

THE LICENSING ACT FURTHER AMENDMENT ACT, 1917.

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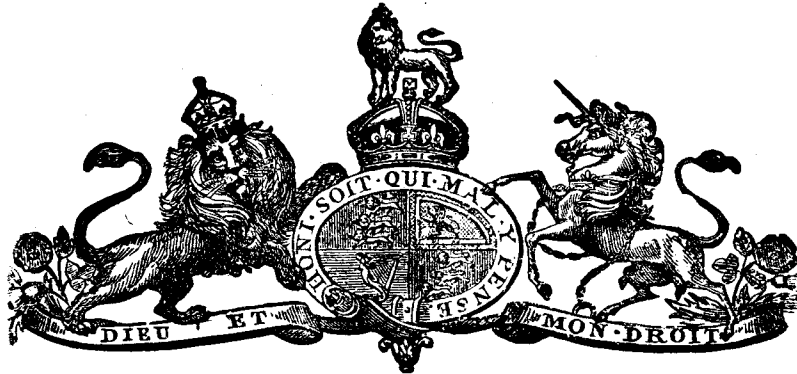
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TASMANIA



1917.

ANNO OCTAVO

GEORGII V. REGIS.

No. 25.

AN ACT to further amend "The Licensing Act, 1902," and for other purposes. A.D. 1917.
[8 December, 1917.]

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:—

PART I.

PRELIMINARY.

1—(1) This Act may be cited as "The Licensing Act, 1917," and shall be construed as one with "The Licensing Act, 1902" (hereinafter referred to as "the Principal Act"), and every amendment thereof.

Short title and incorporation with 2 Ed. VII. No. 32.

(2) This Act shall come into operation on a day to be fixed by the Governor by proclamation.

Commencement.

2 The provisions of this Act are arranged as follows:—

Arrangement of Act.

Part I.—Preliminary.

Part II.—The Licensing Districts and Licensing Courts.

Part III.—Clubs.

Part IV.—Miscellaneous Amendments.

Part V.—Additional and General Provisions, and Amendments of Principal Act.

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PART II.

THE LICENSING DISTRICTS AND LICENSING COURTS.

Repeal of Section 30 and Part II. of Principal Act. **3** Section Thirty and Part II. of the Principal Act are hereby repealed.

The Licensing Districts.

Licensing districts. Cf. 2 Ed. VII. No. 32, s. 8 (Tas.). **4** Every city and every municipality is hereby constituted a licensing district for the purposes of the Principal Act and its amendments, including this Act.

The Licensing Courts.

Abolition of licensing benches. Cf. *ibid.*, s. 10, 11, 12 (Tas.). Cf. No. 1236 of 1915, s. 5 (S.A.). **5**—(1) The licensing benches in existence under the Principal Act at the commencement of this Act are hereby abolished. (2) The abolition by this Act of such licensing benches shall not affect any application, action, prosecution, or other proceeding made or commenced before and pending at the time of the commencement of this Act; and any such application, action, prosecution, or proceeding may be continued and determined as if this Act had not been passed.

The licensing courts.

6 In place of the licensing benches hereby abolished, there shall be constituted, as hereinafter provided, courts, to be called the licensing courts.

Jurisdiction and functions of the licensing court. *Ibid.*, s. 7 (S.A.)

7—(1) All the jurisdiction, functions, powers, privileges, and duties by the Principal Act, and every amendment thereof, conferred and imposed upon licensing benches and the chairmen and members thereof respectively are hereby conferred and imposed upon, and may and shall hereafter be exercised and discharged by, the licensing courts and the chairmen and members thereof respectively.

8 Ed. VII. No. 39.

The vote to be taken in any city or municipality pursuant to the provisions of Part V. of "The Licensing Act, 1908," shall, notwithstanding anything therein contained to the contrary, be given effect to within the city or municipality constituting a licensing district by the licensing court for such district; and the licensing court for every licensing district shall be deemed to have been duly appointed a court for the purpose of giving effect to the provisions of Part V. aforesaid, in the place of any licensing bench.

(2) For the purposes of this section, and subject to any provisions of this Act necessitating a different construction, every reference in the Principal Act, and every amendment thereof —

- i. To a licensing bench, shall be read as a reference to a licensing court :
- ii. To the chairman of the licensing bench, shall be read as a reference to the chairman of the licensing court :

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III. To a member of a licensing bench, shall be read as a reference to a member of a licensing court— A.D. 1917.

and all the provisions of the Principal Act and its amendments shall be read as altered in such manner as may be necessary to give effect to the substitution of licensing courts for licensing benches: Provided that where the nature of the thing referred to is such that it may have taken place before the commencement of this Act, the reference shall be read as including also a reference to a licensing bench, or the chairman or the members or the clerk thereof, as the case may require.

8 As soon as practicable after a local option vote shall have been taken under the provisions of Part V. of "The Licensing Act, 1908," in every district in which more than One licensed house is situate, the licensing courts shall proceed to give effect to the local option votes.

Licensing courts to give effect to local option vote as soon as practicable after votes taken.

9—(1) All the jurisdiction, functions, powers, privileges, and duties conferred and imposed upon any Two justices by Sections Forty-five to Forty-nine (inclusive), Fifty-one, Fifty-three, Fifty-four, Sixty-four, and Sixty-seven of the Principal Act, and by Part III. of "The Licensing Act, 1908," are hereby conferred and imposed upon, and may and shall hereafter be exercised and discharged in respect of every licensing district by any One member or any members of the licensing court for such district.

Certain powers of Two justices to be exercised by a member or members of licensing court.

(2) For the purposes of this section every reference in—

- I. The Principal Act or any amendment thereof to a justice's permit or justice's permission shall be read as a reference to a permit or permission granted by a member or members of a licensing court:
- II. The said several sections and Part III. mentioned in Sub-section (1) of this section to two justices shall be read as a reference to any member or members of a licensing court:

And all the provisions of the said several sections and Part III. aforesaid shall be read as altered in such manner as may be necessary to give effect to the substitution of a member or members of a licensing court for justices.

10—(1) For every licensing district there shall be a licensing court.

(2) Every licensing court shall be constituted of Three persons, to be appointed from time to time by the Governor.

(3) Of the persons so to be appointed One must be a police magistrate.

The other Two members must be justices residing in the licensing district, and One of them shall be a member of the municipal council of the city or municipality constituting the licensing district and shall be nominated by that council for appointment: Provided that if the

Licensing courts. See W.A. 1911, No. 32, s. 8

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council fails to make such nomination within a time to be fixed by the Governor, the Governor may, without any nomination appoint a justice residing in the licensing district to be such member.

Tenure of office.
Ibid., s. 9, W.A.
Cf. *ibid.*, s. 15
(Tas.).

