



## LICENSING (TRADING HOURS)

**No. 84 of 1975**

### ANALYSIS

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**AN ACT to make provision with respect to the fixing of trading hours for licensed premises and registered clubs operating under the Licensing Act 1932 and to amend certain provisions of that Act relating to young persons and to the purchase of liquor at registered clubs.**

[17 December 1975]

**BE** it enacted by His Excellency the Governor of Tasmania, by and with the advice and consent of the Legislative Council and House of Assembly, in Parliament assembled, as follows:—

**1—(1)** This Act may be cited as the *Licensing (Trading Hours) Act 1975*.

Short title,  
citation, con-  
struction, and  
commencement.

(2) The *Licensing Act* 1932, as subsequently amended, is in this Act referred to as the Principal Act.

(3) This Act shall be construed as one with the Principal Act.

(4) This Act shall commence on a date to be fixed by proclamation.

Interpretation.

**2** In this Act “trading hours notice” means a trading hours notice served under section 3 (1), and in relation to any licensed premises or registered club references in this Act to trading hours under a licence, or at a registered club, shall be construed as references to the trading hours specified in the trading hours notice for the time being in force in respect of that licence or that registered club, as the case may be.

Fixing of trading hours.

**3**—(1) The holder of a public-house licence, a hotel licence, or a restaurant licence, or the secretary of a registered club, shall and thereafter may from time to time serve on the Registrar a notice in writing (in this Act referred to as a “trading hours notice”) specifying the trading hours under that licence, or for that registered club, as the case may be, and the trading hours specified in any such notice come into effect on such day as may be specified in the notice, being a day not earlier than 7 days after the service of the notice.

(2) Subject to the following provisions of this section, the trading hours specified in a trading hours notice shall be specified so as not to include any hours during which trading under the licence, or at the registered club, to which the notice relates is prohibited under section 4, and further, in the case of a trading hours notice in respect of a licence, so as to conform with the following rules:—

(a) They shall not include any period that is of less duration than 4 hours; and

(b) For each of 5 days in any one week, they shall include a period that is, or periods that in the aggregate are, of not less duration than 8 hours.

(3) The rules contained in paragraphs (a) and (b) of subsection (2) do not apply in respect of a registered club.

(4) On an application made to the Registrar, the court or any member thereof may determine that the rules contained in paragraphs (a) and (b) of subsection (2), or either of them, are not to apply in respect of the licence specified in the determination, or that such rules as are specified in the determination are, in relation to that licence, to have effect in substitution for those rules or either of them; and on a like application the court or any member thereof may revoke or amend any such determination.

(5) The court or any member thereof shall not make or amend a determination under subsection (4) unless it or he, as the case

may be, is satisfied that the making or amendment of the determination is reasonable having regard to the nature of the business carried on at the licensed premises to which the licence relates, the purposes for which that business is carried on, and the situation of the premises, and that the making or amendment of the determination is not contrary to the public interest.

(6) An application under subsection (4) shall be made by the person holding, or applying for, the licence to which the determination relates, or is to relate.

(6) For the purposes of subsection (2)—

(a) a day shall be taken to mean the period beginning at 5 a.m. on one day and ending at 5 a.m. on the following day; and

(b) a week shall be taken to mean the period beginning at 5 a.m. on one Sunday and ending at 5 a.m. on the following Sunday.

4—(1) Where the court, having regard to—

(a) the conviction of the holder of a licence, or his servant or agents, or of the secretary or any officer or servant of a registered club, for any relevant offence; or

(b) any reasonable complaints that have been established with regard to the activities carried on at the licensed premises or the registered club during trading hours,

Prohibition on trading during certain hours.

is satisfied that it is in the public interest so to do it may by order prohibit trading under the licence or at the registered club during such hours as may be specified in the order.

(2) The court, by further order, may revoke or vary an order under this section.

(3) An order under this section shall specify the day on which it comes into force.

(4) For the purposes of subsection (1), “relevant offence” means, in relation to any licensed premises or registered club, any offence committed on those premises or the premises of the club or in relation to the business carried on thereon.

(5) An application for an order under this section may be made by an inspector, and the holder of a licence or the secretary of a registered club may apply for the revocation or variation of an order under this section in force in respect of that licence or that registered club.

(6) No public notice is required to be given under section 20 (3) of the Principal Act of a sitting of the court to hear an application made for the purposes of this section.

(7) Where an appeal is brought under Part VII of the Principal Act in respect of an order under this section that order nevertheless continues in force during the proceedings on the appeal.

