

LIQUOR (AMENDMENT) ACT.

New South Wales



ANNO VICESIMO TERTIO

ELIZABETHÆ II REGINÆ

Act No. 28, 1974.

An Act to reduce the license fee payable in respect of a publican's license endorsed as a tavern; to make further provisions with respect to the reassessment of certain fees payable under the Liquor Act, 1912; to empower the licensing court under that Act to disqualify a person from being a member of the committee of a registered club; to enable a new publican's license to be endorsed as a tavern; to make further provisions with respect to the making of false or misleading statutory declarations or statements required by that Act; to require certain

records

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records to be made and kept by certain persons; No. 28, 1974
 for these and other purposes to amend that Act;
 and for purposes connected therewith. [Assented
 to, 19th April, 1974.]

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

1. This Act may be cited as the "Liquor (Amendment) Short title.
 Act, 1974".

2. This Act shall commence upon such day as may be Commence-
 appointed by the Governor in respect thereof and as may be ment.
 notified by proclamation published in the Gazette.

3. The Liquor Act, 1912, is in this Act referred to as Principal
 the Principal Act. Act.

4. Part I of the Principal Act is amended—

Amendment
 of Act No.
 42, 1912.
 PART I—
 Preliminary.

(a) by omitting from the matter relating to Part XI in Sec. 1.
 section 1 the matter "168c" and by inserting instead (Short title
 and
 division.)
 the matter "168d";

(b) by omitting from the definition of "Licensing Sec. 3.
 district" in section 3 the word "proclaimed" and by (Interpreta-
 tion
 section.)
 inserting instead the word "established".

5.

No. 28, 1974 5. Part II of the Principal Act is amended—

Further
amendment
of Act No.
42, 1912.

PART II—
Licensing
Districts
and
Licensing
Courts.

Sec. 4. (a) by omitting section 4 and by inserting instead the following section :—

Licensing
districts.

4. (1) The Governor may from time to time, by order published in the Gazette—

- (a) establish licensing districts and assign names to them and appoint the place at which the court for any such district shall be held;
- (b) abolish any such district;
- (c) alter the boundaries of any such district or alter any place appointed under paragraph (a); or
- (d) alter the name assigned to any licensing district.

(2) All licensing districts existing immediately before the commencement of this Act, and the places, as appointed immediately before that commencement for the holding of courts for those districts, shall be deemed to have been established and appointed under subsection (1) (a).

(3) Any abolition or alteration effected under subsection (1) shall not have any force or effect with respect to anything done for the purposes of this Act before the abolition or alteration and any such

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such thing may be continued and completed and shall have the same force and effect as if the abolition or alteration had not been effected and, for the purposes of dealing with any such thing—

- (a) any licensing court for any licensing district;
- (b) the office of clerk of any licensing court for any licensing district; and
- (c) the offices of district inspector and district sub-inspector in and for any licensing district,

as in existence immediately before the abolition or alteration, shall continue and any such licensing court, the board and the holder of any such office shall have the same jurisdiction, powers, authorities, duties and functions as if the abolition or alteration had not been effected.

- (b) by omitting from section 5 (7) (a) the words “proclamation defining” and by inserting instead the words “order establishing”.

Sec. 5.
(Constitution of licensing courts.)

6. Part III of the Principal Act is amended—

Further amendment of Act No. 42, 1912.
PART III—
Publicans' and certain other Licenses and Provisions relating thereto.

- (a) by omitting the provisos to section 21 (1) (b);

Sec. 21.
(Fees payable for licenses under this Part.)

(b)

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(b) by omitting section 22 (4) ;

Sec. 22.

(Particulars
to be
furnished
by licensees.)

Sec. 23.

(Board to
fix fee.)

(c) (i) by omitting from section 23 (1) the words "shall be final and conclusive, unless the board in its absolute discretion reassesses the amount in which case the reassessment shall be final and conclusive" and by inserting instead the words "shall, subject to this section, be final and conclusive";

(ii) by inserting at the end of section 23 the following subsections :—

(5) The board may in its absolute discretion at any time make a reassessment of a license fee fixed or reassessed by it under subsection (1) or (2) (as in force whether before or after the commencement of the *Liquor (Amendment) Act, 1974*) or under this subsection and any such reassessment shall, subject to any further reassessment made under this subsection, be final and conclusive.