11 Every member of the licensing court shall hold office for a period of Three years from the date of his appointment, unless he dies, resigns, becomes disqualified, or is removed from office, in any of which events a successor shall be appointed, who shall hold office for the unexpired period of his predecessor's term of office.

Disqualifications.
Ibid., s. 10 W.A.
Cf. *ibid.*, s. 21
(Tas.).

12—(1) Every person shall be disqualified from holding office as a member of a licensing court who is interested beneficially in the manufacture or sale of liquor, or in any premises licensed or proposed to be licensed under the Principal Act or any amendment thereof, or who holds any licence whatsoever within the meaning of such Acts, or is beneficially interested in any trade or calling exercised under any such licence.

(2) Any person so disqualified who acts as a member of such court commits an offence against this Act.

Penalty : One hundred Pounds.

Resignation.
Ibid., W.A., s. 11.

13 Any member of a licensing court may resign his office by writing under his hand addressed to the Governor.

Extraordinary vacancies.
Ibid., W.A., s. 12.
Cf. *ibid.*, s. 15.
(Tas.).

14 Any member of a licensing court who absents himself from any Two consecutive quarterly sittings of the court, except in case of sickness or for other reasonable cause allowed by the Minister, shall be deemed to have vacated his office, and to have created an extraordinary vacancy, which shall, as soon as conveniently practicable, be filled up by the appointment of some other person.

Death, &c., of member.
Ibid., W.A., s. 13.
Cf. *ibid.*, s. 20
(Tas.).

15 Notwithstanding any alteration in the constitution of a licensing court by reason of the death, removal, absence, or resignation of any of its members, the jurisdiction conferred by this Act on such court may be lawfully exercised by a quorum of such court.

Chairman.
Ibid., W.A., s. 14.
Cf. *ibid.*, s. 17
(Tas.).

16—(1) The Governor shall, from time to time, appoint a member of each licensing court to be the chairman thereof.

(2) The same person may be appointed the chairman and a member of Two or more licensing courts.

(3) The chairman must be a police magistrate.

Licensing courts to be courts of record.
Ibid., W.A., s. 15.

17—(1) Every licensing court shall be a court of record, with full power to make all general and other rules necessary for the conduct of its business, and for the enforcement of its orders, and adjudications; but such rules shall be subject to any regulations made by the Governor as hereinafter provided.

(2) Every such court shall have and use a seal having inscribed thereon the words "Licensing Court," with the name of the licensing district of the court.

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(3) Any member of a licensing court may take, administer, and cause to be taken and administered, oaths, declarations, affirmations, and depositions in any licensing or other matter or proceeding to be heard and determined or dealt with by such court. A.D. 1917.

18 Subject to this Act the Governor may appoint any person to be for such period as he specifies a deputy-member of the licensing court of any district; and such deputy may, in the case of the sickness or of the absence of any member from any sitting of the court or from the State, exercise all the powers vested in, and shall perform all the duties of such member. Deputy members of court. *Ibid.*, W.A., s. 16.

Provided that any person appointed deputy chairman must be a police magistrate, and may be appointed deputy chairman of Two or more courts.

19 Any Two members of the licensing court shall form a quorum for the constitution of the court: Provided that One of such members shall be chairman or deputy chairman. Quorum. *Ibid.*, s. 17, W.A.

20 Every application made to a licensing court shall be decided by a majority of the members, and in the case of a disagreement where only Two members are present, the decision of the chairman or deputy chairman shall prevail. Majority to decide. *Ibid.*, s. 13 (Tas.). *Ibid.*, s. 18, W.A. *Ibid.*, s. 13 (Tas.).

21 Notwithstanding anything hereinbefore contained, a member or deputy member of a licensing court—
 i. May be removed from office at any time by the Governor :
 ii. May not (except for the purpose of holding office in more than One court in the capacity of chairman or deputy chairman as hereinbefore provided) be a member or deputy member of another court. Members and deputies liable to removal and not in general to sit in more than one court. *Ibid.*, s. 19, W.A.

22 The chairman or any Two members of the court may, on behalf of the Court, sign or sign and seal all certificates and other documents issued and recorded. Certificates. *Ibid.*, s. 20, W.A.

23— (1) The licensing court may summon witnesses and examine them on oath as nearly as may be in the manner directed by any Act now or hereafter to be in force relating to the duties of justices of the peace on summary convictions and orders. Power to summon witnesses. *Ibid.*, s. 22, W.A.

(2) If any person required by a summons under the seal of the court to attend as a witness at any licensing court neglects, without sufficient excuse, to appear and give evidence, or refuses to be sworn, or to answer any lawful question; or if any person wilfully interrupts the proceedings of the court, or hinders, obstructs, or assaults any person in attendance before the court, or any officer thereof in the lawful execution of his duty, such person shall be guilty of contempt of court. Punishment of contempt of court for non-attendance, &c. Cf. *ibid.*, s. 22 (Tas.).

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(3) The chairman, or, in his absence, any member of the court, either on his own view, or on the oath of a witness, may, by warrant under his hand and the seal of the court, commit any person guilty of such contempt to any prison, there to be imprisoned for any term not exceeding Fourteen days, or may order such person to forfeit any sum by way of fine not exceeding Ten Pounds; and, if such fine is not forthwith paid, he may order such person to be imprisoned in any prison for any term not exceeding Fourteen days, but subject to the discharge of such person if the fine is paid within the term of the imprisonment.

Proceedings not to be invalid in certain cases.
Ibid., W. A., s. 23.
Cf. ibid., s. 19 (Tas.).

24 All acts and proceedings of every licensing court shall, notwithstanding it is afterwards discovered that there was some defect in the constitution of the court, or that any member of the court was disqualified, be as valid and effectual as if the court had been duly constituted or such member duly qualified.

Annual licensing courts.

25—(1) An annual licensing court for each licensing district shall be held in the month of December in every year for the consideration of applications for certificates for hotel, public-house, packet, and railway refreshment room licences in this Part of this Act called “the said licences.”

At least Twenty-one clear days’ notice in the “Gazette” and in some newspaper circulating in the licensing district shall be given by the Clerk of Petty Sessions of the time and place appointed for such annual sitting.

Where licence not renewed before expiry of old licence.
N.Z., 1908, No. 104, s. 116.
Q. No. 29, 1912, s. 31.

(2) If an application for a renewal of any license has been made, and is not finally disposed of by the court on or before the day of the expiry of the licence by effluxion of time, the licence shall be deemed to be extended until the application is finally disposed of.

During the period of such extension the licensee shall pay monthly, in advance, a proportion of the annual licence fee for each month during any part of which liquor is sold in the premises in respect of which the application for renewal is made.

If the application is ultimately granted, the renewal shall be for the period ending the Thirty-first day of December next following the date on which such application was dealt with, and the annual licence fee, or so much thereof as remains unpaid, shall be payable accordingly.

(3) Section Fifty-six of the Principal Act shall be read subject to Subsection (2) of this section.

