to the same subsection and by inserting in lieu thereof the following proviso:—

Provided always that no application for a license or for the transfer of a license shall be entertained where the applicant is under the age of twenty-one years.
- (v) by omitting subsections two, three and four of the same section;
- (l) (i) by omitting from section twenty-five the words "(except any house which was licensed on the nineteenth day of December, one thousand eight hundred and eighty-one)"; Sec. 25.
(Standard
of accom-
modation.)
- (ii) by omitting from the same section all words following the word "decency" and by inserting in lieu thereof the words "and with such stabling or garage accommodation or both as the court shall deem necessary";

(m)

No. 34, 1946.

Sec. 26.
(Hotels in
distant
areas.)

- (m) by inserting at the end of section twenty-six the following words:—

And if the license fee payable in respect of the renewal of any such publican's license, as calculated under paragraph (b) of subsection one of section twenty-one of this Act, does not exceed thirty pounds, the board may, on the application of the licensee, in its discretion fix a reduced fee in respect of such renewal, but such reduced fee shall not in any case be less than one pound. Any reduced fee so fixed shall be deemed to have been fixed by the board under section twenty-three of this Act.

Sec. 27.
(Conditional
licenses.)

- (n) (i) by omitting from section twenty-seven the words "or such further period not exceeding six months as the court may allow, from the date of such record" and by inserting in lieu thereof the words "from the date of such record, or within such further period or periods (not exceeding six months at any one time) as the court may from time to time allow";
- (ii) by inserting in the same section after the words "they are completed" the word "substantially";
- (iii) by inserting in the same section after the words "a publican's license shall" the words "on the request of the applicant";
- (iv) by omitting from the same section all words following the words "the character of the applicant is objectionable";
- (v) by inserting at the end of the same section the following new subsection:—

(2) Where a conditional application has been granted under subsection one of this section, the district inspector or any three residents of the licensing district in which the premises or proposed premises to which the conditional application relates are situated, or any person referred to in paragraph (iii) of section twenty-nine of this

Act

Act may, at any time after the expiration of six months after the date upon which the grant of the conditional application was recorded in the book of proceedings of the court, make application in the prescribed manner to the court for the cancellation of such grant. And if the court, upon the hearing of an application under this subsection, is satisfied that reasonable steps have not been taken to carry out the erection, additions, alterations or completion of the premises to which the conditional application relates, the court may by order, cancel the grant of such conditional application, and thereupon such grant shall have no further force or effect. No. 34, 1946.

- (o) (i) by inserting after paragraph (ii) of section twenty-nine the following new paragraph:— Sec. 29.
(Objections.)

(iii) any person thereunto authorised by the council of a city municipality or shire within the boundaries of which the premises are situated. In this paragraph "city" includes the city of Sydney.

- (ii) by inserting in the same section after the words "publican's license" the words "or Australian wine license";

- (p) by inserting at the end of section thirty the following new subsection:— Sec. 30.
(Objections to renewals.)

(3) Upon the expiration of seven years after the commencement of Part III of the Liquor (Amendment) Act, 1946, subsection two of this section shall cease to have effect.

- (q) by omitting section thirty three and by inserting in lieu thereof the following section:— Subst. sec. 33.
Costs.

33. On the hearing of any application made in accordance with this Act, to the granting of which objection has been made, the court may order payment to the successful party of such sum as it deems proper to meet his reasonable costs and expenses in the matter:

Provided

No. 34, 1946.

Provided that costs shall not be awarded against an unsuccessful opponent of an application if the court is satisfied that his opposition is based exclusively on considerations of public interest, that it is not malicious or frivolous, and that he has no direct or indirect pecuniary interest in the refusal of the application and no expectation of such interest.

Sec. 36.
(Renewals
—notice.)

- (r) (i) by omitting from section thirty-six the words “(other than a booth or stand license)”;
- (ii) by omitting from the same section the words “inspector for the district appointed under this Act” and by inserting in lieu thereof the words “clerk of the licensing court for the district”;
- (iii) by omitting from the same section the words “said inspector” and by inserting in lieu thereof the words “such clerk”;
- (iv) by inserting at the end of the same section the following words:—

The clerk of the licensing court shall, as soon as practicable after receiving any such notice, refer the same to the inspector for the district for his report thereon. The licensing court may, if in the circumstances it thinks it reasonable so to do, hear and determine any such application, notwithstanding the fact that the prescribed notice has not been delivered to the clerk of the licensing court ten days prior to the holding of the court.

Sec. 37.
(Transfers
—rights of
transferee.)

- (s) by inserting at the end of subsection four of section thirty-seven the following words:—

Without prejudice to the generality of the foregoing provisions of this subsection, the rights of the transferee to possess all the rights of the original licensee shall include the right to hold any permit and any booth or stand license

license held by the original licensee at the date of the transfer, and the right to exercise any powers and authorities which would have been exercisable by the original licensee if the transfer had not been made. No. 34, 1946.

- (t) (i) by inserting in section thirty-eight after the word "possession" the words "or becomes entitled to legal possession"; Sec. 38.
(Transfers
in certain
cases.)
- (ii) by inserting in the same section after the words "For the purposes of this section" the words "and of subsection two of section thirty-seven of this Act";
- (iii) by inserting at the end of section thirty-eight the following new subsection:—

(2) (a) For the purposes of this section and of subsection two of section thirty-seven of this Act the owner shall, as from the date upon which the licensee has been legally evicted from licensed premises or as from the date upon which such owner comes into legal possession of licensed premises (as the case may be) and until the license for such premises is granted or transferred to the owner or a transferee, be deemed to be the licensee of such premises and to be subject in all respects to the provisions of this Act applicable to a licensee of such premises.

(b) Where a licensee has been legally evicted from any licensed premises, or the owner of licensed premises has come into legal possession of licensed premises to the exclusion of the licensee, an application for a grant or transfer of the license shall be lodged with the clerk of the licensing court for the district in which the licensed premises are situated, within seven days from the date upon which the licensee was so evicted, or the owner came into legal possession, as the case may be.

(c)

No. 34, 1946.

(c) A licensing court shall not hear or determine any application under paragraph (b) of this subsection unless it is satisfied that at least three days notice of such application has been given to the original licensee or that all reasonable steps necessary for giving such notice have been taken by or on behalf of the applicant, and that the failure to give such notice is not due to any neglect or default of the applicant or of any person employed by him for the purpose of giving the notice.

Further
amendment
of Act No.
42, 1912.

46. (1) The Liquor Act, 1912, as amended by subsequent Acts, is further amended—

Sec. 39.
(Removal of
license.)

(a) (i) by omitting subsection one of section thirty-nine and by inserting in lieu thereof the following subsection:—

Removal of
licenses.

(1) If the holder of a publican's license or of a spirit merchant's license or of an Australian wine license wishes to remove his license from his licensed premises to any other premises, he shall give notice in or to the effect of the prescribed form of his intended application to the licensing court for such removal.

Such notice shall be given in the same manner as notice is required to be given of an application for a license.

(ii) by inserting in subsection two of the same section after the word "owner" the words "of the freehold";

(iii) by inserting after subsection two of the same section the following new subsection:—

(2A) Lessees from the owner of the freehold of the premises from which the license is to be removed, and sublessees from a lessee or sublessee of such premises, and mortgagees of such premises shall be served

with

with a copy of the notice referred to in subsection one of this section, or with a sufficient notification thereof in such manner as may be prescribed by regulations made under this Act. No. 34, 1948.

(iv) by inserting in subsection four of the same section after the word "owner" the words "of the freehold";

(v) by inserting in the same subsection after the word "attached" the words "or by any lessee, sublessee, or mortgagee referred to in subsection (2A) of this section.

In this subsection 'valid objection' means any objection which the licensing court considers to be a reasonable objection to the removal."

(vi) by inserting after the same subsection the following new subsections:—

(4A) A publican's license or a spirit merchant's license or an Australian wine license which is held in respect of premises which are not situated within the Metropolitan licensing district or within the Newcastle licensing district shall not be removed to premises situated within either of those licensing districts.

(4B) The licensing court shall not make an order of removal unless it is satisfied that the removal of the license to the proposed new site will be in the interests of the public in the neighbourhood of that site, and will not affect detrimentally the interests of the public in the neighbourhood of the premises from which it is proposed to remove the license.

(4C) (a) This subsection shall apply to and in respect of any proposal to remove a license from licensed premises which are situated within the Metropolitan licensing district

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district or within the Newcastle licensing district to a site which is situated within the same licensing district.

(b) In this subsection—

“license” means a publican’s license;

“licensed premises” means premises in respect of which a publican’s license is held.

(c) Without prejudice to the generality of any other provisions of this Act, a licensing court shall refuse to make an order of removal of a license to a proposed new site if, having regard to the sufficiency or insufficiency of licensed premises in the various areas or parts of the licensing district it is satisfied that the public interest generally would be served to a substantially greater extent by the removal of the license to a site in some area or part of the licensing district, other than the area or part in which the proposed new site is situated.

(d) The provisions of paragraph (c) of this subsection shall not apply to or in respect of any application for the removal of a license to a proposed site which is in the same neighbourhood as that in which the licensed premises in respect of which the license is held are situated.

(vii) by inserting in subsection six of the same section after the word “two” the symbols “(2A)”;

Sec. 39A.
(Conditional applications for removal.)

(b) (i) by inserting in subsection one of section 39A after the words “publican’s license” the words “or of an Australian wine license or of a spirit merchant’s license”;

(ii) by omitting from the same subsection the words “in the same licensing district”;

(iii) by omitting from the same subsection the word “therein”;

(iv)

(iv) by omitting from the same subsection the words "or such further period not exceeding six months as the court may allow" and by inserting in lieu thereof the words "or, in the case of a removal of a publican's license, within such further period or periods (not exceeding six months at any one time) as the court may from time to time allow";

No. 34, 1948.

(v) by inserting in the same subsection after the words "they have been completed" the word "substantially";

(vi) by inserting next after the same subsection the following new subsection:—

(1A) Where an order conditionally granting an application for the removal of a publican's license or an Australian wine license or a spirit merchant's license has been made under subsection one of this section, the district inspector or any three residents of the licensing district in which the site to which it is proposed to remove the licensed premises is situated, may, at any time after the expiration of six months after the date upon which such order was recorded in the book of proceedings of the court, make application in the prescribed manner to the court for the cancellation of such order. And if the court, upon the hearing of an application under this subsection, is satisfied that reasonable steps have not been taken to carry out the erection, additions, alterations or completion of the premises to which the order relates, the court may cancel the order, and thereupon the same shall have no further force or effect.

(vii) by omitting from subsection two of the same section the words "three, and four" and by inserting in lieu thereof the symbols and words

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words “(2A), three, four, (4A) and (4B) and (in the case of a removal of a publican’s license) subsection (4c)’”;

Subst.
sec. 40.

(c) by omitting section forty and by inserting in lieu thereof the following section:—

Temporary
licenses
may be
granted in
certain
cases.

40. (1) If any premises in respect of which a publican’s license or an Australian wine license or a spirit merchant’s license is held are from any cause rendered unfit for the carrying on of business thereon, any licensing magistrate, upon the application by or on behalf of the licensee, may, if he thinks fit so to do, by order under his hand, authorise the licensee temporarily to carry on his business either on some portion of the licensed premises or on some neighbouring premises for a period of twelve months or for such further period or periods (not exceeding six months at any one time) as a licensing magistrate, upon application made for the purpose, may deem necessary.

A licensee may carry on his business pursuant to an authority granted under this subsection notwithstanding the fact that the premises on which his business is so carried on are not provided with the accommodation required by this Act.

(2) (a) In this subsection “licensed premises” means premises in respect of which a publican’s license or an Australian wine license is held.

(b) Any owner or licensee of licensed premises, who is desirous of making any material alterations or additions thereto, shall apply to the court for authority so to do, and shall furnish the court with a properly drawn plan showing the character of the alterations or additions proposed to be made.

(c) On granting any such authority the court shall specify a period within which
the

the proposed alterations or additions shall be completed, and the authority shall remain in force until the expiration of such period or of such further period or periods (not exceeding six months at any one time) as the court, upon application made for the purpose, may allow. No. 34, 1948.

(d) If any owner or licensee of licensed premises makes any material alteration or additions thereto without the authority of the court granted under this section the license shall be liable to cancellation, or to suspension for any period not exceeding six months.

- (d) (i) by omitting from paragraph (c) of subsection two of section 40A the words "prior to the expiration of the time so specified"; Sec. 40A.
(Court may order additional accommodation.)
- (ii) by omitting from subsection three of the same section all words following the figures "1919";
- (iii) by inserting in subsection four of the same section after the words "neighbouring premises" the words "or on part of the licensed premises";
- (iv) by inserting after subsection six of the same section the following new subsection:—

(6A) Where an order is made under subsection one of this section it shall be lawful for the owner of the licensed premises to which the order relates to authorise his architect and contractor, together with such of their employees as may be necessary, to enter upon the licensed premises for purposes of or connected with the carrying out of the order, and such architect, contractor and employees may enter accordingly and do and perform all such acts matters and things as may be necessary or convenient for those purposes.