(6) Where, under subsection (5), the board makes a reassessment of a license fee (in this subsection referred to as "the original license fee") and—

(a) the reassessed license fee is less than the original license fee, the person who paid the original license fee is entitled to a refund equal to the difference between the reassessed license fee and the original license fee or, if more than one person paid the original license fee, the persons who paid the original

original license fee are entitled to a refund equal to that difference in the same proportions as the proportions in which they paid the original license fee; a No. 28, 1974

- (b) the board, in making the reassessment, states that it does so by reason of incorrect information contained in any statutory declaration furnished under this Act by reference to which the original license fee was fixed or reassessed and the reassessed license fee is greater than the original license fee, any person who made any such declaration is liable, upon the expiration of such period as may be fixed by the board, to pay to Her Majesty the whole or such part of the difference between the original license fee and the reassessed license fee as is specified by the board in its reassessment; or
- (c) the board, in making the reassessment, does not make the statement referred to in paragraph (b) and the reassessed license fee is greater than the original license fee, the person who, on the first day of July in the year in respect of which the original license fee was fixed or reassessed held the license in respect of which the reassessment is made is liable, upon the expiration of such period as may be fixed by the board, to pay to Her Majesty the whole or such part of the difference between the original license fee and the reassessed license fee as is specified by the board in its reassessment.

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(7) Any amount which a person is liable to pay under subsection (6) (b) or (c) is recoverable by Her Majesty as a debt in any court of competent jurisdiction but where the board has, under subsection (6) (b) or (c), allowed time to pay that amount, that amount shall not be so recoverable until the expiration of that time.

(8) Where—

(a) any person is liable under subsection (6) (b) or (c) to pay any amount; and

(b) at the time he becomes liable so to pay he holds a license in respect of the premises in respect of which that liability arose,

the license in respect of those premises shall be deemed to be suspended until that amount is paid.

Further
amendment
of Act No.
42, 1912.
PART
IIIA—
Liquor in
Res-
taurants.

7. Part IIIA of the Principal Act is amended—

Sec. 78H.
(Fees.)

(a) by omitting from section 78H (4) the words “shall be final and conclusive, unless the board in its absolute discretion reassesses the amount, in which case the reassessment shall be final and conclusive” and by inserting instead the words “shall, subject to subsection (5), be final and conclusive”;

(b)

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- (b) by omitting from section 78H (5) the words “and four” and by inserting instead the words “, four, five, six, seven and eight”;
- (c) by inserting in section 78H (5) after the word “fixing” the words “and reassessment”.

8. Part X of the Principal Act is amended—

Further
amendment
of Act No.
42, 1912.
PART X—
Clubs.

- (a) by inserting after section 148 the following heading and section :—

Sec. 148A.

Complaint against Committeeman.

148A. (1) Upon the complaint of an inspector made upon oath, a justice may issue a summons to any person who is a member of the committee of any registered club specified in the summons calling upon him to show cause at a licensing court why he should not be removed from his position as a member of the committee of that club on the ground that he is not a fit and proper person to be a member of the committee of that club.

Complaint
against
committee-
man.

(2) A summons under subsection (1) may be issued in respect of a person's membership of the committees of two or more registered clubs specified in the summons.

(3) Any summons under subsection (1) shall be served at least ten days before the day appointed for the sitting of the court at which the matter is to be heard.

(4)

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(4) The licensing court shall hear and determine the matter of the complaint and may make either or both of the following declarations :—

- (a) declare the position of the defendant on the committee of any registered club specified in the summons to be vacant; or
- (b) declare the defendant to be ineligible to stand for election or to be appointed to, or to hold office in, the position of member of the committee of any registered club (whether or not it is a registered club specified in the summons) for a period not exceeding three years.

(5) Where the licensing court makes a declaration referred to in subsection (4) (a), the position of the defendant on the committee of any registered club specified in the declaration thereupon becomes vacant.

(6) Where the licensing court makes a declaration referred to in subsection (4) (b), the defendant shall be liable to a penalty not exceeding \$1,000 if he stands for election or accepts appointment to, or holds office in, the position of a member of the committee of any registered club during the period for which he is declared to be ineligible.

Sec. 150A.
(Fees.)

- (b) (i) by omitting from section 150A (2) the words “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” and by inserting instead the words “shall, subject to this section, be final and conclusive”;

(ii)

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- (ii) by inserting at the end of section 150A the No. 28, 1974 following subsections :—

(5) The board may in its absolute discretion at any time make a reassessment of a fee fixed or reassessed by it under subsection (2) or (3) (as in force whether before or after the commencement of the Liquor (Amendment) Act, 1974) or under this subsection and any such reassessment shall, subject to any further reassessment made under this subsection, be final and conclusive.

(6) Where, under this section, the board reassesses a fee (in this subsection referred to as “the original fee”) and—

- (a) the reassessed fee is less than the original fee, the registered club is entitled to a refund of the difference between the reassessed fee and the original fee; or
- (b) the reassessed fee is greater than the original fee, the registered club is liable, upon the expiration of such period as may be specified by the board, to pay to Her Majesty the difference between the original fee and the reassessed fee.