Quarterly licensing courts.

26—(1) A quarterly licensing court for each licensing district for the consideration of—

- i. Applications for certificates of any of the said licences :
- ii. Applications for certificates for the transfer of any of the said licences :

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III. Applications for certificates of permission to continue to sell liquor under any of the said licences—
shall be held in the months of February, May, August, and November in every year. At least Twenty-one clear days' notice in the "Gazette" and in some newspaper circulating in the licensing district shall be given by the Clerk of Petty Sessions of the time and place of holding such Court.

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(2) Special sittings of any licensing court may be holden from time to time for the purposes of Part V. of "The Licensing Act, 1908," on a day to be appointed by such Court or the chairman thereof, of which at least Ten days' notice shall be published in some newspaper circulating in the licensing district of such Court.

Special sittings of licensing courts.

(3) Special sittings of any licensing court may also be holden at any time or place appointed by the chairman of the court, for any other purpose contemplated by the Principal Act or any amendment thereof (including this Act), and the chairman, if he thinks a public notice of any such sitting necessary, shall give such public notice thereof as he considers reasonable.

27—(1) The chairman of any licensing court may by notice in the "Gazette" appoint, and may in like manner alter the times for the sittings of such licensing court.

Sittings of licensing court.

(2) The chairman of any licensing court whether sitting at the place appointed for the holding of such court or not shall be deemed to constitute the licensing court in all matters within its jurisdiction—

Powers of chairman. No. 2683 of 1915, s. 62 (Vict.).

- I. For directing the issue of summonses to defendants and witnesses, and the parties affected or likely to be affected by its decision thereon, and for all other acts and matters preliminary to the hearing: and
- II. After the hearing for directing the issue of all warrants of distress and commitment, and for all other acts and matters necessary for enforcing the adjudications of the licensing court under the Principal Act or any amendment thereof.

28 If no direction to the contrary is given by the chairman of a licensing court, the clerk of such court may issue summonses to defendants and witnesses and the parties affected or likely to be affected by the decision of the licensing court in all matters within its jurisdiction, and such summonses shall be of the same force and effect as if issued by such chairman.

Clerk may issue summonses.

29—(1) The licensing courts shall sit at such police court or place for holding petty sessions or other place as the Attorney-General may, from time to time, appoint.

Place and time of sitting.

Ibid., W.A., s. 25.

(2) It shall not be necessary for the place at which the licensing court is appointed to sit to be situated within the licensing district to which such sitting relates.

Cf. *ibid.*, s. 9 (Tas.)

30—(1) Any licensing court may adjourn from time to time for any time that the court deems necessary.

Adjournment.

Ibid., W.A., s. 26.Cf. *ibid.*, s. 13

(Tas.).

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(2) If at any sitting a quorum is not present, any member present, and if no member is present the clerk, may adjourn the court.

(3) If any applicant for a licence, or for the renewal, transfer, or removal of a licence, requires an adjournment, the court may, upon such terms as to costs or otherwise as it thinks fit, from time to time, adjourn the application for any period not exceeding One month.

PART III.

CLUBS.

31—(1) Section One hundred and fourteen of the Principal Act is hereby repealed.

(2) Part IX. (excepting Section 102a) of the Principal Act is hereby repealed, and the following Part IX, together with Section 102a aforesaid, is substituted therefor, and shall constitute Part IX. of the Principal Act:—

PART IX.

“REGISTRATION OF CLUBS.

“*Preliminary.*”

Definitions.

“**101** In the construction of this Part, unless the context requires another meaning—

“Inspector.”

‘Inspector’ means inspector appointed or acting by virtue of this Act for the licensing district within which the club premises are situate :

“Registered club.”

‘Registered club’ means club registered or deemed to be registered under this Part :

“Register of members.”

‘Register of members’ means register of members of a registered club prescribed by this Part to be kept by the secretary :

“Secretary.”

‘Secretary’ includes any officer of a club or other person performing the duties of a secretary :

“Unregistered club.”

‘Unregistered club’ means a club which requires, under this Part, to be registered, but is not registered, or a club the certificate of registration of which has been suspended or cancelled.

Applications of certain sections to registered clubs.

“**102** The provisions of Part X., paragraphs (a) and (h) of Section One hundred and nineteen, paragraph (b) of Section One hundred and twenty, and Section One hundred and twenty-five of this Act, and Sections Twenty-one, Twenty-two, Thirty-six, Fifty-six, and Fifty-seven of ‘The Licensing Act, 1908,’ shall, *mutatis mutandis*, apply to registered clubs as if such provisions had been re-enacted in this Part.

“In applying such enactments or provisions, ‘club premises’ shall be read for ‘licensed house’ or ‘licensed premises,’ or any similar expression, and ‘secretary of the club’ for ‘licencee’ or ‘holder of a licence,’ or any similar expression.

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“**103** No club shall be or continue to be registered under this Part unless all the following conditions exist with respect to it, namely :—

- i. The club must be a *bonâ fide* association or company of not less than Forty persons in the case of a club established at any place within a radius of Ten miles from the chief post-office in a city, and not less than Thirty persons in case of a club established elsewhere :
- ii. The club must be a body, association, or company associated together for social, literary, political, sporting, athletic, or other lawful purpose :
- iii. The club must be established for the purpose of providing accommodation for the members thereof and their guests, upon premises of which such association or company is the *bonâ fide* occupier :
- iv. The accommodation must be provided and maintained from the joint funds of the club, and no person must be entitled under its rules or articles to derive any profit, benefit, or advantage from the club which is not shared equally by every member thereof :
- v. The premises upon which the club is established, and the accommodation, must be suitable for the purposes of the club :
- vi. No payment or part payment of any secretary, manager, or other officer or servant of the club shall be made by way of commission or allowance from or upon the receipts of the club for alcoholic drink supplied :
- vii. A register of members of the club for the time being shall be kept on the club's premises as hereinafter required.

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Conditions of registration of clubs.

Cf. Act No. 42 of 1912, s. 134 (N.S.W.).

6 Geo. V. No. 2683, s. 251 (Vict.).

3 Geo. V. No. 29, s. 129 (Q.).
2 Edw. VII. No. 32, s. 104 (Tas.).

“**104**—(1) In order that any club may be eligible to be registered, the rules of the club shall provide that—

- i. The business and affairs of the club shall be under the management of a committee elected for not less than Twelve months by the general body of members :
- ii. The committee shall hold periodical meetings, and minutes of all resolutions and proceedings of such committee shall be entered in a book to be provided for that purpose :
- iii. The names and addresses of persons proposed as ordinary members of the club shall be displayed in a conspicuous place in the club premises, for at least a week before their election, and an interval of not less than Two weeks shall elapse between nomination and election of ordinary members :
- iv. All members shall be elected by the general body of members, or by a general or an election committee, and a record shall be kept by the secretary of the club of the number of the members voting :
- v. There shall be a defined subscription of not less than Twenty-one Shillings per annum, payable by members quarterly, half-yearly, or annually, in advance :

Provisions to be made in rules of clubs.