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No. 34, 1946.

(v) by inserting in subsection seven of the same section after the word "include" the words "the provision of additional sitting rooms and sleeping rooms and of facilities for the consumption of liquor at tables in lounges, gardens, under awnings or in the open air, the provision of a bottle department";

(vi) by inserting after subsection seven of the same section the following new subsection:—

(8) The provisions of this section shall extend and apply to premises in respect of which an Australian wine license is held in like manner as those provisions apply to premises in respect of which a publican's license is held.

**New sec.
40B.**

(e) by inserting next after section 40A the following new section:—

**Additional
equipment.**

40B. (1) Upon proof that public convenience requires the provision of bedding, bed clothes, furniture, electrical or other fittings, kitchen and dining room utensils or any equipment of a like nature in any premises in respect of which a publican's license is held the licensing court may order the licensee of such premises to provide any such equipment within a reasonable time to be set out in the order.

(2) Not less than thirty days' notice of intention to make application for any order under this section shall be given to the licensee and to the clerk of the licensing court for the licensing district.

(3) The notice shall set out reasonable particulars of the equipment for the provision of which the order of the court is sought.

(4) The court may upon application made by the licensee for the purpose extend the time allowed in any such order for the provision of the equipment.

(5)

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(5) Upon proof to the satisfaction of the court that the licensee has failed to comply with an order under this section within the time allowed by the court, the court may suspend the license for such period as it thinks fit.

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(f) by omitting section forty-two;

Sec. 42.
(Lamps.)

(g) by omitting section forty-three and by inserting in lieu thereof the following sections:—

Subst.
sec. 43.

43. (1) Every person who (not being the agent or servant of a person authorised to sell liquor under this Act) sells, or causes or suffers to be sold any liquor shall, unless he is authorised under this Act to sell the same be guilty of an offence against this section.

Sale of
liquor with-
out license
or in breach
of license.

(2) Every person who is authorised under this Act to sell liquor, and who sells, supplies or delivers, or causes or suffers to be sold, supplied or delivered any liquor in a quantity other than a quantity which he is authorised under this Act to sell, supply or deliver, or otherwise than in accordance with the terms of the authority conferred on him under this Act shall be guilty of an offence against this section.

(3) Every person who being the agent or servant of a person authorised to sell liquor under this Act or being a person who purports to act on behalf of a person so authorised, sells, supplies or delivers or causes to be sold, supplied or delivered any liquor in a quantity other than a quantity which such lastmentioned person is authorised under this Act to sell, supply or deliver, or otherwise than in accordance with the terms of such authority shall be guilty of an offence against this section.

(4) Every person who is guilty of an offence against this section shall be liable—

(a) for a first offence to a penalty not exceeding one hundred pounds and

also,

No. 34, 1946.

also, if the court before which the offender is convicted so decides, to imprisonment for a term not exceeding three months;

- (b) for a second or subsequent offence, to a penalty of not less than one hundred pounds and not exceeding two hundred pounds and also, if the court before which the offender is convicted so decides, to imprisonment for a term not exceeding three months, or where the offender has within the period of three years next preceding the date of such conviction, been convicted of an offence against this section, to imprisonment for a term not exceeding six months.

(5) Upon the conviction for an offence against this section of a person who is the holder of an Australian wine license the offender shall forfeit to the use of His Majesty all liquor (other than Australian wine) together with the vessels containing the same found in his possession at the time of the commission of the offence.

In this subsection "Australian wine" means liquor which the holder of an Australian wine license is authorised to sell in pursuance of section eighteen of this Act.

(6) Upon any conviction for a second offence against this section of a person who is the holder of a license of any description under this Act, or of a permit under Part IIIA of this Act or of a certificate of registration under Part X of this Act, such person shall thereupon be disqualified from holding any such license, permit or certificate for a period of one year from the date of such conviction.

(7) Upon the conviction for an offence against this section of a person who is not the holder of a license under this Act, the offender shall

shall forfeit to the use of His Majesty all liquor together with the vessels containing the same found in his possession at the time of the commission of the offence. No. 34, 1946.

43A. (1) No house, office, room or other place shall be open, kept or used for the purpose of the owner, occupier or keeper thereof, or any person using the same or any person procured or employed by or acting for or on behalf of such owner, occupier, or keeper or person using the same, or of any person having the care and management of or in any manner conducting the business thereof, selling liquor to any person, or supplying or delivering liquor on sale to any person, unless a license under this Act is held in respect of such house, office, room or other place. Using and
keeping
unlicensed
house.

(2) Whosoever opens, keeps, or uses any house, office, room or other place for any of the purposes mentioned in subsection one of this section or knowingly and wilfully permits the same to be open, kept or used by any other person for any of such purposes, or has the care or management of or in any manner assists in conducting the business of any house, office, room or place, opened, kept or used for any of such purposes, shall for the first offence be liable to a penalty not exceeding fifty pounds and for any subsequent offence to a penalty not exceeding one hundred pounds, and, if the licensing court or convicting justices think fit shall be liable to imprisonment for a term not exceeding six months.

(3) Every person found in such house, office, room or place, without lawful excuse shall be liable to a penalty not exceeding five pounds.

(4) In this section "place" in the expression "house, office, room or other place" includes a vessel or boat, whether used in navigation or not so used.

43B.

1 o. 34, 1946.

Liquor in
taxi-cabs,
etc.

43B. Any driver or person for the time being in charge of any taxi-cab, private hire car or vehicle licensed under the State Transport (Coordination) Act, 1931, as amended by subsequent Acts, for the conveyance of passengers, who has any liquor in his possession in or on such taxi-cab, car or vehicle, whilst the same is plying for hire, shall be liable to a penalty not exceeding fifty pounds and for any second or subsequent offence to a penalty not exceeding one hundred pounds.

Sec. 44.
(Gaming
prohibited.)

(h) by omitting from section forty-four all words following the word "exceeding" where firstly occurring and by inserting in lieu thereof the words "thirty pounds";

Sec. 45.
(Prostitution
on licensed
premises—
increased
penalty.)

(i) by omitting from section forty-five the word "ten" wherever occurring and by inserting in lieu thereof the word "thirty";

Sec. 46.
(Permitting
drunkenness—
increased
penalty.)

(j) by omitting from section forty-six the word "twenty" and by inserting in lieu thereof the word "thirty";

Sec. 47.
(Dancing on
licensed
premises.)

(k) (i) by omitting from section forty-seven the words "music or";

(ii) by omitting the proviso to the same section;

(iii) by inserting at the end of the same section the following new subsection:—

(2) (a) Subsection one of this section shall not apply to dancing on any part of licensed premises where a permit for dancing on that part has been obtained from the court.

(b) A permit may be granted by the court for a particular occasion or may be granted generally for a period specified therein, which period shall not exceed twelve months at any one time.

(c)

(c) The court may if it thinks fit No. 34, 1946. specify in any such permit the part or parts of the licensed premises which may be used for dancing under the permit and the permit shall operate accordingly.

(d) Application for any such permit may be made as prescribed by regulations made under this Act, and shall be accompanied by the fee prescribed in such regulations.

(e) Where the court refuses the grant of any such permit it may, if it thinks fit, order a refund to the applicant of the whole or a part of the fee paid by him on his application.

- (1) (i) by inserting in subsection one of section Sec. 49. forty-nine after the word "sells" the word (Unlawful supply of liquor to certain persons.) "delivers";
- (ii) by inserting in the same subsection after the word "sold" the word "delivered";
- (iii) by omitting paragraphs (b) and (c) of the same subsection;
- (iv) by omitting from the same subsection the word "ten" and by inserting in lieu thereof the word "fifty";
- (v) by inserting in subsection two of the same section after the word "supplies" the words "or delivers";
- (vi) by omitting paragraphs (b) and (c) of the same subsection;
- (vii) by omitting from the same subsection the word "ten" and by inserting in lieu thereof the word "fifty";
- (viii) by omitting subsection four of the same section;

(m)

Liquor (Amendment) Act.**No. 34, 1946.**

Sec. 51.
(Persons
under
eighteen
years in
bar.)

- (m) by inserting at the end of section fifty-one the following words:—

In this section “bar” includes any portion of licensed premises in which liquor is sold or supplied to persons for consumption on the premises but does not include a dining room except during any period in which meals are not being served therein.

Sec. 52.
(Females
selling
liquor.)

- (n) (i) by inserting in section fifty-two after the word “supply” wherever occurring the word “deliver”;
- (ii) by omitting from subsection two of the same section the word “five” and by inserting in lieu thereof the word “twenty”;

Sec. 53.
(Substituted
section.)

Supplying
liquor to
intoxicated
person.

- (o) by omitting section fifty-three and by inserting in lieu thereof the following section:—

53. If the holder of any license for the sale of liquor sells, supplies or delivers liquor to any person who is at the time in a state of intoxication, he shall be liable to a penalty not exceeding fifty pounds.

Sec. 54.
(Supply of
liquor to
inebriates.)

- (p) (i) by omitting from section fifty-four the words “sell to” and by inserting in lieu thereof the words “sell or deliver any liquor to such inebriate”;
- (ii) by inserting in the same section after the word “sells” the words “or supplies or delivers”;
- (iii) by inserting in the proviso to the same section after the word “selling” the words “supplying or delivering”;
- (iv) by inserting in the same proviso after the word “sold” the words “supplied or delivered”;

Sec. 55.
(Further
penalty.)

- (q) by inserting in section fifty-five after the word “sells” the words “supplies or delivers to or”.
- (2).

(2) The Liquor (Amendment) Act, 1923, is amended by omitting section sixteen.

Amendment
of Act
No. 51, 1923,
Sec. 16
(Removals).

(3) The Liquor (Amendment) Act, 1929, is amended by omitting section three.

Amendment
of Act
No. 49, 1929,
Sec. 3
(Removals).

47. The Liquor Act, 1912, as amended by subsequent Acts, is further amended—

Further
amendment of
Act No. 42,
1912.

(a) (i) by inserting in paragraph (c) of subsection one of section fifty-seven immediately before the word “election” where firstly occurring the word “general”;

Sec. 57.
(Times
when
premises
may be
open.)

(ii) by omitting from the same paragraph all words commencing with the words “except between” down to and including the words “is taken”;

(iii) by omitting from paragraph (d) of the same subsection the words “six in the morning” and by inserting in lieu thereof the words “ten in the morning”;

(iv) by omitting paragraph (a) of subsection two of the same section and by inserting in lieu thereof the following paragraph:—

(a) the sale, supply, delivery or consumption of liquor to or by any bona-fide traveller, lodger, servant or inmate if the liquor is not sold, supplied, delivered or consumed at the bar of the licensee’s premises;
or;

(v) by omitting paragraph (b) of the same subsection;

(b) (i) by omitting from subsection one of section 57A all words following the words “properly observed” and by inserting in lieu thereof the following words:—

Sec. 57A.
(Permits for
liquor with
meals.)

Any such permit shall, subject to the provisions of this Act, be in force from the date upon which the grant takes effect until the
thirtieth

No. 34, 1946.

thirtieth day of June next following such date, both days inclusive, but may be renewed from time to time by a further grant;

(ii) by omitting from subsections two and five of the same section the words "the Liquor Acts" wherever occurring and by inserting in lieu thereof the words "this Act";

(iii) by omitting subsection six of the same section;

Sec. 58.
(Increased
penalty.)

(c) by omitting from section fifty-eight the word "two" wherever occurring and by inserting in lieu thereof the word "five";

Sec. 59.
(Proof in
prosecution.)

(d) (i) by omitting from subsection one of section fifty-nine the words "section fifty-seven, fifty-eight, or 58A" and by inserting in lieu thereof the words "this Act";

(ii) by omitting subsection two of the same section;

Sec. 60.
(Bona-fide
travellers.)

(e) (i) by omitting from section sixty the words "or the fifty-seventh section" and by inserting in lieu thereof the word "Act";

(ii) by omitting from the same section the word "twenty-five" and by inserting in lieu thereof the word "thirty";

Sec. 61.
(Correc-
tion.)

(f) by omitting from section sixty-one the words "traveller within the meaning of the fifty-seventh section of this Act", and by inserting in lieu thereof the words "bona-fide traveller";

Sec. 63.
(Powers of
police.)

(g) by omitting from subsection one of section sixty-three the words "senior constable" and by inserting in lieu thereof the words "sergeant or any member of the police force for the time being in charge of a police station";

Sec. 64.
(Bars.)