(8) Where an order comes into force under this section in respect of any licensed premises or registered club and the trading hours notice then in force in respect of those premises or that club specifies any hours during which trading is prohibited under the order that notice ceases to be of any further effect.

Enforcement of trading hours in respect of licensed premises.

**5—**(1) This section applies to public-house licences, hotel licences, and restaurant licences.

(2) No person shall, except during trading hours under a licence to which this section applies—

- (a) sell or supply liquor to any person at the licensed premises to which the licence relates; or
- (b) consume liquor on, or take liquor from, those premises.

Penalty: \$200.

(3) The holder of a licence to which this section applies shall not deliver any liquor, or cause any liquor to be delivered, to any person except during the trading hours under the licence.

Penalty: \$200.

(4) Nothing in subsection (2) or subsection (3) prohibits or restricts—

- (a) the sale or supply to, or the consumption by, any person of liquor at any premises where he is residing;
- (b) the supply of liquor for consumption at licensed premises to any private friends of the licensee entertained by him at his own expense, or the consumption of liquor by the persons to whom it is so supplied;
- (c) the consumption by a person during the 45 minutes following the end of a period of trading hours of liquor supplied to him at licensed premises during that period; or
- (d) the sale of liquor to a licensee or holder of a permit under the Principal Act for the purpose of its being sold under the authority of that licence or permit.

(5) The holder of a licence to which this section applies is guilty of an offence if he fails to keep the licensed premises to which the licence relates open during the trading hours under the licence.

Penalty: \$200.

(6) Where a permit under section 66 of the Principal Act (which provides for the issue of permits in respect of certain social gatherings) authorizes the sale of liquor at any licensed premises at any time, nothing in subsection (2) prohibits—

- (a) the sale or supply to any person of any liquor that may, under the authority of that permit, be sold or supplied at that time to that person; or
- (b) the consumption by any person of liquor at the licensed premises during that period or during the 45 minutes following thereafter of any liquor so sold or supplied to him.

(7) The holder of a licence to which this section applies shall cause to be displayed conspicuously in all parts of the licensed premises to which the licence relates in which liquor is ordinarily sold a notice clearly stating the trading hours under the licence.

Penalty: \$20.

(8) The following provisions of the Principal Act cease to apply to licensed premises, namely:—

Section 65D (which relates to motel permits);

Section 89 and the fourth Schedule (which define the prohibited hours);

Section 91 (1) (a), (b), (c), and (d) and section 91AA (1) (a), (b), and (c) (which relates to the closure and clearance of licensed premises at certain times);

Section 94 (2) (a) (iv) and (v) and (4) and section 94AB (2) (a) (which prohibit the sale or supply of liquor at licensed premises at certain times);

Section 97 (9) and (9A) (which prohibit the purchase consumption, &c., of liquor on licensed premises at certain times);

Section 97 (11) (g) (which prohibits certain persons being on licensed premises at certain times);

Section 97 (11) (i) (which prohibits the carrying away of liquor from licensed premises during prohibited hours).

(9) Notwithstanding subsection (8), licensed premises to which a licence under this section applies shall be closed for trading on any Sunday and Good Friday except between 12 noon and 8 o'clock in the afternoon.

**6**—(1) No person shall, except during trading hours in respect of a registered club—

Enforcement of trading hours in registered clubs.

- (a) sell or supply liquor to any person at the premises of the club; or
- (b) consume liquor on, or take liquor from, the premises of the club.

Penalty: \$200.

- (2) Nothing in subsection (1) prohibits or restricts—
- (a) the sale or supply to, or the consumption by, any person of liquor at any premises where he is residing;
  - (b) the consumption by a person during the 45 minutes following the end of a period of trading hours of liquor supplied to him at the premises of the registered club during that period.
- (3) Where a permit under section 66 of the Principal Act authorizes the sale of liquor at the premises of a registered club during any period nothing in subsection (1) prohibits—
- (a) the sale or supply to any person during that period of any liquor that may, under the authority of that permit, be sold during that period to that person; or
  - (b) the consumption by any such person of liquor at those premises during that period or during the 45 minutes following thereafter of any liquor so sold or supplied to him.
- (4) No person (other than a member or the secretary or a servant of the club) shall, during trading hours, be on any part of the premises of a registered club in which liquor is being sold or consumed unless he is in the company of a member of the club (other than an honorary member) and each has signed a visitor's book in the presence of each other noting therein against the signatures the date on which it is so signed.
- (5) The secretary or any servant of a registered club shall not allow any person to remain at the premises of the club contrary to subsection (4).
- (6) Subsections (4) and (5) do not apply to the presence on any premises or part of any premises specified in a permit granted under section 66 of the Principal Act of any person attending the function to which the permit relates during the hours specified in the permit or the 45 minutes following thereafter.
- (7) The secretary of a registered club shall cause the main door giving access to the premises of the club to be kept unlocked during trading hours or at any time at which liquor is authorized to be sold thereat under the authority of a permit under section 66 of the Principal Act.
- (8) No person, being a servant of the club, shall knowingly cause or permit the main door giving access to the premises of a registered club to be locked at any time during trading hours or at any time at which liquor is authorized to be sold thereat under a permit under section 66 of the Principal Act.