(N.S.W.), s. 135.

(Vict.), s. 252.

(Q.), s. 130.

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- vi. Correct accounts and books shall be kept, showing the financial affairs of the club and the particulars usually shown in books of account of a like nature :
- vii. A visitor shall not be supplied with liquor on the club premises unless in the company and at the expense of a member :
- viii. No persons shall be allowed to become honorary or temporary members of the club, or be relieved of the payment of the regular subscription, except those possessing certain qualifications defined in the rules, and subject to conditions and regulations prescribed therein :
- ix. No liquor shall be sold or supplied for consumption elsewhere than on the premises of the club, unless such liquor is removed from such premises by the member purchasing the same :
- x. No person under Twenty-one years of age shall be admitted a member of the club : Provided that where the club is primarily devoted to some athletic purpose there shall be no limitation of the age of a member of the club. No liquor shall be sold or supplied to any person under Twenty-one years of age : and
- xi. No person under Eighteen years of age, except boys who are being trained as waiters, and are not allowed to serve behind the bar, shall be employed in the club.

“ Grant and Renewal of Certificates of Registration.

Notice of
application for
registration.
Cf. (N.S.W.), s.
136.
(Vict.), s. 253.
(Q.), s. 131.

“ **105**—(1) The secretary of any club desirous of obtaining a certificate of the registration of the club under this Act shall—

- i. At least Fourteen days before applying for the same deliver to the clerk of petty sessions a notice in writing, and in duplicate, signed by the secretary, in the form prescribed by regulations under this Act ; and
- ii. Publish a copy of such notice on One day in each week for at least Two weeks preceding his application (and so that the last of such publications is not less than Eight days before the time at which the application is to be made), in a newspaper published in the licensing district, or if none is so published, then in a newspaper generally circulating in the licensing district.

“ (2) Such application shall be accompanied by the following documents, namely :—

- i. Two printed copies of all rules of the club, certified as correct under the hand of the secretary :
- ii. A statement, verified by statutory declaration, of the names and addresses of the *bona fide* members of the club at the date of the application.

Licensing Act Further Amendment.

“**106**—(1) The secretary of any club desirous of obtaining a renewal of its certificate of registration shall, at least Ten days before applying for such renewal, deliver to the clerk of petty sessions notice in writing, and in duplicate, signed by the secretary, in the form prescribed by regulations under this Act.

‘(2) Such notice shall be accompanied by the following documents, namely :—

- i. Two printed copies of all rules of the club, certified as correct under the hand of the secretary :
- ii. A statement verified by statutory declaration of the number of *bond fide* members of the club at the date of the application.”

“(3) Where application is made for the grant or renewal of any such certificate; the clerk of petty sessions shall forthwith forward a copy of such application to the inspector for inquiry and report ; and on receipt of notice of any objection which may lawfully be taken, as hereinafter in this part provided, shall forward a copy of the same to such inspector for inquiry and report, and to the secretary of the club.

“(4) The inspector, on receipt of any such notice, if authorised in writing by a police magistrate, shall inspect the premises of the club and the register of its members, and satisfy himself by proper inquiries that the particulars contained in the application are correct.

“**106a** If on any application being made for the grant or renewal of any such certificate a notice of objection has not been duly given, the clerk of petty sessions shall, for and in the name of the court, grant or renew the registration ; but, if notice of objection is lodged, the matter of the application shall be inquired into and dealt with by the court.

“**106b**—(1) At the hearing of any such application, objections may be taken by any council or person hereinafter in this Part mentioned, upon one or more of the following grounds :—

- i. The suitability of the premises :
- ii. That the application made by the club, or the rules of the club, or any of them, are in any respect specified in such objection not in conformity with this part :
- iii. That the club has ceased to exist, or that the number of members is less than Forty or Thirty, as the case may be, according to the locality in which the premises are situated :
- iv. That it is not conducted in good faith as a club, or that it is kept, or habitually used, for any unlawful purpose, or mainly for the supply of liquor :
- v. That there is frequent drunkenness on the club premises, or that persons in a state of intoxication are seen to leave the club premises after midnight, or are frequently seen to leave the club premises at any other time, or that the club is conducted in a disorderly manner :

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Notice of application for renewal of registration of club.

Cf. (N.S.W.), s. 137.

(Vict.), s. 254.

(Q.), s. 132.

Copy of application to be furnished to inspector.

Cf. (N.S.W.), s. 138.

(Vict.), s. 254.

(Q.), s. 134. s.s.

(iv.).

Inspection of club premises.

(Q.), s. 135.

Application, how dealt with.

(N.S.W.), s. 139.

(Vict.), s. 255.

Objections which may be taken to grant or renewal of certificate.

(N.S.W.), s. 140.

(Vict.), s. 256.

(Q.), s. 136.

Licensing Act Further Amendment.

A.D. 1917.

- vi. That illegal sales of liquor have taken place on the club premises :
- vii. That persons who are not members are habitually admitted to the club premises merely for the purpose of obtaining liquor :
- viii. That the supply of liquor to the club, or on the club premises, is not under the control of the members or the committee appointed by the members :
- ix. That any of the rules of the club are habitually broken :
 - x. That the rules have been so changed as not to be in conformity with the provisions required by this Part to be embodied in the rules :
 - xi. That persons are habitually admitted as members without an interval of at least Two weeks between nomination and election, contrary to the provisions of this Part :
- xii. That any other specified provision of this Part has not been complied with.

“(2) For the purpose of determining whether a club is conducted in good faith as a club, the licensing court shall, amongst other things, have regard to the nature of the premises occupied by the club.

Who may take objection
(N.S.W.), s. 141.
(Vict.), s. 257.
(Q.), s. 136.

“**106c** Any objection to the grant or renewal of any such registration may be taken by—

- i. An inspector :
- ii. The council of the city or municipality within which the premises of the club are situate :
- iii. Any ratepayer, freeholder, or leaseholder of property situate within One mile from such premises.

“The signatures to any such objection when made by any person described in paragraph iii. shall be witnessed by a justice or a member of the police force.

Issue of certificate of registration.
(N.S.W.), s. 142.
(Vict.), s. 258.
(Q.), s. 138.

“**106d** When an application for the registration or renewal of registration of a club is granted, a certificate of registration under the hand of the clerk of petty sessions in the form prescribed by the regulations shall be issued to the club. A fee of Four Pounds shall be paid in respect of the grant or renewal of such registration for the first Thirty members of the club, and a further sum of One Pound for every additional Thirty members or fraction thereof.

Refusal of renewal.
(N.S.W.), s. 143.
(Vict.), s. 259.
(Q.), s. 139.