(h) (i) by omitting from subsection one of section sixty-four the word "wooden";

(ii)

- (ii) by omitting from subsection two of the same section the words “the fee hereinafter mentioned, and deliver”;
- (iii) by inserting next after subsection two of the same section the following new subsection:—
- (2A) The licensee when applying for a renewal of his license shall at the same time make application for the renewal of any permission for an additional bar granted in respect of his licensed premises.
- (iv) by inserting next after subsection four of the same section the following new subsection:—
- (4A) The court may at any time, on the application of the licensee or of the inspector, revoke any permission granted by it for the sale or supply of liquor in any additional bar.
- (v) by inserting at the end of the same section the following new subsection:—
- (6) A licensee who contravenes any of the provisions of subsection one or subsection five of this section shall be liable to a penalty not exceeding fifty pounds.
- (i) (i) by inserting after paragraph (c) of subsection one of section sixty-five the following new paragraph:—
- (d) take all reasonable steps to keep his licensed premises free from flies, mosquitoes, bugs and vermin of every description;
- (ii) by omitting from subsection two of the same section the word “ten” and by inserting in lieu thereof the word “fifty”;
- (j)

No. 34, 1946.

Sec. 65.
(Sanitary matters.)

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Sec. 66.

(Refusal to
receive
travellers,
etc.)

(j) (i) by omitting subsection one of section sixty-six and by inserting in lieu thereof the following subsection:—

(1) No holder of a publican's license shall without reasonable cause, proof whereof shall lie upon him, refuse to receive any person as a guest into his house or to provide him with meals or accommodation at the charges prescribed under this section, or where no such charges are prescribed, at reasonable charges. But this subsection shall not be construed to require any such holder to provide meals at hours other than the usual meal hours ordinarily observed in the licensed premises.

Any holder of a publican's license who contravenes any of the provisions of this subsection shall be liable to a penalty not exceeding thirty pounds.

(ii) by omitting paragraph (b) of subsection (1A) of the same section and by inserting in lieu thereof the following paragraph:—

(b) (i) Regulations made under this Act may prescribe the minimum standard of quality and variety for meals and the minimum standard of sleeping accommodation which shall be available on the premises of a licensed publican to persons requiring the same, and may prescribe the charges to be made therefor.

(ii) Notwithstanding anything contained in such regulations the court may, if it thinks fit, in relation to any particular premises, prescribe a higher standard of quality and variety

variety for such meals and a higher standard of such sleeping accommodation, and may prescribe the charges to be made therefor. No. 34, 1946.

(iii) Any holder of a publican's license who fails to observe the standards and charges prescribed under this paragraph and applicable to his licensed premises shall be liable to a penalty not exceeding fifty pounds.

(iii) by omitting subsection two of the same section;

(iv) by omitting from subsection three of the same section the words "this or";

(v) by omitting from the same subsection the words "of not less than five pounds and";

(k) by omitting section sixty-seven, and by inserting in lieu thereof the following section:—

Sec. 67.
(Substituted section.)

67. (1) No holder of a publican's license shall supply to any person for consumption on the premises of such holder any liquor of any description unless such liquor is contained in a glass or other container sized to contain five, or ten, or fifteen, or twenty fluid ounces.

Liquor to be sold by measure.

(2) No holder of a publican's license shall supply to any person for consumption on the premises of such holder any spirituous liquor unless the same is contained in a glass or other container clearly marked in such manner as to indicate a full fluid one ounce measure.

(3) The holder of a publican's license, in supplying malted liquor to a purchaser for consumption on the premises of such holder shall not without reasonable cause, proof whereof shall lie upon him, refuse to supply the liquor in

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in a glass or other container of such size (being one of the sizes prescribed in subsection one of this section) as the purchaser may specify.

(4) (a) The Governor may by regulations made under this Act provide—

(i) that liquor of any kind class or description (not being malted liquor) specified in the regulations shall be excluded from the operation of subsection one of this section;

(ii) that spirituous liquors of any kind class or description specified in the regulations shall be excluded from the operation of subsection two of this section.

(b) The Governor may in and by such regulations—

(i) prohibit the holder of a publican's license from supplying to any person for consumption on the premises of such holder liquor of any kind class or description which has been so excluded from the operation of subsection one or subsection two of this section unless such liquor is contained in a glass or other container of such size or description as may be prescribed in the regulations;

(ii) require the holder of a publican's license in supplying any such liquor to a purchaser for consumption on the premises to supply it in a glass or other container of the size or description so prescribed in relation to such liquor.

(5) Any person who contravenes any of the provisions of this section shall be liable to a penalty not exceeding five pounds.

(6) This section shall commence upon a day to be appointed by the Governor and notified by proclamation published in the Gazette.

Such

Such day shall not be earlier than one month after the date of commencement of Part III of the Liquor (Amendment) Act, 1946. No 34, 1946.

(l) (i) by inserting in subsection one of section 68A after the word "entered" the words "legibly and in ink"; Sec. 68A.
(Register.)

(ii) by inserting at the end of the same subsection the following words:—

The entries required by this subsection shall be made immediately upon the reception by the licensed publican into his house of each such lodger boarder or guest;

(iii) by inserting next after the same subsection the following new subsection:—

(1A) A licensed publican shall on demand by any such member of the police force as is referred to in subsection one of section sixty-three of this Act, produce such register and permit such member of the police force to inspect the same and to take copies or notes of any entries contained therein.

(m) (i) by inserting in the proviso to subsection one of section sixty-nine after the word "agent" the words "fails or"; Sec. 69.
(No action to recover price of liquor.)

(ii) by omitting from the same proviso the words "deemed a rogue and vagabond, and shall be liable to be dealt with as such under the Vagrancy Act, 1902" and by inserting in lieu thereof the words "liable to a penalty not exceeding twenty pounds; and in addition thereto, the court may order the offender to pay to the licensee such sum as it deems reasonable in respect of the liquor, meals or accommodation supplied to the offender";

(n).

Liquor (Amendment) Act.**No. 34, 1946.**

Sec. 70.
(Forfeiture
of license
in certain
cases.)

- (n) (i) by inserting in section seventy after the words "licensed publican" the words "or holder of an Australian wine license";
- (ii) by omitting from paragraph (1) of the same section the words "in any one year";
- (iii) by inserting in paragraph (5) of the same section, immediately before the word "abandons" the words "being a licensed publican";

Sec. 71.
(Allowing
unlicensed
person to
sell.)

- (o) (i) by omitting from section seventy-one the words "employs any unlicensed person" and by inserting in lieu thereof the words "sells or employs or permits any other person";
- (ii) by omitting from the same section all words following the words "his license" and by inserting in lieu thereof the words "shall be liable to a penalty of not less than thirty pounds and not exceeding fifty pounds";

New sec.
73A.

- (p) by inserting next after section seventy-three the following new section:—

Change of
name of
premises.

73A. (1) A licensing magistrate may, on the application of the holder of a publican's license, authorise a change in the name or sign of the premises in respect of which such license is held; no such change shall be made without such authority.

(2) On the grant of an application for an authority under this section the licensee shall forthwith lodge with the clerk of the court the current license in respect of the licensed premises.

(3) The clerk of the court shall thereupon by endorsement change the name or sign specified in the license.

(4) Any licensee who contravenes any provision of this section shall be liable to a penalty not exceeding five pounds.

(q)

- (q) by omitting from section seventy-five the words “publican’s licenses” and by inserting in lieu thereof the words “licenses in such neighbourhood”;
- (r) by omitting section seventy-eight;
- (s) by inserting next after section 78A the following new section:—

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Sec. 75.

(Tumult or riot—closing of licensed premises.)

Sec. 78.

(Repeal.)

New sec. 78B.

78B. Where in any proceedings against a licensee for an offence against any of the provisions of this Act, the court is of opinion that the offence has been proved, it may, if it thinks fit, having regard to the character of the offence and the circumstances in which the same was committed, and notwithstanding anything to the contrary in this Act, direct that the conviction for the offence shall not be recorded against the licensee or the licensed premises for any of the purposes of this Act.

Recording of convictions against licensee.

48. The Liquor Act, 1912, as amended by subsequent Acts, is further amended by inserting next after Part III the following new Parts:—

Further amendment of Act No. 42, 1912.

PART IIIA.

New Parts IIIA, IIIB.

WINE AND MALTED LIQUORS IN RESTAURANTS.

78c. In this Part, unless the context or subject matter otherwise indicates or requires—

Interpretation.

“Light wines” means wine, cider or perry made in Australia from fruit grown within any Australasian colony, and having an alcoholic content which does not exceed the standard or standards prescribed by regulations made under this Act, but does not include fortified wine, cider or perry.

“Permit” means permit granted by the court under this Part.

“Prescribed” means prescribed by this Part or by regulations.

“Regulations” means regulations made under this Part.

“Restaurant”

No. 34, 1946.

“Restaurant” means premises in which meals are regularly supplied on sale to the public for consumption on the premises.

“This Part” means this Part of this Act.

Court may grant permit.

78D. The court may, under and in accordance with this Part, and subject to the provisions thereof, grant a permit in or to the effect of the prescribed form authorising the holder thereof to sell and supply light wines and malted liquors in a restaurant.

Application.

78E. (1) A person who wishes to obtain a permit under this Part shall make application therefor to the licensing court of the district within which the restaurant to which the application relates is situated.

(2) (a) Notice in writing of the applicant's intention to apply for a permit shall be delivered to the clerk of the court and to the district inspector at least fourteen days before the application is made.

(b) The notice shall be in or to the effect of the prescribed form, shall be signed by the applicant, and shall set out his full name, calling, and abode, the place at which the restaurant is situated, and such further information and particulars as may be prescribed.

(c) Regulations may be made requiring such notice of the proposed application to be given to the public at such times and in such manner as may be prescribed.

(d) The notice required by paragraph (a) of this subsection to be delivered to the clerk of the court shall be accompanied by a properly drawn plan of the premises in which the restaurant to which the proposed application relates is situated, showing—

- (i) the precise locality of those premises;
- (ii) the part or parts thereof which constitute the restaurant;
- (iii) the situation of the restaurant in relation to other parts of the premises;
- (iv)

- (iv) the size of the room which constitutes the restaurant, or if there is more than one such room, the sizes of the various rooms and their situation in relation to each other; No. 34, 1946.
- (v) the situation, character and extent of the seating accommodation provided for customers in the restaurant;
- (vi) the situation and character of the sanitary accommodation for both sexes provided in the restaurant; and
- (vii) such other particulars (if any) as may be prescribed.

78F. (1) The provisions of section twenty-nine of this Act shall mutatis mutandis, and subject to subsection two of this section apply to and in respect of the granting of a permit under this Part. Objections.

(2) For the purposes of such application a reference in section twenty-nine to a license shall be read and construed as a reference to a permit, and the said section shall be deemed to be amended as follows:—

- (a) by omitting paragraphs (e), (f) and (g);
- (b) by omitting the words “subject to the provisions of the next succeeding section”;
- (c) by omitting all words commencing with the words “The following objection” down to and including the words “or rebuilding of the premises.”

78G. (1) If the court decides to grant the application it shall authorise the issue by the clerk of the court to the applicant of a permit which may be in or to the effect of the form prescribed, and shall record its decision in the manner and form prescribed. Grant of permit.

(2) No permit or renewed permit shall be issued by the clerk of the court unless the fee payable in respect thereof has been paid to him, and every such fee shall be paid within three months of the granting of the application for a permit or renewed permit, as the case may be.

(3)

No. 34, 1946.

(3) The provisions of section thirty-three of this Act shall apply to and in respect of an application under this Part in all respects as if the application referred to in that section were an application under this Part.

(4) No application for a permit shall be granted to any person who is not a natural-born or naturalised British subject.

Fees.

78H. (1) The fee payable for a new permit shall be the sum of thirty pounds.

(2) The fee payable for the renewal of a permit shall be a sum equal to five per centum of the gross amount (including any duties thereon) paid or payable for all liquor which during the twelve months ended on the thirty-first day of December next preceding the date of the application for the renewal of the permit was delivered upon or purchased for the restaurant in respect of which such renewal is sought.

(3) The provisions of subsection one of section twenty-two of this Act shall apply to and in respect of every person who is the holder of a permit, in like manner as those provisions apply to the holders of the licenses referred to in that section.

Any reference to a license in that section shall be construed as including a reference to a permit, and a reference to premises in that section shall be construed as including a reference to a restaurant in respect of which a permit is held.

(4) The board shall fix the amount of the fee payable upon the renewal of a permit, and the amount so fixed shall be final and conclusive, unless the board in its absolute discretion re-assesses the amount, in which case the re-assessment shall be final and conclusive.

(5) The provisions of subsections two and three of section twenty-three shall apply *mutatis mutandis* to and in respect of fees payable for a permit and the fixing thereof.