(9) A person guilty of an offence under this section is liable to a penalty of \$100.

(10) The following provisions of the Principal Act cease to apply to registered clubs, namely:—

Section 89 and the fourth Schedule (which define prohibited hours);

Section 96 (6) (which prohibits the sale or supply of liquor at registered clubs on certain days);

Section 96A (which requires the main door of club premises to be kept open at certain times);

Section 97 (9) (which prohibits the purchase, &c., of liquor at a registered club at certain times);

Section 97 (11) (i) (which prohibits the carrying away of liquor from registered clubs at certain times).

(11) Notwithstanding subsection (10), trading may not be carried on in the premises of a registered club on Sunday, Christmas Day, or Good Friday except between the hours of 12 noon and 8 o'clock in the afternoon.

(12) For the purposes of this section, Sunday, Christmas Day, and Good Friday shall be deemed to commence at 3 o'clock in the morning of those days.

**7**—(1) Section 66 (which provides for the issue of permits in respect of certain social gatherings) of the Principal Act is amended—

Consequential amendments of Principal Act relating to trading hours.

(a) by omitting from subsection (7) (a) (iii) the words “hour, being not later than half-past eleven o'clock in the afternoon,” and substituting therefor the word “hours”; and

(b) by omitting subsection (7) (c) (ii) and (iii) and (d).

(2) Section 97 of the Principal Act is amended by omitting subsection (7) (which relates to the consumption, &c., of liquor at unlicensed restaurants).

**8**—(1) No person, on any licensed premises, shall sell or supply liquor to a person who, to his knowledge, has not attained the age of 18 years.

Supply of liquor to young persons.

Penalty: \$200.

(2) No person shall allow a person who, to his knowledge, has not attained the age of 18 years to enter or remain in a bar on any premises in respect of which a hotel licence or public-house licence is in force.

Penalty: \$200.

(3) Section 114 (*b*) of the Principal Act (which provides a defence in proceedings in which the age of a person other than the defendant is in question) does not apply to offences under subsection (1) or subsection (2).

(4) Section 94 of the Principal Act is amended—

- (a) by omitting sub-paragraph (i) of subsection (2) (*a*); and
- (b) by omitting paragraph (c) of subsection (3).

(5) Section 97 of the Principal Act is amended—

- (a) by omitting from sub-paragraph (i) of subsection (11) (*p*) the words “except in conformity with paragraph (c) of subsection (3) of section ninety-four”; and
- (b) by inserting in paragraph (*q*) of subsection (11) after the word “place”, the words “(not being licensed premises)”.

Powers of  
Licensing  
Court in  
respect of  
contraventions  
of this Act.

**9**—(1) Subsections (1) and (1AA) of section 100 of the Principal Act (which provides for the forfeiture of licences on convictions for certain offences) have effect as if offences under this Act were included in the offences specified in subsection (1) (*a*) of that section.

(2) The Licensing Court may, in respect of any licensed premises, exercise the powers conferred on it by section 100 or section 100A of the Principal Act (which enable the court to take action in respect of a failure to comply with certain standards in respect of licensed premises) in any case in which adequate services have not been provided during trading hours under the licence in force in respect of those premises in like manner as if the failure so to provide those services were a failure to comply with the standards of service referred to in those sections.

(3) For the purposes of subsection (2) adequate services shall be deemed not to have been provided at any licensed premises during trading hours unless at all times during those trading hours the premises are kept open to the public—

- (a) in the case of premises in respect of which a hotel licence or public-house licence is in force, for the sale of liquor for consumption on the premises; or



(b) in the case of a licensed restaurant, for the provision of substantial meals for consumption on the premises.

**10** Section 69 of the Principal Act is amended by omitting from subsection (2) the words “ to the members of such club, but to no other persons, without being the holder of a licence under this Act, but ”. Sale of liquor in clubs.

**11** This Act expires on 30th June 1977.

Expiry of Act.