“**106e** When any application for the grant or renewal of a certificate of registration is refused, the chairman of the licensing court shall pronounce the decision in open court, and shall state the grounds of the refusal, and shall cause the same to be entered on the records of the court.

*Licensing Act Further Amendment.**"Duration of Certificates and Renewals.*

A.D. 1917.

"**106f**—(1) Subject to this Part, every certificate of registration of a club shall commence and take effect from the date on which it is therein stated to commence, and shall, unless previously cancelled or suspended, be in force until and including the Thirty-first day of December then next following.

Duration of certificate.
(N.S.W.), s. 144.
(Vict.), s. 260.
(Q.), s. 143.

"(2) A renewal shall be for Twelve months from the day when the certificate or the next preceding renewal thereof expires

"Removals

"**106g**—(1) The premises of a registered club may be changed under the authority of a certificate of removal.

Certificate of removal.
(N.S.W.), s. 145.
(Vict.), s. 261.
(Q.), s. 133.

"When such club desires to remove from the premises occupied by it to any other premises, the secretary shall, at least Fourteen days before applying for a certificate of removal, deliver to the clerk of petty sessions a notice as nearly as may be in the form prescribed by regulations under this Act.

"(2) If on any such application a notice of objection has not been duly given, the clerk of petty sessions shall issue the certificate of removal; but if notice of objection is so given, the matter of the application shall be inquired into and dealt with by the court.

Application, how dealt with.

"(3) The only objection that can be taken to any such application shall be that the proposed premises are not suitable for a club.

What objections may be taken.

"(4) If the premises of a club are, by fire, tempest, or other calamity, or by dilapidations, or by reason that such premises are being repaired or rebuilt, rendered unfit for the purposes thereof, the club may, without application to the licensing authority, remove to other premises, under its existing certificate, for any period not extending beyond the currency of the certificate. Notice of such removal and of the reason therefor shall, however, be forthwith given by the secretary to the clerk of petty sessions.

Proviso where club premises accidentally destroyed.

"Notices to be Given of Objection.

"**106h**—(1) No objector shall be heard against any application unless notice of the objection has been given to the clerk of petty sessions and to the applicant at least Five clear days before the time appointed for the hearing of the application to which such notice applies.

Notice of objection.
(N.S.W.), s. 146
(Vict.), s. 262.
(Q.), s. 136, ss.
(3).

"(2) The court shall not be precluded from entertaining any objection which may arise during the hearing of an application, but the applicant shall then be entitled to an adjournment for such time, not less than Three days, as the court thinks fit."

"Hearing of Applications.

"**106i**—(1) The licensing court shall hear the applications and objections, and may order such inquiry as it thinks fit, and thereafter shall grant or refuse the application.

Hearing of applications and objections.
(N.S.W.), s. 147.
(Vict.), s. 263.
(Q.), s. 137.

"(2) Upon the grant of the application the court shall cause the entries required by this Part to be made in the register to be kept by the clerk of Petty Sessions.

Licensing Act Further Amendment.

A.D. 1917.

If, in the opinion of the court, any objection is frivolous or vexatious, the person making the objection shall, on the order of the court, be liable to pay the costs of the applicant in the proceedings."

"Cancellation of Registration.

Summons to show cause against cancellation. (N.S.W.), s. 148. (Vict.), s. 264. (Q.), s. 140.

"**106j**—(1) Upon the complaint of an inspector, made upon oath, a police magistrate may issue a summons to the secretary of any registered club, calling on him to show cause before the licensing court of the licensing district in which the premises of the club are situate, why the certificate of registration of the club should not be cancelled on all or any of the grounds of objection which might have been taken as hereinbefore provided to the grant or renewal of a certificate.

Service of summons.

"(2) Such summons shall be served at least Ten days before the day appointed for the meeting at which the matter is to be heard.

"(3) If the secretary of any registered club cannot be found, or if there is no secretary, such summons may be served by affixing the same upon a conspicuous part of the premises of the club.

Determination of court.

"(4) The licensing court shall hear and determine the matter of such complaint, and may—

i. Cancel the certificate : or

ii. Suspend the certificate until any conditions prescribed by this part are complied with : or

iii. Dismiss the complaint : and

iv. Make such order as it thinks fit as to costs.

Costs.

Suspension.

"(5) During the period of any such suspension as aforesaid the club shall be deemed to be an unregistered club."

Sale on premises of unregistered club. (N.S.W.), s. 149. (Vict.), s. 265.

"**106k**—(1) If on the premises of an unregistered club any liquor is sold, disposed of, supplied, or delivered to any person, whether a member of such club or not, the person selling, disposing of, supplying, or delivering such liquor, and every person who shall pay for such liquor, and every person authorising such sale or supply, shall be liable on conviction in a summary manner to a penalty not exceeding Fifty Pounds; and for a Second or subsequent offence to a penalty not exceeding One hundred Pounds, or to imprisonment for a term of not more than Two months, or to both penalty and imprisonment.

Liquor kept for supply or sale.

"(2) If any liquor is kept for sale, disposal, or supply on the premises of an unregistered club, every officer and member of the club shall be liable to a penalty not exceeding Ten Pounds, unless he proves to the satisfaction of the presiding magistrate or justices that such liquor was so kept without his knowledge or against his orders."

Interpretation of a *bonâ fide* residential member.

"**106l** No person shall be deemed a *bonâ fide* residential member of a club within the meaning of this Part unless he is boarding and lodging at such club."

Licensing Act Further Amendment.

“**106m**—(1) If any liquor is sold, disposed of, supplied, or delivered in a registered club for consumption outside the premises of the club, except to a member on the premises and for his own consumption, every person—

- i. Selling, disposing of, supplying, or delivering, or paying for such liquor :
- ii. Who obtains such liquor :
- iii. Authorising the sale, disposal, supply, or delivery of such liquor—

shall be liable severally on conviction in a summary way to a penalty not exceeding Fifty Pounds, unless as to the said case i. he proves to the satisfaction of the presiding magistrate or justices that such liquor was so sold, disposed of, supplied, or delivered without his knowledge or against his consent.

“(2) Where it is proved that such liquor has been received, delivered, or distributed in the premises of the club and taken outside the premises, it shall, failing proof to the contrary, be deemed to have been so taken for consumption outside the premises.”

A.D. 1917.

Supplying liquor for consumption outside registered club.
(Q.), s. 148.

“ Inspection.

“**106n**—(1) If a police magistrate is satisfied, by information on oath, that there is reasonable ground for supposing that—

- i. Any registered club is so managed or carried on as to constitute a ground for the cancellation or suspension of the certificate of registration thereof : or that—
- ii. 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 of or above the rank of sergeant.

“(2) A search warrant granted under this section shall authorise the member of the police force named therein to enter the club premises on any week-day or Sunday, at any time of the day or night, and to inspect the premises of the club, to take the names and addresses of any persons found therein, and to seize any books and papers relating to the business of the club, and, in the case of an unregistered club, also to seize any liquor so kept for sale or supply as aforesaid, and the vessels containing the same.