78r. (1) Every permit shall, subject to the provisions of this Part, be in force from the date on which the same was issued until the thirtieth day of June next following such date, both days inclusive, but may be renewed from time to time.

No. 34, 1946.
Renewal
of permit.

(2) The provisions of section thirty-four of this Act shall apply to and in respect of a permit and a restaurant in like manner as the same applies to a license and premises.

(3) The provisions of sections thirty-five and thirty-six of this Act shall apply to and in respect of a permit and the holder of a permit in like manner as they apply to a license and a licensee.

78J. (1) An application for a permit shall not be granted to a firm, corporation or body of persons but may be granted to an individual only.

Holder of
permit.

(2) An application for a permit shall not be granted to any person unless he has the immediate supervision of the conduct of the business of the restaurant in respect of which the application is made, but the fact that the applicant is an employee of any other person, firm, corporation or body of persons shall not of itself preclude the grant of the application.

(3) An application for a permit in respect of any restaurant shall not be granted unless the court is satisfied that adequate staff, fittings, furniture, equipment and accommodation are available in the restaurant for the provision of meals for at least fifty persons at one and the same time, and that the restaurant is provided with not less than fifty separate seats for the accommodation of customers.

In this subsection—

“Meals” shall have the meaning ascribed to the word “meal” in subsection two of section 78k of this Act.

“Separate seats” means seats each of which is constructed for occupation by one person and one person only.

(4)

No. 34, 1946.

(4) An application for a permit shall not be granted unless the restaurant in respect of which the application is made is provided with sanitary accommodation for both sexes of a minimum standard prescribed by the regulations, or with such further sanitary accommodation as the court, having regard to the circumstances, may think fit.

Effect of
permit.

78K. (1) A permit shall have the effect of authorising the holder to sell and supply light wines and malted liquors in accordance with the provisions of this section.

(2) The light wines and malted liquors shall be sold and supplied in the restaurant specified in the permit for bona-fide consumption by persons partaking of a meal, and not otherwise.

For the purposes of this subsection a meal shall mean a meal of at least two courses at which the persons partaking thereof are seated at a table, and one course of such meal shall consist of fish or meats, other than in sandwich form, and cooked vegetables.

(3) Light wine and malted liquor supplied in a restaurant pursuant to a permit, shall be served in a sealed bottle at the table at which the purchaser is seated, and shall be opened at that table in his presence. And every bottle so served shall bear a label showing thereon the name and address of the person responsible for the bottling of the contents thereof, together with such further particulars as may be prescribed.

(4) Light wine or malted liquor shall not be sold or supplied in a restaurant pursuant to a permit, except between the hours of twelve noon and two-thirty o'clock in the afternoon, and between the hours of six o'clock and eight-thirty o'clock in the evening.

Removal
of bottles
from tables.

78L. (1) All bottles in which light wine or malted liquor is supplied in a restaurant and all drinking vessels used in the consumption thereof shall be removed.

removed from every dining room of the restaurant No. 34, 1946.
in accordance with the following provisions:—

- (a) Where the light wine or malted liquor is served between the hours of twelve noon and two-thirty o'clock in the afternoon of any day, the removal shall be completed before three o'clock in the afternoon of the same day;
- (b) Where the light wine or malted liquor is served between the hours of six o'clock and eight-thirty o'clock in the evening the removal shall be completed before nine o'clock in the evening of the same day.

(2) In every case in which any of the provisions of this section are contravened the holder of the permit for the restaurant concerned shall be liable to a penalty not exceeding twenty pounds.

78m. Nothing in this Part shall be construed to authorise the sale or supply of any light wine or malted liquor on any day referred to in paragraphs (a), (b) and (c) of subsection one of section fifty-seven of this Act. Prohibited days.

78n. Where liquor of any kind is sold, disposed of, supplied or delivered in contravention of this Act in a restaurant in respect of which a permit is held under this Part, and such liquor is sold, disposed of, supplied or delivered by any agent, employee or servant of the holder of such permit or by any person acting or purporting to act on behalf of such holder, such holder shall be liable to the punishment prescribed by this Act for such contravention. Holder of permit responsible for servants.

78o. If any person carries away liquor of any kind from a restaurant in respect of which a permit under this Part is held he shall be liable to a penalty not exceeding twenty pounds, unless he proves that the liquor was in his possession before he entered the restaurant. Carrying liquor away.

No. 34, 1946.
Return of
permit.

78p. The holder of a permit shall upon ceasing to have the immediate supervision of the conduct of the business of the restaurant to which the permit relates forthwith return the permit to the clerk of the court, and any such permit shall upon the holder thereof ceasing to have such immediate supervision as aforesaid cease to have any force or effect.

Maximum
charges
may be
prescribed.

78q. (1) The regulations may prescribe the maximum charges which may be made by the holder of a permit for light wines and malted liquors supplied in his restaurant.

(2) The holder of a permit shall cause to be posted up at the main entrance to his restaurant, and to be exhibited at each table provided for the use of customers therein, a printed list showing the charges made for meals and for light wines and malted liquors supplied in his restaurant.

Any holder of a permit who fails to comply with any of the provisions of this section shall be liable to a penalty not exceeding five pounds.

Obtaining
liquor by
false repre-
sentation.

78r. Any person who in any restaurant in respect of which a permit is held obtains or attempts to obtain light wine or malted liquor by falsely representing that he intends at the same time to partake of a meal in the restaurant, shall be liable to a penalty not exceeding twenty pounds.

Application
of certain
provisions.

78s. (1) The provisions of sections forty-six, forty-nine and fifty-three of this Act shall extend and apply to and in respect of the holder of a permit, and a restaurant in respect of which a permit is held, in like manner as they apply to a licensee and licensed premises.

(2) The provisions of section one hundred and sixteen of this Act except insofar as they relate to the transfer of a license, shall apply mutatis mutandis to and in respect of the holder of a permit.

(3)

(3) A reference in Part VIII of this Act to ^{No. 54, 1946.}
a licensee or to licensed premises shall be deemed
respectively to include a reference to the holder of a
permit, or to a restaurant in respect of which a
permit is held.

78r. Upon the complaint of any inspector, a ^{Cancellation}
licensing court may summon any holder of a permit ^{of permit.}
to appear before such court and show cause why
his permit should not be cancelled.

Such summons shall be served upon the holder
of the permit at least fourteen days before the day
appointed for the hearing of the complaint, or if
such holder evades service thereof or is absent at
the time of attempted service, it shall be sufficient
if the summons is posted up in a conspicuous place
on the premises in which the restaurant to which
the permit relates is situated, not less than seven
days before such appointed day.

The licensing court shall hear and determine the
matter of such complaint, and if it is satisfied that
in the interests of the public in the neighbourhood
of the restaurant in respect of which the permit is
held or for any other reasonable cause such permit
should be cancelled, the court may make an order
accordingly and thereupon the permit so cancelled
shall cease to have any force or effect.

78u. (1) The Governor may make regulations ^{Regulations.}
prescribing all matters which by this Part are required
or permitted to be prescribed or which are necessary
or convenient to be prescribed for carrying out or
giving effect to this Part.

(2) The provisions of subsections two, three
and four of section one hundred and fifty-three of
this Act shall apply to and in respect of regulations
made under subsection one of this section.

No. 34, 1946.

PART III.B.

COMMUNITY HOTELS.

Interpreta-
tion.

78v. (1) In this Part—

“Area” has the meaning ascribed to that word in the Local Government Act, and includes the city of Sydney.

“Local Government Act” means the Local Government Act, 1919, as amended by subsequent Acts.

(2) A reference in this Part to a council shall be construed as including a reference to the Municipal Council of Sydney.

Council
may
conduct
community
hotel.

78w. (1) The council of an area may, through the agency of an authorised servant and under and in accordance with this Act establish, acquire and conduct the business of the holder of a publican’s license on premises situated within its area. Such business is in this Part referred to as a community hotel.

(2) A community hotel shall be a trading undertaking within the meaning of Part XVII of the Local Government Act and the provisions of that Act which are applicable to a trading undertaking, shall, subject to this Part, apply to a community hotel, in all respects as if a community hotel were included amongst the trading undertakings specified in section four hundred and eighteen of the said Act.

Subject to this Part the powers, authorities, duties, functions and obligations conferred and imposed by the Local Government Act on a council which conducts or proposes to conduct a trading undertaking may be exercised and shall be discharged by a council which conducts or proposes to conduct a community hotel under this Part.

Methods of
establishing
community
hotel.

78x. (1) A council may establish a community hotel by either of the following methods, that is to say—

- (a) The council may purchase an estate in fee simple of premises in respect of which a publican’s

publican's license is held, and may also, if it thinks fit, purchase any other estate or interest in the premises, including the interest of the licensee. No. 34, 1946.

- (b) The council may through its authorised servant and under and in accordance with this Part obtain a new license in respect of premises which are situated within its area and which are vested in the council for an estate in fee simple.

(2) A licensing court shall not grant an application for a new license pursuant to paragraph (b) of subsection one of this section unless it is proved to the satisfaction of the court that the council on whose behalf the application is made is unable to purchase on reasonable terms the estates and interests referred to in paragraph (a) of subsection one of this section, or any one or more of such estates or interests in premises situated within its area.

(3) A council shall not purchase any estate or interest referred to in paragraph (a) of subsection one of this section without the approval of the Governor, nor shall the council sell or otherwise dispose of any estate or interest so purchased except with the like approval.

(4) Where a council obtains a new license in respect of premises in accordance with paragraph (b) of subsection one of this section the council shall not sell or otherwise dispose of the premises or any estate or interest therein without the approval of the Governor.

(5) Nothing in subsection three or subsection four of this section shall operate to preclude the transfer of a license held by an authorised servant of the council to another authorised servant of the council.

(6)

No. 34, 1946.

(6) For the purposes of this Part an authorised servant means a servant of the council specially authorised by it in writing under the seal of the council.

New
license by
council.

78y. Where the council proposes to establish a community hotel by the method set out in paragraph (b) of subsection one of section 78x of this Act, the steps for obtaining the new license referred to in that paragraph shall be taken by its authorised servant, and the provisions of this Act and of any Act amending the same shall apply accordingly:

Provided that in the application under this section of section six of the Liquor (Amendment) Act, 1919, that section shall be deemed to be amended by omitting all words following the words "license may be granted for the said premises" and by inserting in lieu thereof the following words:—

"The application for such license may be made to the licensing court at any time after the expiration of thirty days from the date of the publication of the notification in the Gazette of the grant of the prayer of the petition".

Authorised
servant to
be the
licensee.

78z. (1) Where a license is held by an authorised servant of a council, such servant shall for all purposes of this Act and of any amendment thereof be deemed to be the licensee of the premises to which the license relates, and may exercise and shall discharge all the powers, authorities, duties, functions and liabilities conferred and imposed on the holder of a publican's license by any such Act.

(2) All persons employed on the premises of a community hotel for purposes of or connected with the conduct of the community hotel by the council, shall for all purposes of this Act and of any amendment thereof be deemed to be employees, servants and agents of the authorised servant who holds the license for such community hotel.

78AA.

78AA. A license held by an authorised servant of the council shall not, except with the approval of the Governor, be transferred to any person who is not an authorised servant of the council.

No. 34, 1946.
Transfer of
license
restricted.

78BB. In the application of the Local Government Act to and in respect of the conduct by a council of a community hotel, that Act shall be deemed to be amended as follows:—

Distribution
of profits.

- (a) by omitting from subsection five of section one hundred and ten the words “paid to the reserve for loan repayment in the trading fund” and by inserting in lieu thereof the words “applied for or towards a public purpose.

For the purposes of this subsection ‘public purpose’ means the establishment maintenance or equipment of a public hospital, public library, school of arts, mechanics’ institute, literary institute, art gallery, museum, ground for public health, recreation, convenience or enjoyment, maternity and infant welfare centre, and any other public purpose approved by the Governor on the recommendation of the Minister for the time being charged with the administration of the Local Government Act, and notified in the Gazette”;

- (b) by omitting section four hundred and nineteen.

49. (1) The Liquor Act, 1912, as amended by subsequent Acts, is further amended—

Further
amendment
of Act No.
42, 1912.

- (a) by omitting Part IV except subsections three and four of section eighty in so far as they relate to registered clubs;

Part IV.
(Local
option.)

- (b) by omitting the Eleventh and Twelfth Schedules.

Eleventh
and Twelfth
Schedules.

(2) The Liquor (Amendment) Act, 1919, as amended by subsequent Acts, is amended by omitting section four.

Amendment
of Act No.
42, 1919,
sec. 4.

(3)

(Repeal.)

Liquor (Amendment) Act.**No. 34, 1946.**

(3) Every proclamation issued under section ninety-three of the Liquor Act, 1912, as amended by subsequent Acts, and in force at the commencement of this Part of this Act is hereby revoked, and shall as from such commencement cease to have any force or effect.