(7) Any amount which a registered club is liable to pay under subsection (6) (b) is recoverable by Her Majesty as a debt in any court of competent jurisdiction but where the board has, under subsection (6) (b), allowed time to pay that amount, that amount shall not be so recoverable until the expiration of that time.

(8)

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(8) If a registered club does not pay any amount for which it is liable under subsection (6) (b), the certificate of registration of that club shall be deemed to be suspended until that amount is paid.

Sec. 152.
(False
certificate
by
secretary.)

(c) by omitting section 152 and the heading thereto.

Further
amendment
of Act No.
42, 1912.
PART XI—
Miscel-
laneous
Provisions.

9. Part XI of the Principal Act is amended—

Sec. 153A.
(Issue of
new licenses
upon
cancellation
or
non-renewal
of existing
licenses.)

(a) by inserting at the end of section 153A the following subsections :—

(2) The board, on application made by the applicant for a license under subsection (1) in conjunction with his application under that subsection or at any time after he made application under that subsection and before the license is issued, may authorise the issue of the license endorsed as a tavern.

(3) The board may, under subsection (2), authorise the issue of a license under subsection (1) endorsed as a tavern whether the application for the license under subsection (1) was made before or after the commencement of the Liquor (Amendment) Act, 1974.

(4) The provisions of section 26B shall apply to an application referred to in subsection (2) in the same way as they apply to an application referred to in that section but in the application of those provisions and of any provisions which by that

section

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section are applied to an application under that section the references to "the court", "the licensing court" or "the licensing magistrate" shall be deemed to be references to "the board" and the references to "the clerk", "the clerk of the court", "the said clerk" or "the clerk of the licensing court" shall be deemed to be references to "the secretary of the board".

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- (b) (i) by omitting from section 168A the word "wilfully" and by inserting instead the words
 ", other than section 168B,";

Sec. 168A.
 (Penalty for
 false
 statement.)

- (ii) by omitting from section 168A the word "allegation" and by inserting instead the word "statement";

- (iii) by inserting in section 168A after the word "liable" the words "to a penalty not exceeding \$1,000 or";

- (iv) by inserting at the end of section 168A the following subsections :—

(2) It is a sufficient defence to a prosecution for an offence arising under subsection (1) if the defendant proves that he had reasonable cause or excuse for making the false or misleading statement to which the offence relates.

(3) An information for an offence arising under subsection (1) may be laid at any time within three years after the commission of the offence.

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Sec. 168B.
(Suppliers to
licensees
and clubs
to furnish
returns.)

(c) (i) by omitting from section 168B the words
“without reasonable excuse”;

(ii) by omitting from section 168B the word
“section” and by inserting instead the word
“subsection”;

(iii) by omitting from section 168B the words
“four hundred dollars” and by inserting instead
the words “\$1,000 or to imprisonment for a
term not exceeding twelve months”;

(iv) by inserting at the end of section 168B the
following subsections :—

(2) It is a sufficient defence to a prosecution for an offence arising under subsection (1) if the defendant proves that he had reasonable cause or excuse for failing to comply with the provisions of that subsection.

(3) An information for an offence arising under subsection (1) may be laid at any time within three years after the commission of the offence.

Sec. 168D.

(d) by inserting after section 168C the following section :—

Records of
purchase
and sale of
liquor.

168D. (1) Every licensee and every holder of a permit under this Act shall in a legible manner make a written record containing full particulars of all liquor purchased or otherwise acquired, or sold or otherwise disposed of to holders of licenses or permits issued under this Act or to registered clubs, in connection with the business carried on at the premises in respect of which his license or permit is held.

(2)

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(2) Subsection (1) does not apply to— No. 28, 1974

(a) a licensee under a limited public hall license
or a licensee (not being a licensee under a
publican's license) under a booth license;
or

(b) the holder of a permit under section 13 (4)
or 13 (4A).

(3) Every such written record shall, for a period of three years after the date on which it was made, be preserved by the licensee or holder of the permit, as the case may be, or where he ceases to hold the license or permit and authorises some other person to have the possession, custody or control of that record, by that other person.

(4) Where the regulations under this Act so require, the written record required to be made under subsection (1) shall contain such particulars (which for the purposes of that subsection shall be deemed to be full particulars) and shall be made and kept in such manner as may be prescribed by those regulations.

(5) Regulations made for the purposes of subsection (4) may make different provisions in respect of the records required to be made and kept by different classes of licensees or different classes of holders of permits under this Act.

(6) A person required by subsection (3) to preserve a record referred to in that subsection shall not fail, after reasonable notice given to him by an inspector, including an inspector appointed for the purposes of section 121A, to produce that record to that inspector.

(7)

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(7) Any person who contravenes any of the provisions of this section is liable to a penalty not exceeding \$500.

LOCAL