“(3) If admittance to such premises is refused or unreasonably delayed to a member of the police force authorised as aforesaid, any person who refuses or wilfully so delays admittance as aforesaid shall be liable to a penalty not exceeding Ten Pounds.

“(4) If any person in any registered or unregistered club premises entered by a member of the police force under this section, on being asked by such member his name or address, refuses or neglects to give such name or address, or gives a false name or address, he shall be liable, on summary conviction, to a penalty not exceeding Five Pounds.

Search warrant.
(N.S.W.), s. 150.
(Vict.), s. 267.
(Q.), s. 150.

Authority of search warrant.

Obstruction.

Penalty.

Licensing Act Further Amendment.

A D. 1917.

“ Register of Members of a Club.

Register of
members.
(N.S.W.), s. 151.
(Vict.), s. 268.
(Q.), s. 146.

“**106o**—(1) The secretary of a registered club shall keep on the club premises a register of members, setting forth the names in full, occupations, and addresses of all members of the club, and the date of the latest payment by each member of his subscription. Such register shall be open at any time to the inspection of the inspector or of any member of the police force if such member is so authorised in writing by any police magistrate.

“(2) Any secretary who fails to keep such register containing the prescribed particulars, or who wilfully makes any false entry therein, or any secretary or other person who prevents or obstructs any such inspection as aforesaid, shall be liable, on summary conviction, to a penalty not exceeding Fifty Pounds.

“ Penalties.

False certificate
by secretary.
(N.S.W.), s. 152.
(Vict.), s. 269.

“**106p** If the secretary of any club or any other person—

i. Knowingly lodges with the clerk of Petty Sessions an application for the grant or renewal of a certificate of registration which is false in any material particular : or

ii. Makes, in a statutory declaration, any statement which he knows to be false in any material particular—

he shall, on summary conviction, be liable to imprisonment for a term not exceeding Three months, or to a fine not exceeding Fifty Pounds, or to both.”

Clubs registered
under repealed
Part IX. to be
deemed regis-
tered under Part
IX. as re-enacted
until February
licensing meeting.

32—(1) Every club which at the time this Part comes into operation is a certificated club under the repealed provisions of Part IX. of the Principal Act shall be deemed to be registered under Part IX. of the Principal Act as re-enacted by this Act until the quarterly meeting of the licensing court of the licensing district in which the premises of the club are situate, to be held in February, One thousand nine hundred and eighteen, and for Fourteen days thereafter, unless such registration is sooner cancelled or is suspended under this Act.

Every such club shall, however, apply for a new certificate of registration under Part IX., as re-enacted by this Act, at that meeting ; and such certificate, if granted, shall remain in force until and including the Thirty-first day of December, One thousand nine hundred and eighteen and no longer, unless the same is renewed pursuant to the provisions of Part IX. as re-enacted by this Act.

(2) Section **102a** of the Principal Act is hereby amended by omitting the word “ certificated ” wherever occurring throughout the section, and substituting therefor the word “ registered.”

Licensing Act Further Amendment.

PART IV.

A.D. 1917.

MISCELLANEOUS AMENDMENTS.

33 Wherever in this Part a section of an Act is referred to by number, the reference is, unless a contrary intention appears, to the section of that number of the Principal Act.

Meaning of
"section" in
this Part.

34 Section Three is amended—

Amendments of
Section 3 of
Principal Act

i. By inserting the following definition after the definition of the term "Hotel":—

"Inmates" means persons residing in the licensed house in reference to which the expression is used."

"Inmates."

ii. By inserting the following definition after the definition of the term "Ratepayer":—

"Servants" means persons residing in the licensed house in reference to which the expression is used."

"Servants."

35 Section Nineteen of "The Licensing Act, 1908," is hereby amended by adding paragraph III. to Sub-clause (2), as follows:—

Amendment of
Section 19 of
8 Ed. VII. No
39.

"III. In the case of an agricultural show other than in the place usually known and recognised as the show-ground of the association."

36 Section Twenty-five, Subsection Three, of the Principal Act is hereby amended by striking out the words "other than Sunday," in line Three.

Amendment of
Section 25 of
Principal Act.

37 Subsection (2) of Section Thirty-one is hereby amended by omitting therefrom the words "at least Two of the justices present at the licensing meeting," and substituting therefor the words "the chairman or any Two members of the licensing court."

Amendment of
Section 31 of
Principal Act.

38 Section Thirty-three is hereby amended by inserting at the beginning of the section the words "No application for the granting, if any, of the beforementioned certificates to a single female under the age of Forty-five years shall be entertained by the licensing court; and by inserting the following paragraph v. at the end thereof:—

Amendment of
Section 33 of
Principal Act.

"v. She satisfies the licensing court that her husband is a soldier in actual military service beyond the State."

The first amendment made by this section to Section Thirty-three shall not apply to single females under the age of Forty-five years at present holding any of the licences referred to in the said section or certificates therefor, nor render such females ineligible in future.

Licensing Act Further Amendment.

A.D. 1917.

Mode of applying
for licenses.

Schedule (2).

Cf. No. 32. 19. 1,
s. 46 (W.A.).

39 Section Thirty-six is hereby repealed, and the following substituted therefor:—

“ **36**—(1) Every person who desires to obtain a certificate for—

- I. Any of the said licences : or
- II. A transfer of any of the said licences : or
- III. Permission to continue to sell liquor under any of the said licences—

shall Fourteen days at least before applying for the same—

(a) In the case of an application for a licence other than an application for a renewal of a licence, affix on the outer door or front of the principal entrance door of the premises for which such certificate is applied for, there to be kept until the day upon which the licensing court sits, notice in writing signed by such applicant according to such one of the forms in the Schedule (2) as is applicable: Provided that notwithstanding that such notice is not so kept affixed, if the court shall be satisfied that the applicant has used all reasonable care to keep it so affixed, and that it is not due to any default on his part that it has not been so kept affixed, the court shall be at liberty to deem the requirements of this subsection in this respect complied with :

(b) Deliver a like notice in triplicate to the Clerk of Petty Sessions.

“ (2) The applicant shall also publish a copy of such notice in a newspaper circulating in the licensing district wherein the premises are situated, at least Seven days before he applies for the certificate.

“ (3) The Clerk of Petty Sessions shall, immediately after the receipt thereof, post One of such notices inside and another of such notices outside on some conspicuous part of the courthouse or building in which the licensing court is to sit.

“ (4) Provided as follows :—

I. In the case of an application for a packet licence, the notice shall be delivered to the Clerk of Petty Sessions for the district in which the place or port to or from which the vessel plies is situate, and the notice shall be advertised in a paper circulating in the district in which the notice is delivered :

II. In the case of applications for a packet licence it shall not be necessary to affix any notice elsewhere than on the courthouse or building in which the licensing court is to sit.