Further amendment of Act No. 42, 1912.

50. The Liquor Act, 1912, as amended by subsequent Acts, is further amended—

Sec. 95.
(Brewer's license.)

(a) (i) by omitting from paragraph (1) of section ninety-five the word "quarterly";

(ii) by omitting the proviso to paragraph (5) of the same section.

Secs. 107-109.

(Repeal—see sec. 169.)

Sec. 112.

(Recovery of penalty.)

(b) by omitting sections one hundred and seven, one hundred and eight and one hundred and nine.

(c) by omitting from section one hundred and twelve the words "to be sued for and recovered in a summary way before any two justices of the peace in petty sessions assembled."

New sec. 112A.

(d) by inserting next after section one hundred and twelve the following new section:—

Cancel-lation for offence against s. 111 or s. 112.

112A. Where the holder of a license under this Act is convicted of an offence against any of the provisions of section one hundred and eleven or section one hundred and twelve of this Act the court shall, in addition to any other penalty, punishment or forfeiture provided for such offence, cancel the license of such holder.

In this section "license" includes permit issued under Part IIIA of this Act, and certificate of registration issued under Part X of this Act.

Sec. 113.
(Adulterated liquor.)

(e) (i) by inserting in section one hundred and thirteen after the word "health" the words "or any substance declared by the Governor by proclamation published in the Gazette to be a deleterious ingredient for the purposes of this section or any extract or compound of any substances so declared";

(ii)

(ii) by omitting from the same section the words **No. 34, 1946.**
 “in the case of a second or any subsequent offence” and by inserting in lieu thereof the words “notwithstanding any other provision contained in this Act”;

(iii) by inserting at the end of the same section the following words:—

In this section “license” includes permit issued under Part IIIA of this Act, and certificate of registration issued under Part X of this Act.

(f) by omitting from section one hundred and fourteen all words following the words “last preceding section” and by inserting in lieu thereof the following words:—

Sec. 114.
 (Possession of adulterated liquors or deleterious ingredients.)

In this section “license” includes permit issued under Part IIIA of this Act, and certificate of registration issued under Part X of this Act; and “premises” includes restaurant and club premises.

(g) by omitting sections one hundred and sixteen, one hundred and seventeen and one hundred and eighteen and by inserting in lieu thereof the following section:—

Secs. 116-118 (Substituted section.)

116. (1) (a) If a licensee dies, his widow or any member of his family of the age of twenty-one years or upwards, or any person on behalf of the family, may carry on the business for a period not exceeding one month from the date of the death of the licensee, and upon commencing to do so shall forthwith notify the clerk of the licensing court.

Death, bankruptcy, or lunacy of licensee.

(b) Within the said period of one month the person so carrying on the business or any other person who claims preference over such firstmentioned person may apply to the court for the endorsement of her or his name on the license as agent pending the transfer of the license pursuant to paragraph (c) of this subsection.

The

No. 34, 1946.

The court may order the endorsement on the license of the name of the applicant, or, where there is more than one applicant, of the name of such one of the applicants as the court in its absolute discretion thinks fit.

(c) Upon the grant of probate of the will of the deceased licensee, or of letters of administration of his estate, the executor or administrator as the case may be, shall forthwith make application to the court for a transfer of the license either to himself or to some person nominated by him.

(2) If any licensee becomes bankrupt his official receiver shall forthwith apply to the court for the endorsement on the license of his name, or of the name of some person nominated by him as agent. Pending such application the business may be carried on by the official receiver or by some person authorised in writing in that behalf by the official receiver, and the official receiver or such person, as the case may be, shall upon commencing to carry on the business forthwith notify the clerk of the court.

(3) If any licensee becomes an insane patient within the meaning of the Lunacy Act of 1898, as amended by subsequent Acts, the Master in Lunacy shall forthwith apply to the court for the endorsement on the license of his name or of the name of some person nominated by him as agent.

Pending such application the business may be carried on by some person authorised in writing in that behalf by the Master in Lunacy, and upon commencing to carry on the business such person shall forthwith notify the clerk of the court.

(4) Upon any application under this section for the endorsement on a license of the name of any person the court may, if satisfied that such person is a fit and proper person
to

to carry on the business, order that the ^{No. 34, 1946.} endorsement shall be made; and in such a case, the clerk of the court shall endorse the license accordingly.

(5) Every person whose name is endorsed on a license pursuant to this section may carry on the business as the licensee of the premises to which the license relates until the license is transferred, and shall be eligible to apply for a renewal of the license or of a permit under section 57A of this Act.

(6) Every person who carries on the business of a licensee under the authority of this section shall be subject to the same duties, liabilities, obligations, disqualifications and penalties as if he were the licensee.

(7) No person shall except with the permission of the court carry on the business of a licensee under the authority of this section for a longer period than one year.

(8) This section shall have effect notwithstanding anything to the contrary in this Act.

(9) The fee payable for every endorsement made on a license pursuant to this section shall be one pound.

(h) (i) by inserting next after subsection one of section one hundred and nineteen the following new subsection:— ^{Sec. 119.} ^(Inspectors.)

(1A) The person who for the time being holds the office of inspector for the Metropolitan licensing district (which person is in this Part referred to as the Metropolitan licensing inspector) shall have and may exercise and discharge if he thinks fit and concurrently with the district inspector appointed for a district all or any of the powers authorities duties and functions conferred or imposed on the district inspector.

(ii)

No. 34, 1946.

- (ii) by omitting subsection two of the same section and by inserting in lieu thereof the following subsections:—

(2) Any member of the police force of or above the rank of sergeant, and any member of the police force for the time being in charge of a police station shall be qualified to be appointed as district inspector. And every such member of the police force who has not been appointed as a district inspector, shall by virtue of his office as such member of the police force, be a district sub-inspector.

(2A) The Governor may appoint not more than six members of the police force of or above the rank of inspector to assist the Metropolitan licensing inspector in the exercise and discharge of his powers authorities duties and functions under this Act. Every assistant so appointed shall be an inspector for the Metropolitan licensing district, and may, if authorised in writing in that behalf by the Metropolitan licensing inspector, either generally, or in any particular case, act for and on behalf of the Metropolitan licensing inspector in the exercise and discharge of the powers authorities duties and functions conferred on him by subsection (1A) of this section.

Sec. 120.
(Duties of
inspectors.)

- (i) by omitting from subsection two of section one hundred and twenty the words “during business hours”;

Sec. 121.
(Penalties
for
bribery.)

- (j) (i) by omitting from section one hundred and twenty-one the words “before any licensing court or court of petty sessions”;
- (ii) by omitting from the same section the words “recoverable in any such court as aforesaid.”

(k).

- (k) by omitting paragraph (1) of section one hundred and twenty-two and by inserting in lieu thereof the following paragraph:— No. 34, 1946.
Sec. 122.
Entry on premises.
- (1) any superintendent, inspector, or sergeant of police or any member of the police force for the time being in charge of a police station.
- (l) (i) by omitting paragraph (b) of section one hundred and twenty-three; Sec. 123.
(Cancellation of licenses.)
- (ii) by omitting from paragraph (c) of the same section the words “for any time not exceeding fourteen days” and by inserting in lieu thereof the words “from time to time for such period as it thinks fit”;
- (m) (i) by omitting from paragraph (c) of section one hundred and twenty-four the word “three,” where firstly occurring, and by inserting in lieu thereof the word “four”; Sec. 124.
(Grounds of cancellation.)
- (ii) by inserting in the same paragraph after the word “Act” the words “and the convictions for all four of such offences have been recorded against him”;
- (n) by omitting section one hundred and twenty-five and by inserting in lieu thereof the following section:— Sec. 125.
(Substituted section.)
125. (1) Upon the complaint of any inspector, a licensing court may summon any licensee to appear before such court and show cause why he should not be disqualified from holding a license under this Act. Disqualification of licensee.
- (2) The provisions of section one hundred and twenty-three of this Act shall apply mutatis mutandis to and in respect of any such complaint.
- (3) If upon such complaint it is proved that four previous convictions for offences (whether of the same or different kinds) under this Act have been made before or after the commencement of the Liquor (Amendment) Act,

No. 34, 1946.

Act, 1946, against the licensee within the three years next preceding, and that all four of such convictions have been recorded against him, the licensing court shall declare and order such licensee to be, and he shall thereupon be disqualified for a term of three years from holding any license whatever under this Act, or any permit under Part IIIA of this Act.

Sec. 126.
(Recorded convictions.)

- (o) (i) by omitting from paragraph (a) of section one hundred and twenty-six the words "sections forty-two, sixty-five, subsection (1A) of section sixty-six" and by inserting in lieu thereof the words "subsection (1A) of section sixty-six, or under sections";
- (ii) by inserting at the end of the same paragraph the following words "And a conviction for any offence against this Act shall be deemed not to have been recorded in any case where pursuant to section 78B of this Act the court has directed that the conviction shall not be recorded."

Sec. 128.
(Disqualification of premises.)

- (p) (i) by omitting from paragraph (d) of subsection one of section one hundred and twenty-eight the words "or under section one hundred and thirteen or section one hundred and fourteen of this Act";
- (ii) by omitting from the same subsection the words "two previous convictions" and by inserting in lieu thereof the words "three previous convictions";
- (iii) by inserting next after subsection one of the same section the following new subsection:—

(1A) Subsection one of this section shall not apply to or in respect of any conviction of a licensee, where the court pursuant to section 78B of this Act has directed that the conviction shall not be recorded against him.

(q)

- (q) (i) by omitting from section one hundred and twenty-nine the words “mentioned in the last preceding section (whether of the same or different kinds)” and by inserting in lieu thereof the words “(whether of the same or different kinds) under sections one hundred and eleven, one hundred and twelve, and one hundred and thirteen of this Act or for any of the offences (whether of the same or different kinds) mentioned in section one hundred and twenty-eight of this Act”;
- No. 34, 1946.
Sec. 129.
(Disqualification for four offences in two years.)
- (ii) by inserting at the end of the same section the following words:—“This section shall not apply to or in respect of any conviction of a licensee, where the court, pursuant to section 78B of this Act has ordered that the conviction shall not be recorded against him”.
- (r) by omitting from section one hundred and thirty-one the word “new”.
- Sec. 131.
(Lapsed licenses.)
- (s) (i) by inserting in subsection (1A) of section one hundred and fifty-three after the word “sixty-four” the words “but subject to the provisions of section 40A of this Act”;
- Sec. 153
(1A).
(Regulations.)
- (ii) by inserting at the end of the same subsection the following words:—
- Nothing contained in any regulation made under this subsection shall operate—
- (i) to preclude a licensing court from making any order which it thinks fit under section forty or section 40A of this Act; or
- (ii) to limit or restrict the powers and authorities conferred on the licensing court by either of those sections.

Liquor (Amendment) Act.

No. 34, 1946. **51.** The Liquor Act, 1912, as amended by subsequent Acts, is further amended—

Further amendment of Act No. 42, 1912.

Sec. 154.
(Duplicate permits.)

- (a) by inserting at the end of section one hundred and fifty-four the following words:—

The provisions of this section shall apply to and in respect of any permit granted or issued under this Act and to the holder of such permit in like manner as they apply to a license and a licensee;

Sec. 155.
(Licensee's name to be affixed to premises.)

- (b) by omitting from section one hundred and fifty-five the words "in full";

Sec. 156.
(Exclusion of inebriates from restaurants for which permit is held.)

- (c) by inserting at the end of section one hundred and fifty-six the following words:—

The provisions of this section shall apply to and in respect of the holder of a permit issued under Part IIIA of this Act, and to the restaurant in respect of which the permit is held, in like manner as they apply to a licensee and the licensed premises of such licensee;

Sec. 160.
(Production of permit.)

- (d) by inserting at the end of section one hundred and sixty the following words:—

This section shall apply to and in respect of the holder of a permit granted or issued under this Act in like manner as it applies to the holder of a license; and for the purpose of its application to and in respect of the holder of a permit issued under Part IIIA of this Act, the reference to a licensed house shall be construed as a reference to the restaurant in respect of which the permit is held;

Sec. 161.
(Liquors in unlicensed house.)

- (e) (i) by omitting subsection one of section one hundred and sixty-one, and by inserting in lieu thereof the following subsection:—

(1) Upon complaint on oath before a licensing magistrate or any justice that the complainant suspects and believes any liquor to have been sold at or in some premises

premises or place specified in such complaint, and upon reasonable grounds being therein shown for such suspicion and belief, such magistrate or justice may grant a warrant to any member of the police force to enter and search such premises or place. And such member of the police force may, if admittance to such premises or place is not granted to him forthwith on demand by him, or if there appears to be no person present at such premises or place to whom such demand may be made, break into such premises or place, either by breaking open or forcing any doors, or otherwise. And such member of the police force may seize all liquors which he finds at or in such premises or place, and every vessel in which such liquors are contained.

No. 34, 1946.

This subsection shall not apply to or in respect of a licensee or his agent or servant selling liquor under and in accordance with the authority conferred by the license held by such licensee.

- (ii) by inserting in subsection two of the same section after the words "such liquors" where firstly occurring the words "or upon the occupier of the premises or place specified in the complaint";
- (iii) by inserting in the same subsection after the word "owner" where secondly occurring the words "or such occupier, as the case may be";
- (f) by omitting section one hundred and sixty-four and by inserting in lieu thereof the following section:—

Sec. 164.
(Substituted section.)

164. (1) No person shall—

- (a) carry liquor about from place to place for the purpose of sale; or
- (b) offer or expose liquor for sale at or upon any place whatsoever other than

Liquors carried about, etc., may be seized and forfeited.

No. 34, 1946.

a place at or upon which liquor may lawfully be sold; or

- (c) carry liquor to any place whatsoever for the purpose of sale, such place not being a place at or upon which liquor may lawfully be sold.

(2) Any member of the police force may—

- (a) seize and take away and convey to the licensing court or nearest court of petty sessions—

(i) all liquor which he reasonably suspects to be carried about for sale or offered or exposed for sale or carried to any place in contravention of subsection one of this section;

(ii) every vessel containing or used for drinking or measuring any such liquor; and

(iii) every vehicle of any description, and every horse or animal carrying any such liquor and every horse or animal drawing any such vehicle; and

- (b) seize every boat or vessel carrying or conveying any liquor which is liable to seizure under paragraph (a) of this subsection.

(3) Every person who contravenes any of the provisions of subsection one of this section and every person for or on whose behalf any of such provisions are contravened shall be liable to a penalty not exceeding fifty pounds unless he proves that the liquor was carried, offered or exposed (as the case may be) for the purpose of a sale which may lawfully be made. And in any prosecution for any such contravention the burden of proving that liquor which has been carried

carried about, or carried to any place was not so carried for the purpose of sale shall rest upon the person charged. No. 34, 1946.

(4) Upon the conviction of any person for a contravention of any of the provisions of subsection one of this section the licensing court or any stipendiary magistrate or police magistrate may adjudge all or any of the liquor, articles and things referred to in subsection two of this section to be forfeited and may order the same to be sold, and the proceeds thereof shall be paid to the Colonial Treasurer and shall be carried by him to the Consolidated Revenue Fund.

(g) (i) by inserting in section one hundred and sixty-six after the word "license" the words "or permit"; Sec. 166.
(Disorderly
conduct.)

(ii) by omitting from the same section the words "his licensed premises" and by inserting in lieu thereof the words "the premises in respect of which such license or permit is held";

(h) by omitting section one hundred and sixty-seven and by inserting in lieu thereof the following section:— Sec. 167.
(Substituted
section.)

167. (1) Every notice under this Act shall, unless otherwise provided, be in writing. Notices.

(2) Every notice under this Act shall be delivered to the person to whom it is directed, or, if he cannot conveniently be found, may be left with some person for him at his usual or last known place of abode or, where the person to whom the notice is to be delivered is a licensee, the notice may be delivered to some person at the licensed premises of such licensee. Every such notice shall be delivered or left in accordance with this section at least three clear days before the time appointed for the hearing or disposal of the matter referred to in the notice.

(3)

No. 34, 1946.

(3) Every notice of objection to an application under this Act shall state the grounds of objection and shall be signed by each objector and set out his address. Where such objection is taken by a person authorised in that behalf by the council of a city, municipality or shire, the notice shall be accompanied by a copy of the resolution of the council authorising him to take the objection.

(4) A copy of every notice of objection to an application under this Act, signed by each objector, shall be lodged with the clerk of the licensing court at least three clear days before the time appointed for hearing or disposal of the matter. Except where such notice is lodged by the inspector the clerk shall forthwith forward the same to the inspector for inquiry and report.

Substituted
sections 168B,
168C.

Suppliers to
licensees
and clubs
to furnish
returns.

(i) by omitting section 168B and by inserting in lieu thereof the following sections:—

168B. Every person who sells, supplies or delivers liquor to the holder of any license or permit under this Act or to a registered club shall during the month of January in each year forward to the board a correct statement in writing setting forth in respect of the twelve months ended on the preceding thirty-first day of December,

- (a) the name and address of each holder of a license or permit or registered club to whom or to which any liquor was so sold, supplied or delivered;
- (b) the quantity of each of the various kinds of liquor so sold, supplied or delivered to each such holder of a license or permit and to each such registered club; and
- (c) the amount paid or payable (including any duties) by each such holder of a license or permit and by each such registered

registered club for each of the various kinds of liquor so sold, supplied or delivered. No. 34, 1946.

Any person who without reasonable excuse fails to comply with the provisions of this section shall be liable to a penalty not exceeding one hundred pounds.

168c. The board may by order in writing signed by the chairman direct any person to produce for inspection by the board at a time and place to be stated in such order, any books, documents or other records relating to the sale, supply or delivery of liquor to holders of licenses or permits or to registered clubs; and it shall be lawful for the board to make copies of or take extracts from any such books, documents or records. Board may require production of certain books, etc.

Any person who without reasonable excuse fails to comply with any such direction shall be liable to a penalty not exceeding one hundred pounds.

(j) by inserting in subsection one of section one hundred and sixty-nine after the words "petty sessions" where firstly occurring the words "holden before a stipendiary magistrate or a police magistrate"; Sec. 169. (Procedure.)

(k) (i) by omitting subsection one of section one hundred and seventy and by inserting in lieu thereof the following subsection:— Sec. 170. (Appeals.)

(1) Any person aggrieved by an adjudication of a licensing court may appeal from such adjudication in the manner provided by Part V of the Justices Act, 1902, as amended by subsequent Acts, and the provisions of the said Part shall, save as hereinafter provided, apply mutatis mutandis to appeals under this section from such adjudication and the provisions of the said Part applicable to justices in the exercise of their summary jurisdiction shall apply to a licensing court:

(ii)

No. 34, 1946.

- (ii) by inserting in subsection two of the same section after the words "shall be deemed to be licensed premises" the words "and the appellant shall be deemed to be the licensee";
- (iii) by omitting subsection three of the same section and by inserting in lieu thereof the following subsections:—

(3) Where a person appeals against the cancellation of his license his license shall be deemed to remain in force until the hearing of the appeal.

(4) Subsections two and three of this section shall extend and apply to and in respect of every permit issued under section 57A or Part IIIA of this Act and to every certificate of registration of a club issued under Part X of this Act in like manner and to the same extent as they apply to and in respect of a license and for the purposes of such extension and application—

- (a) a reference to "premises" or to "licensed premises" shall be construed as including a reference to a restaurant and to club premises;
- (b) a reference to "license fee" shall be construed as including a reference to the fee payable upon the renewal of any permit mentioned in this subsection, and the fee payable upon the renewal of a certificate of registration of a club;
- (c) a reference to "licensee" shall be construed as including a reference to the holder of a permit, and the holder of a certificate of registration of a club.

(5) (a) Notwithstanding anything contained in the foregoing provisions of this section no appeal, other than an appeal by way

way of prohibition or special case, shall lie or be taken under subsection one of this section against any adjudication of a licensing court whereby an application or a conditional application for a new license, or an application for the removal of a license or of a certificate of registration of a club, or an application or a conditional application for a certificate of registration of a club, or an application for a permit under section 57A of this Act or for a permit under Part IIIA of this Act is granted or refused. No. 34, 1948

(b) Where any such adjudication as is referred to in paragraph (a) of this subsection is made by a licensing court which is constituted by a licensing magistrate, or stipendiary magistrate or police magistrate sitting alone, in the exercise of jurisdiction delegated to him under this Act by the three licensing magistrates, any person aggrieved by such adjudication may appeal therefrom in accordance with regulations made under this Act to the licensing court constituted by the three licensing magistrates. Any such appeal shall be by way of re-hearing and the procedure shall be as prescribed by regulations made under this Act. The decision on any such appeal shall, subject always to any appeal therefrom by way of prohibition or special case, be final and conclusive.

(l) by omitting from section one hundred and seventy-two the words "one month" and by inserting in lieu thereof the words "two months"; Sec. 172.
(Limit of time for informing.)

(m) by omitting subsection one of section one hundred and seventy-four and by inserting in lieu thereof the following subsection:— Sec. 174.
(Proof of license.)

(1) In any proceedings under this Act against any person an allegation in the information or complaint

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complaint that such person is the holder of a license shall be deemed to be proved in the absence of proof to the contrary.

Sec. 175.
(Prima
facie
evidence.)

- (n) (i) by inserting in section one hundred and seventy-five after the word "delivery" the words "or supply";
- (ii) by inserting at the end of the same section the following words:

Any exchange or barter of liquor shall be deemed to be a sale of such liquor for the purposes of this Act.

New sec.
176A.

- (o) by inserting next after section one hundred and seventy-six the following new section:—

General
penalty.

176A. The penalty for any offence against this Act, or for a contravention of any of the provisions of this Act, shall, where no penalty or punishment is specifically provided therefor in any other provision of this Act, be a penalty not exceeding thirty pounds.

Sec. 177.
(Substi-
tuted
sections.)

- (p) by omitting section one hundred and seventy-seven and by inserting in lieu thereof the following sections:—

Obstructing
inspectors,
etc.

177. Every person who hinders or obstructs any inspector, member of the police force or other person whomsoever in the exercise or discharge by him of any powers authorities duties or functions conferred or imposed upon him by this Act shall where no other penalty or punishment is expressly provided therefor be liable to a penalty not exceeding ten pounds.

Powers of
Court.

178. On the hearing of any application under this Act, the Court may, on the application of the applicant or of any objector or of any party to the proceedings on such application in its discretion, and on such terms as to costs or adjournment as it thinks fit—

- (a) permit the amendment of any notice or of any document or instrument necessary

necessary to the proceedings before the Court, and

- (b) disregard any technical defect in any such notice document or instrument if the Court is satisfied that injustice to any person will not thereby be occasioned.

52. (1) The Glen Davis Act, 1939, is amended by omitting section twenty-nine. Amendment of Act No. 38, 1939, s. 29.

(2) The Liquor (Amendment) Act, 1916, is amended by omitting section eleven. Amendment of Act No. 68, 1916, s. 11.

PART IV.

CLUBS.

53. This Part of this Act shall commence upon a day to be appointed by the Governor and notified by proclamation published in the Gazette. Commencement.

54. (1) The Liquor Act, 1912, as amended by subsequent Acts, is further amended— Further amendment of Act No. 42, 1912.

- (a) by inserting in section one hundred and thirty-two next after the definition of "Inspector" the following new definition:— Sec. 132. (Definitions.)

"Municipality" includes the city of Sydney.

- (b) by inserting next after section one hundred and thirty-two the following new sections:— New secs. 132A, 132B.

132A. Every certificate of registration of a club issued under this Part either before or after the commencement of Part IV of the Liquor (Amendment) Act, 1946, shall authorise the secretary therein named to sell and dispose of liquor, but only on the club premises therein specified, and subject to the provisions of this Part. Effect of certificate.

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Responsi-
bility of
secretary.

132B. (1) Where a certificate of registration has been granted to a club under this Part the secretary for the time being of the club shall for all purposes of this Act and of any amendment thereof be deemed to be the holder of the certificate of registration.

(2) The holder of a certificate of registration of a club shall for all purposes of this Act and of any amendment thereof be deemed to have the control and management of the club premises.

(3) All persons employed in or on the premises of a registered club shall for all purposes of this Act and of any amendment thereof be deemed to be employees, servants and agents of the holder of the certificate of registration of the club.

Subst.
sec. 133.

- (c) by omitting section one hundred and thirty-three and by inserting in lieu thereof the following section:—

Application
of certain
sections to
registered
clubs.

133. Sections forty-four, forty-five, forty-six, forty-nine to fifty-four both inclusive, sections fifty-six to 58A both inclusive, sections fifty-nine to sixty-three both inclusive, section sixty-five, subsection three of section sixty-six and Part VIII of this Act shall apply to registered clubs.

In applying such enactments club premises shall be read for licensed premises, secretary of the club for licensee or holder of a license or holder of a publican's license, and a reference to a bona-fide traveller shall be construed as a reference to a bona-fide traveller as defined in section sixty of this Act who is at the same time a member of the registered club concerned.

New sec.
133A.

- (d) by inserting next after section one hundred and thirty-three the following new section:—

Maximum
number of
registered
clubs.

133A. (1) (a) Subject to paragraph (b) of this subsection, the maximum number of clubs which may be registered in the Metropolitan
licensing

licensing district shall be the number ascertained by dividing by four the number of premises in respect of which publicans' licenses are held in that district and deducting twenty from the resultant quotient, any fraction in the quotient being disregarded. No. 34, 1946.