“ (5) If the applicant for a certificate shall die between the date of lodging his notice of application and the date of the sitting of the licensing court at which his application is intended to be made, the licensing court may grant such certificate to any adult member of his family, or his executor, or administrator, or some person appointed in that behalf by such member of his family, his executor, or administrator, as the case may be, notwithstanding

Licensing Act Further Amendment.

that no notice of his intention to apply for a certificate has been given by such member of his family, executor, administrator, or other person." A.D. 1917.

40 Section Sixty-eight of the Principal Act is hereby amended by adding, after the word "time," in line Four, the words "during the hours on any week day when liquors are permitted to be sold to other than travellers or lodgers under this Act." Amendment of Section 68 of Principal Act.

41 Section Ninety-five is hereby amended by omitting therefrom— Amendment of Section 95 of Principal Act.

- I. The words "certificate of registration of club, the sum of Five Pounds": and
- II. The words "night licence, the sum of Five Shillings."

42 Section One hundred and seven is further amended by inserting at the end of Subsection (1) thereof the following subsection:— Amendment of Section 107 of Principal Act.

"(1A) Where any person has within Six months been Three times convicted of an offence under Section Thirteen of 'The Police Act, 1905' (whether such convictions shall be in respect of the same or different kinds of offences), a police magistrate or any Two or more justices may make a prohibition order against him without the necessity of formal application being made for the issue of the same." Cf. N.Z. No. 104 of 1908, s. 212 (3).

43 After Section One hundred and nine the following section is inserted:— Liability for accompanying prohibited persons.

"**109A**—(1) Every person who, knowing that any one is the subject of a prohibition order, accompanies him into any licensed house, vessel, room, or place, or in any way, directly or indirectly, procures liquor for him, or incites or assists him to procure or drink liquor, is liable to a fine not exceeding Ten Pounds." *Ibid.*, s. 216.

"(2) In any proceedings under this section the burden of proof shall be on the defendant to show that he did not know of the existence of such prohibition order."

44 Section One hundred and nineteen is amended as to paragraph (a) by omitting therefrom the word "Eighteen," and substituting therefor the word "Twenty-one." Amendment of Section 119.

45 Section One hundred and sixteen is amended so as to read as follows:— Amendment of Section 116.

"**116**—(1) Any inspector or any member of the police force not below the rank of sergeant who has reason to believe that any liquor is being or has been sold, contrary to the provisions of this Act, in any house or place not being a licensed house, or in any licensed house otherwise than is authorised by the licence granted in respect thereof, may at any time by day or night, and on Sunday as well as any week-day, with such (if any) assistants as he considers necessary— Power to search premises where sale of liquor suspected.

- I. Enter and search such house, place, or premises, and every part thereof in which he suspects that such liquor is sold or may be found:

Licensing Act Further Amendment.

A.D. 1917.

- II. If necessary, break open the doors or other means of access to such house, place, or premises, and every such part thereof, and any vessels suspected to contain liquor : and
- III. Seize all such liquor as he finds in such house, place, or premises, and the vessels containing such liquor.

(2) The inspector or member of the police force who effects a seizure pursuant to this section may detain the liquor and vessels seized until the owner thereof attends before a police magistrate or Two or more justices to claim them, and satisfies such magistrate or justices how and for what purpose he became possessed thereof ; and if the owner does not so attend within Seven days after the day of seizure, or if he does so attend and it appears to the magistrate or justices, after examination, that such liquor was in the house, place, or premises for the purpose of being illegally disposed of, then such magistrate or justices shall adjudge such liquor, and the vessels containing it, to be confiscated to the Crown, whereupon the same shall be absolutely confiscated to and become the property of the Crown ; otherwise such liquor and vessels shall be restored to the person from whom they were seized."

Sale of temperance drinks in licensed premises prohibited, unless provisions of section complied with.

46 After Section One hundred and twenty-one of the Principal Act the following section is inserted :—

"121A—(1) After the First day of March, One thousand nine hundred and eighteen, no licensed person shall—

- I. Keep his licensed house open for the sale of non-intoxicating liquor : or
- II. Sell or supply any non-intoxicating liquor : or
- III. Permit any non-intoxicating liquor to be consumed in his licensed house—

during any day or time during which the sale of liquor is prohibited by law, save and except in compliance with the provisions of this section.

"(2) Nothing in this section shall relate to the sale, or supply to, or consumption, of non-intoxicating liquor by any traveller, lodger, or inmate of the licensed house, nor to any non-intoxicating liquor which is sold or supplied to and consumed only by persons taking *bond fide* meals in such house, and is not supplied or consumed in any bar-room on the licensee's premises or in any such place as mentioned in Section One hundred and twenty-one of this Act.

"(3) Every licensee who offends against any provision of this section shall be liable, on conviction in a summary way, for a first offence to a penalty of not less than Five Pounds nor more than Ten Pounds, and for every subsequent offence to a penalty of not less than Ten Pounds nor more than Twenty Pounds.

"(4) In this section 'non-intoxicating liquor' means any liquor not being liquor as defined by Section Three of this Act.

Licensing Act Further Amendment.

"(5) This section shall not apply to any non-intoxicating liquor sold or supplied or consumed in any room in any licensed house if such room is licensed as a temperance bar-room by a permit granted by the licensing court and issued under the hand of the clerk. A.D. 1917.

"Provided that—

- i. Such permit shall not be granted unless the Court is satisfied by evidence in that behalf that the room to be so licensed is convenient and reasonably accessible for purposes of police supervision :
- ii. Every such permit shall, if not previously cancelled as hereinafter provided, continue in force until the Thirty-first day of the month of December then next following inclusively : and
- iii. Any such permit may be cancelled, either permanently or for any specified time, if the court, after any conviction of the licensee for an offence under this Act, considers such cancellation desirable."

47 Section Four of "The Licensing Act, 1908," is hereby amended—

- i. By inserting at the end of Subdivision (b) of paragraph i. (which defines "lodger") the words "but only so includes him while he is obtaining such meals between the hours of Twelve noon and Two in the afternoon, or Six and Eight in the evening" ; and (c) shall include any person on licensed premises for the *bonâ fide* purpose of obtaining meals between the hours of Six and Eight o'clock in the evening of any week day, such meals to be served only in the dining-room of such licensed premises, and to be of such character as may be prescribed. The provisions of the subdivision shall apply to registered clubs. Provided that the provisions of this subdivision shall cease to operate on the Thirty-first day of December, One thousand nine hundred and eighteen.
- ii. By omitting from paragraph ii. (which defines "traveller") the words "Four miles," wherever occurring throughout the paragraph, and substituting therefor the words "Seven miles."

Amendment of
Section 4 of 8
Ed. VII. No. 39.
Cf. No. 2683,
s 179 and s. 180.
(Vict.)