(b) In addition to the number ascertained in accordance with paragraph (a) of this subsection it shall be lawful for the licensing court to grant certificates of registration to returned servicemen's clubs within the Metropolitan licensing district to a number not exceeding twenty, of which number—

- (i) eleven shall be allocated to Returned Servicemen's clubs which are approved and authorised by the Returned Sailors Soldiers and Airmen's Imperial League of Australia (New South Wales Branch);
- (ii) six shall be allocated to Returned Servicemen's clubs which are approved and authorised by the Australian Legion of Ex-Servicemen and Women;
- (iii) three shall be allocated to Returned Servicemen's Clubs not included in subparagraph (i) or subparagraph (ii) of this paragraph.

(2) (a) Subject to paragraph (c) of this subsection the maximum number of clubs which may be registered in any licensing district other than the Metropolitan licensing district and the Wollongong licensing district shall be the number ascertained by dividing by six the number of premises in respect of which publicans' licenses are held in the particular district, any fraction in the quotient being disregarded:

Provided that—

- (i) where in any such district the number of premises in respect of which publicans' licenses are held is less than six,

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one club may be registered in that district;

- (ii) where at the commencement of Part IV of the Liquor (Amendment) Act, 1946, the number of registered clubs in any licensing district exceeds the number as ascertained for that district in accordance with this paragraph, the maximum number of clubs which may be registered in that district shall not be less than the number of registered clubs in that district at such commencement.

(b) The maximum number of clubs which may be registered in the Wollongong licensing district shall be the number ascertained by adding three to the number of registered clubs in that district at the commencement of Part IV of the Liquor (Amendment) Act, 1946.

(c) In addition to the maximum number ascertained or prescribed under paragraph (a) or paragraph (b) of this subsection it shall be lawful for the licensing court to grant a certificate of registration to one returned servicemen's club in each electoral district which is situated outside or partly outside the boundaries of the Metropolitan licensing district.

Where an electoral district is partly outside the boundaries of the Metropolitan licensing district, the certificate of registration shall not be granted under this paragraph unless the club premises for which the certificate is sought are situated outside such boundaries.

(3) (a) A certificate of registration of a returned servicemen's club referred to in paragraph (b) of subsection one of this section or in paragraph (c) of subsection two of this section shall not be granted by a licensing court unless an application or a conditional application therefor is lodged with the Clerk of the
licensing

licensing court within six months after the commencement of Part IV of the Liquor (Amendment) Act, 1946. No. 34, 1946.

(b) A certificate of registration of a returned servicemen's club referred to in subparagraph (i) or subparagraph (ii) of paragraph (b) of subsection one of this section shall not be granted unless—

(i) in the case of an application or conditional application in respect of a club referred to in subparagraph (i) of paragraph (b) of subsection one of this section, the applicant lodges with his application a certificate under the seal of the Returned Sailors Soldiers and Airmen's Imperial League of Australia (New South Wales Branch) setting out that the application is approved and authorised by the State Council of the said League and containing such further particulars (if any) as may be prescribed by regulations made under this Act;

(ii) in the case of an application or conditional application in respect of a club referred to in subparagraph (ii) of paragraph (b) of subsection one of this section, the applicant lodges with his application a certificate under the seal of the Australian Legion of Ex-Servicemen and Women setting out that the application is approved and authorised by the State Council of the said Legion and containing such further particulars (if any) as may be prescribed by regulations made under this Act.

(4) For the purposes of this section—

“electoral district” means an electoral district within the meaning of the
Parliamentary

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Parliamentary Electorates and Elections Act, 1912-1944, as bounded at the commencement of Part IV of the Liquor (Amendment) Act, 1946.

“Metropolitan licensing district” shall be deemed to include the licensing districts of Liverpool, Parramatta and Ryde as constituted at the commencement of Part IV of the Liquor (Amendment) Act, 1946.

Sec. 134.
(Conditions
of registra-
tion.)

- (e) (i) by omitting from paragraph (a) of section one hundred and thirty-four the word “forty” and by inserting in lieu thereof the word “sixty”;
- (ii) by omitting paragraph (e) of the same section and by inserting in lieu thereof the following paragraph:—
- (e) The premises of the club shall contain a properly constructed bar-room and other accommodation appropriate for the purposes of the club;
- (iii) by omitting from paragraph (f) of the same section the word “drink” and by inserting in lieu thereof the word “liquor”;
- (iv) by inserting next after paragraph (g) of the same section the following new paragraphs:—
- (h) The club shall be a non-proprietary club.

For the purposes of this paragraph a non-proprietary club means a club the rules of which—

- (i) provide for the application of profits, if any, and other income of the club, to the promotion of the purposes for which its members are associated together; and

(ii)

- (ii) prohibit the payment of any dividends or distribution of profits or income to or amongst the members of the club;
- (i) No person other than the club or its members shall directly or indirectly derive any profit or advantage from the fact that the club is registered under this Part or from any added value which may accrue, because of such registration, to the land upon which the club's premises are situated.

In particular and without prejudice to the generality of the provisions of this paragraph some person other than the club or its members shall be deemed to derive a profit or advantage in contravention of this paragraph if—

- (i) where the club premises are held under a lease or other form of tenancy or under a license, the occupation fee payable annually by the club exceeds ten per centum of the total sum which comprises the unimproved capital value of the land (excluding any added value attributable to the fact that the club is registered) and the value of the improvements on the land;
- (ii) where the club premises are held in fee simple by the club or by trustees for the club, interest is payable by the club or the trustees upon securities

aggregating

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aggregating more than two-thirds of the total sum which comprises the unimproved capital value of the land (excluding any added value attributable to the fact that the club is registered) and the value of the improvements on the land;

unless it is established to the satisfaction of the licensing court that the occupation fee or the interest payable is reasonable and proper having regard to the particular circumstances existing in relation to the club.

For the purposes of this paragraph the expression "occupation fee" means the amount paid or payable by the club, whether as rent or hire or otherwise in respect of the occupancy of the premises.

And where the club is by the terms of the lease, tenancy, or license or by any other agreement expressly made liable, in addition to the amount so paid or payable, for rates, taxes, maintenance, upkeep or repairs, or for payment of any premium or fine in respect of the lease, tenancy or license, then the following sums shall be added to and deemed to be part of the occupation fee payable annually by the club, that is to say—

- (i) a sum equivalent to the amount for which the club is so liable annually in respect of rates and taxes;
- (ii) a sum equivalent to the estimated annual cost of repairs, upkeep

upkeep and maintenance for No. 34, 1946.
which the club is so liable;
and

(iii) a sum equivalent to the appor-
tioned part of any premium or
fine for which the club is so
liable.

(f) (i) by omitting from paragraph (a) of section Sec. 135.
one hundred and thirty-five the words “for (Contents of
not less than twelve months” and by insert- rules.)
ing in lieu thereof the word “annually”;

(ii) by inserting at the end of the same section
the following new subsection:—

(2) In order that any club may be eligible
to be registered the rules of the club shall
also make provision ensuring that the club
is a non-proprietary club as defined in sec-
tion one hundred and thirty-four of this
Act.

(g) by inserting next after section one hundred and New sec.
thirty-five the following new section:— 135A.

135A. Where the rules of a registered club are Amendment
amended, copies of the amendments, certified of rules.
as correct under the hand of the secretary, shall
be forwarded to the clerk of the licensing court
and to the district inspector within fourteen
days after the amendments have been made.

(h) (i) by inserting in paragraph (a) of subsection Sec. 136.
one of section one hundred and thirty-six (Notice of
after the word “prescribed” the words applica-
“together with a properly drawn plan of the tion.)
premises in respect of which the application
is to be made showing clearly the accom-
modation which it is proposed to provide
therein together with such further details
and particulars of the premises as may be
prescribed by regulations made under this
Act”;

Liquor (Amendment) Act.

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(ii) by omitting from paragraph (b) of the same subsection all words following the word "newspaper" where firstly occurring and by inserting in lieu thereof the words "circulating in the licensing district";

New sec.
136A.

(i) by inserting next after section one hundred and thirty-six the following new section:—

Condi-
tional regis-
tration
may be
granted.

136A. (1) The secretary of any club desirous of obtaining the grant of a certificate of registration for club premises proposed to be erected or for club premises partly erected but requiring additions or alterations to make them suitable to be registered under this Part, may, before the building of such new premises or the making of such additions or alterations to premises already erected is commenced, make a conditional application in accordance with this section to the licensing court for the district in which such premises are situated.

(2) At least fourteen days before making such conditional application, the secretary shall deliver to the clerk of the said licensing court a notice in writing and in duplicate, signed by the secretary in the form prescribed together with a properly drawn plan of the proposed premises showing clearly the accommodation which it is proposed to provide therein, together with such further details and particulars of the proposed premises as may be prescribed by regulations made under this Act.

The secretary shall also publish a copy of such notice in accordance with the requirements of paragraph (b) of subsection one of section one hundred and thirty-six of this Act in all respects as if the application were an application under that section.

The provisions of subsection two of section one hundred and thirty-six shall extend to and in respect of an application under this section.

(3)

(3) Subject to the other provisions of **No. 34, 1946.** this Act in respect of the conditions of registration of clubs, and applications for new certificates of registration and objections thereto, which provisions shall so far as they are applicable apply in respect of a conditional application, the court may grant the conditional application, and after recording the same in a book of proceedings of the court may furnish a copy of such record to the applicant.

(4) The granting of a conditional application shall remain in force until the completion of the premises in respect of which it is made, provided that such completion is completed within twelve months from the date of the record referred to in subsection three of this section, or within such further period or periods (not exceeding six months at any one time) as the court may from time to time allow.

(5) Upon the completion of the premises the district inspector shall, after examination thereof, certify whether or not they have been completed substantially in accordance with the plan furnished pursuant to this section; and if the inspector certifies in the affirmative a certificate of registration shall be issued by the court at its next sitting.

(j) by omitting from subsection two of section one hundred and thirty-eight the words "if authorised in writing by a stipendiary or police magistrate"; **Sec. 138.** (Inspection on application.)

(k) by omitting section one hundred and thirty-nine and by inserting in lieu thereof the following **Subst. sec. 139.** section:—

139. (1) Subject to subsection two of this section where application is made for the grant or renewal of a certificate of registration of a club the licensing court shall hear and determine **Applica- tion—how dealt with.**

the

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the matter of the application and before granting the application shall satisfy itself that—

- (a) the objections, if any, to the application have not been sustained;
- (b) the purpose for which the members of the club are associated together is a purpose mentioned in paragraph (b) of section one hundred and thirty-four of this Act;
- (c) the rules of the club contain the provisions specified in section one hundred and thirty-five of this Act;
- (d) the accommodation, sanitary and other conveniences provided or to be provided in the club premises are appropriate for the purposes of the club and are in accordance with the requirements of any regulations made under this Act in relation thereto;
- (e) the club and its premises comply with all the conditions imposed by this Act in relation to the registration of a club.

If the licensing court decides to grant the application it shall authorise the issue by the clerk of the court of a certificate of registration and record its decision in the manner and form prescribed.

(2) Where application is made for the renewal of a certificate of registration of a club and no objection has been taken under this Act to such renewal the clerk of the licensing court shall renew the certificate in the manner prescribed and shall record the renewal in the manner and form prescribed.

(3) No certificate of registration or renewal thereof under this Part shall be issued by the clerk of the licensing court unless the fee payable in respect thereof has been paid to him
and

and every such fee shall be paid within three months of the granting of the application for a certificate or the renewal of a certificate as the case may be. No. 34, 1946.

(4) On the hearing of any application for the grant or renewal of a certificate of registration, to the granting of which objection has been taken under this Part, the court may order payment to the successful party of such sum as it deems proper to meet his reasonable costs and expenses in the matter.

- l) (i) by omitting from subsection one of section one hundred and forty the words "At the hearing of any such application" and by inserting in lieu thereof the words "Upon any application for the grant or renewal of a certificate of registration of a club"; Sec. 140.
(Consequential.)
- (ii) by omitting from paragraph (b) of the same subsection the word "forty" and by inserting in lieu thereof the word "sixty";
- (iii) by inserting after paragraph (l) of the same subsection the following new paragraph:—

(li) That the premises in respect of which the application is made are not suitable to be registered under this Part or that the accommodation or sanitary conveniences provided or intended to be provided are insufficient or inappropriate to meet the purposes for which the members of the club are associated together;

- m) by omitting sections one hundred and forty-two and one hundred and forty-three and by inserting in lieu thereof the following sections:— Subst.
secs. 142
and 143.

142. Where the secretary of a club in respect of which a certificate of registration is in force ceases to hold office as secretary the full name and address of his successor as secretary to the club Change of
secretary.

club

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club shall be notified forthwith to the clerk of the court who shall endorse such name and address on the certificate of registration which shall be produced to him for the purpose. Upon such endorsement the person therein named shall be deemed for all purposes of this Act to be the holder of the certificate of registration. Until such endorsement is made the certificate of registration of the club shall be deemed to be suspended.

Change of name of club.

143. (1) Where the name of a registered club is changed a notice of such change shall be lodged forthwith with the clerk of the court.

(2) Such notice shall be in writing and shall state therein the new name of the club.

(3) Such notice shall be accompanied by the certificate of registration of the club.

(4) The clerk of the court shall endorse upon such certificate the new name of the club and thereupon the certificate of registration shall apply to and in respect of the club so named in the endorsement.

(5) Until such endorsement is made the certificate of registration shall be deemed to be suspended.

Subst. sec. 144.

(n) by omitting section one hundred and forty-four and by inserting in lieu thereof the following section:—

Duration of certificate.

144. Every certificate of registration of a club including a renewal of such certificate shall be in force from the day on which the same is issued until the thirtieth day of June next following such day.

Subst. sec. 145.

(o) by omitting section one hundred and forty-five and by inserting in lieu thereof the following new sections:—

Removals of club premises.

145. (1) If a registered club desires to remove from the premises occupied by it to any other premises

premises the secretary of such club shall, at least fourteen days before applying to the licensing court, give notice in or to the effect of the form prescribed of such intended application, and shall at the same time lodge a properly drawn plan showing the extent of the proposed new premises and the accommodation provided therein together with such further details and particulars of the premises as may be prescribed by regulations made under this Act. No. 34, 1946.

If the application is granted an endorsement may be made upon the certificate of registration in the form prescribed and the certificate of registration so endorsed shall have the same effect as if it had been originally granted in respect of the premises specified in the endorsement, but as to the original premises, the certificate of registration shall be deemed cancelled.

(2) If a registered club desires to remove from the premises occupied by it to other premises which are proposed to be erected or to other premises already erected but requiring additions or alterations to make them suitable to be registered under this Part, the secretary of the club shall, at least fourteen days before applying to the licensing court for an order conditionally granting such removal, deliver to the clerk of the licensing court a notice in or to the effect of the form prescribed, and at the same time furnish a properly drawn plan of the proposed new premises showing the extent of such premises and the accommodation to be provided therein together with such further details and particulars of the premises as may be prescribed by regulations made under this Act; and the court may make an order conditionally granting such application and such order shall remain in force until the completion of the new premises provided such
completion

No. 34, 1946.

completion is effected within twelve months from the date of such order or such further period or periods (not exceeding six months at any one time) as the court may from time to time allow.

On completion of such new premises the district inspector shall, after examination thereof certify whether or not they have been completed substantially in accordance with such plan, and if the inspector certifies in the affirmative, the court shall, at its next sitting, make an order for the removal of the club to the last mentioned premises; and thereupon the same endorsement shall be made upon the certificate of registration and the certificate of registration so endorsed shall have the same effect as is provided in subsection one of this section.

(3) If the premises of a registered club are for any reason rendered unfit for the purposes thereof, the licensing court may, upon the application of the secretary of such club, by order, authorise such club temporarily to carry on the business of the club in some other premises (although not having the accommodation required by this Act) for a period of twelve months or such further period or periods (not exceeding six months at any one time) as the court may from time to time allow.

(4) Objections to the removal or conditional removal of a club may be made by any corporation or person mentioned in section one hundred and forty-one on any of the following grounds:—

- (a) that the proposed premises are not suitable for a club;
- (b) that the accommodation or sanitary conveniences provided or proposed to be provided in the new premises are insufficient or inappropriate to meet the purposes for which the members of the club are associated together.

Alteration

Alteration of premises.

No. 34, 1946.

145A. If a registered club desires to make any material alterations or additions to the club premises, the secretary shall apply to the court for permission to do so, and shall furnish the court with a properly drawn plan showing the alterations and additions proposed to be made.

Alterations
of club
premises.

If any material alterations or additions are made to the premises of a registered club without the permission of the court the certificate of registration shall be liable to be cancelled.

- (p) by omitting from section one hundred and forty-six the word "five" and by inserting in lieu thereof the word "three"; Sec. 146.
(Notices of
objection.)
- (q) by omitting section one hundred and forty-seven; Sec. 147.
(Repeal.)
- (r) (i) by omitting from subsection one of section one hundred and forty-eight the words "stipendiary or police magistrate" and by inserting in lieu thereof the word "justice"; Sec. 148.
(Cancel-
lation.)
- (ii) by omitting from subsection two of the same section the word "meeting" and by inserting in lieu thereof the words "sitting of the court";
- (s) (i) by omitting subsection one of section one hundred and fifty and by inserting in lieu thereof the following subsection:— Sec. 150.
(Search
warrant.)

(1) If any justice is satisfied by complaint on oath that there is reasonable ground for supposing that any liquor is sold or supplied or kept for sale or supply on the premises of an unregistered club he may grant a search warrant to any member of the police force named therein.

- (ii) by omitting from subsection four of the same section the word "registered";

(t)

No. 34, 1948.
 New sec.
 150A.

(t) by inserting next after section one hundred and fifty the following new short heading and section:—

Fees.

Fees.

150A. (1) The following fees shall be paid in respect of certificates of registration granted or renewed under this Part, namely—

(a) for a new certificate of registration of a club such sum (not exceeding five hundred pounds) as may be fixed by the licensing court granting the certificate; in no case shall the fee payable under this paragraph exceed a sum calculated at the rate of one pound for each bona-fide member of the club at the date of the application as shown on the statement required to be furnished under subsection two of section one hundred and thirty-six of this Act;

(b) for the renewal of a certificate of registration of a club a sum equal to five pounds per centum of the gross amount (including any duties thereon) paid or payable for all liquor which, during the twelve months ended on the thirty-first day of December next preceding the date of the application for the renewal was delivered upon the club premises or purchased for or on behalf of the club.

(2) The board shall fix the amount of any fee payable under this section on a percentage basis on the renewal of a certificate of registration, and the amount so fixed shall be final and conclusive, unless the board in its absolute discretion re-assesses the amount in which case the re-assessment shall be final and conclusive.

(3)

(3) Where no information or no sufficient information is furnished to the board within the time prescribed by section 151A of this Act (or within such further time as the board may allow) or where upon the first renewal after the grant of a new certificate of registration of a club no particulars or insufficient particulars are available to the board to enable the board to fix the fee upon a percentage basis the board may fix such fee at such amount as it thinks fair and reasonable.

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(4) On or before the thirty-first day of May in each year the board shall inform the clerk of the court for the licensing district in which the club premises in respect of which such fee has been fixed are situated of the amount thereof.

(2) The Liquor Act, 1912, as amended by subsequent Acts, is further amended by omitting the unrepealed provisions of subsections three and four of section eighty.

Further amendment of Act No. 42, 1912, sec. 80 (3) (4).
(Limitation of number of clubs.)

PART V.

RECONSTITUTION OF LICENSING COURTS.

55. (1) (a) In this section the Principal Act means the Liquor Act, 1912, as amended by subsequent Acts.

Reconstitution of licensing courts.

(b) This section shall be read and construed with the Principal Act.

(2) On and after a day to be appointed by the Governor and notified by proclamation published in the Gazette, which day is in this section referred to as the "appointed day" licensing courts for the purposes of the Principal Act shall be constituted as provided by subsection four of this section.

(3) Each of the three licensing magistrates appointed under section five of the Principal Act and holding

Liquor (Amendment) Act.

No. 34, 1946. holding office as such immediately before the appointed day shall on that day cease to hold such office, but shall be eligible to be appointed under this section.

(4) The Governor may appoint three persons as follows:—

(a) a person who holds the office of district court judge;

(b) two other persons each of whom shall be—

(i) a stipendiary magistrate, or a police magistrate, or a person who is eligible for appointment as a police magistrate or stipendiary magistrate; or

(ii) a licensing magistrate appointed under section five of the Principal Act and holding office as such immediately before the appointed day.

The licensing court in each district shall on and after the appointed day be constituted by the persons appointed under this section.

(5) The person appointed under paragraph (a) of subsection four of this section (in this section referred to as the chairman) shall, by virtue of his appointment be the chairman of licensing courts, and any reference in the Principal Act to the chairman in relation to a licensing court shall be construed as a reference to the person so appointed.

(6) Any reference in the Principal Act to the licensing magistrates shall on and after the appointed day be construed as a reference to the three persons appointed under subsection four of this section; and a reference in that Act to a licensing magistrate shall be construed as including a reference to each of the three persons so appointed.

(7) (a) The chairman shall, subject to this subsection, hold his office during ability and good behaviour, shall have the same rank, title, status and precedence, and the same salary, pension and other rights as a district court judge, and shall be removable from office in the
the

the same manner only as a district court judge is by law No. 34, 1946. liable to be removed from his office.

(b) The chairman shall retire on the day on which he attains the age of seventy years, unless he is granted retiring leave in which case he shall retire on the expiration of such leave.

(c) The chairman shall not be capable of accepting or holding any other office or any other place of profit within the State except any such judicial office as may be conferred upon him by or under any law of the State.

(d) If the chairman is prevented by any cause from attending to his duties as such, the Governor may appoint some person qualified to be appointed as chairman to act temporarily as chairman, and such person, while so acting, shall have all the powers and functions of the chairman.

(e) For the purpose of calculating the amount of pension payable on retirement to a person who at the date of his appointment as chairman was a district court judge his period of service as a district court judge shall be added to his period of service as chairman.

(8) (a) The provisions of paragraphs (a) and (b) of subsection five of section five of the Principal Act shall, subject to this section apply to and in respect of persons appointed under paragraph (b) of subsection four of this section.

(b) Where any of the persons referred to in subsection three of this section is appointed under paragraph (b) of subsection four of this section such appointment may be made for a period expiring on the date upon which his appointment under subsection two of section five of the Principal Act would have expired if this section had not been enacted.

(c) Where any of the persons referred to in subsection three of this section is not appointed under paragraph (b) of subsection four of this section he shall, unless he is entitled to continue to hold the office of a stipendiary magistrate or a police magistrate, receive such

No. 34, 1946. such compensation as he would have been entitled to had his services as one of the three licensing magistrates appointed under subsection two of section five of the Principal Act been dispensed with otherwise than in accordance with law.

(9) The reconstitution of the licensing courts under this section shall not affect the validity of any delegation of jurisdiction, powers, authorities, duties or functions made by the licensing magistrates with the approval of the Minister before the appointed day and in force on that day; and any such delegation shall be deemed to have been made by the three persons appointed under this section.

This subsection shall not extend to or in respect of any delegation so made by the licensing magistrates, where the delegation is to one or more of their number.

(10) The reconstitution of licensing courts under this section shall not prejudice the continuance of any matters, proceedings, inquiries or investigations pending or part heard before a licensing court or licensing magistrate upon the appointed day.

(11) (a) This subsection shall commence on the appointed day.

(b) The Liquor (Amendment) Act, 1919, as amended by subsequent Acts, is amended by omitting subsection two of section eight and by inserting in lieu thereof the following subsection:—

(2) The board shall consist of the three persons appointed under section fifty-five of the Liquor (Amendment) Act, 1946.

Liquor (Amendment) Act.

No. 34, 1946.

Sec. 14 (2).

FORM C.

Absent Voter's Ballot-paper.

LIQUOR (AMENDMENT) ACT, 1946.

Referendum on Closing Hours.

Electoral District for which Absent Voter is enrolled.....

Directions to Elector.

The elector shall indicate his vote by placing the number "1" in the square opposite the closing hour for which he desires to give his first preference vote, and shall give contingent votes for all the remaining closing hours by placing the numbers "2," and "3" in the squares opposite those closing hours respectively, so as to indicate by numerical sequence the order of his preference for them.

Order of preference.	Closing hour.
<input type="checkbox"/>	Six o'clock p.m.
<input type="checkbox"/>	Nine o'clock p.m.
<input type="checkbox"/>	Ten o'clock p.m.

Sec. 14 (3).

FORM D.

Postal Ballot-paper.

LIQUOR (AMENDMENT) ACT, 1946.

Referendum on Closing Hours.

Electoral District for which Postal Voter is enrolled.....

Directions to Elector.

The elector must not mark his vote hereon until after he has first exhibited the ballot-paper (unmarked) to the authorised witness. The elector shall indicate his vote by placing the number "1" in the square opposite the closing hour for which he desires to give his first preference vote, and shall give contingent votes for all the remaining closing hours by placing the numbers "2," and "3" in the squares opposite those closing hours respectively, so as to indicate by numerical sequence the order of his preference for them.

Order of preference.	Closing hour.
<input type="checkbox"/>	Six o'clock p.m.
<input type="checkbox"/>	Nine o'clock p.m.
<input type="checkbox"/>	Ten o'clock p.m.