48 Subsection (2) of Section Forty-three of "The Licensing Act, 1908," is hereby amended by inserting immediately before the words "Second Friday," wherever occurring throughout the said subsection, the words "day immediately preceding the."

Amendment of
Section 43 (2) of
8 Ed. VII. No.
39.

Licensing Act Further Amendment.

A.D. 1917.

PART V.

ADDITIONAL AND GENERAL PROVISIONS AND AMENDMENTS
OF PRINCIPAL ACT.

Membership of a club not of itself to disqualify for Licensing Court.

49—(1) Notwithstanding anything in this Act or in the Principal Act, or any amendment thereof, no person shall be disqualified to be a member of a licensing court, or shall be held to have been disqualified to be a member of a licensing bench, or to adjudicate on the hearing of any information, complaint, appeal, or matter under the Principal Act, or any amendment thereof, merely by being a member of a club, or of the committee of management of a club, which is a certificated or registered club, under the Principal Act, or as to which an application for a certificate or registration has or had been made.

No difference if club owns registered premises.

(2) For the purposes of this section it shall make no difference that the club is or was the owner of the premises in respect of which the club is or was certificated or registered, or in respect of which an application for a certificate or registration has or had been made.

Forfeiture of licence at quarterly meeting of the court.

50—(1) An inspector may apply to the licensing court to forfeit any licence on the ground that the management of the licensed house has not been satisfactory.

(2) The court may hear and inquire into the application at any quarterly meeting for the district wherein the licensed house is situate: Provided that notice in writing, stating the particulars in which it is alleged that the management of the licensed house has not been satisfactory and signed by the applicant, has been delivered to the Clerk of Petty Sessions, and to the licensee, at least Fourteen days before the day fixed for such meeting.

(3) If the Court is satisfied that the management of the licensed house has not been satisfactory, and is of opinion that the licence should be forfeited, the court shall, by an order signed by the chairman or by the clerk, declare such licence to be forfeited, and such licence shall thereupon cease to be of any force or effect.

Repeal of Sections 65 and 66 of Principal Act.

51 Sections Sixty-five and Sixty-six of the Principal Act are hereby repealed.

Limited permits to supply liquor on special occasions until Eleven o'clock.

52 Notwithstanding anything contained in the Principal Act or any amendment thereof, permission for the consumption of liquor after Six o'clock in the evening on a week-day in an hotel or on the premises of a registered club, may be granted only in manner hereinafter provided and subject to the regulations and to the conditions hereinafter set forth, namely—

- i. The permission shall be granted only in respect of One night, and shall be in force only until Eleven o'clock, or such earlier time as is specified therein, on that night:

Licensing Act Further Amendment.

- ii. The permission shall be granted only for the occasion of a dinner, banquet, social gathering, or other similar engagement of a *bonâ fide* club, association, or society, or public body: A.D. 1917.
- iii. Not more than Twelve permissions shall be granted in any one calendar year in respect of any one hotel or the premises of any one club:
- iv. Any member or members of the licensing court may grant—on payment of the fee of Five Shillings, payable to the Treasurer—or may refuse the permission entirely in his or their discretion:
- v. Any permission granted under this section shall be by writing in the form prescribed by regulation:
- vi. Liquor may be consumed under a permission granted under this section only by persons present at and taking part in the dinner, banquet, social gathering, or engagement, and only in such room or rooms or other portion or portions of the premises as are specified in the permission; and no bar-room, and no place where liquor is kept for sale or is stored, shall be so specified:
- vii. For the purposes of Section One hundred and twenty (but only so far as that section applies to permitting liquor to be consumed) and for the purposes of Section Twenty-three of “The Licensing Act, 1908,” the persons mentioned in paragraph vi. hereof, shall, for the time for which the permission is granted, but only in so far as is necessary to make the permission effective, be deemed to be lodgers:
- viii. Except to the extent by this section expressly provided, nothing in this section or in any permission granted hereunder shall authorise or excuse the doing or omission of anything contrary in any way to any provision of the Principal Act or any amendment thereof.

PART VI.

ADJUSTMENT OF RENTS CONSEQUENT ON THE FIXING OF AN EARLIER CLOSING TIME FOR THE SALE AND SUPPLY OF LIQUOR.

53 In this Part—

Interpretation.

“Lessee” includes any person in the occupation of premises under or by virtue of a lease or agreement of tenancy (in writing or otherwise), and also includes a lessee who has sublet the premises; and the term “lease” has a corresponding meaning:

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“Police Magistrate” means the police magistrate constituting the rents revision court in the jurisdiction whereof the licensed house to which the proceedings relate is situate.

Constitution of courts and jurisdiction.

- 54**—(1) The Governor shall, for the purposes of this Part—
- I. Establish courts, to be called rents revision courts: and
 - II. Fix as the jurisdiction of each such court—
 - (a) A specified licensing district;
 - (b) A group of specified licensing districts.

(2) Each such court shall consist of a police magistrate appointed by the Governor, and the same police magistrate may be appointed in respect of more than One such court.

Notice to owner of desire to adjust rents.

55 A lessee of any licensed house may within Two months from the date of the commencement of this Act, or within such further time, not exceeding Six months after such commencement, as the police magistrate may allow, give to the owner of such house notice in writing that by reason of his pecuniary loss consequent on the operation of “The Licensing Act (No. 2), 1916,” he desires that the amount of the rent payable under any lease, existing at the commencement of the said Act, under which such lessee holds the said house, or relating thereto, shall be adjusted as from the commencement of the said Act.

Application to magistrate if rent not adjusted by agreement.

56—(1) If the said lessee (having given notice under the last preceding section of this Act) and the said owner do not, within One month after the giving of the said notice, agree as to the adjustment to be made, the said lessee may, within Two months after the giving of the said notice, or within such further time as the police magistrate may allow, make application in writing to a police magistrate to adjust the amount of the rent payable as mentioned in the said last preceding section; and if he makes such application he shall, within Seven days, or within such further time as the police magistrate may allow, after so doing, serve on the said owner notice in writing that such application has been made.

(2) Within Seven days, or within such further time as the police magistrate may allow, after receiving the lastmentioned notice the said owner shall serve on every other person who is, within the meaning of the Principal Act, an owner of the said licensed house a copy of such notice.

Place and time of inquiry.

57—(1) The police magistrate shall appoint a place, day, and hour, at which his court will sit for the purposes of the inquiry. At least Seven days’ notice of such sitting shall be given to all parties.

Evidence and counsel.

(2) At the inquiry any party shall be entitled to adduce such evidence as he may desire, and may be heard by counsel.

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58 The court shall entertain, inquire into, hear, and determine the matter of the application, and in its determination shall make such adjustment (if any) of the amount of rent payable as mentioned in Section Fifty-five of this Act as in the opinion of the court, having regard to all the circumstances, is fair and equitable in consequence of the operation of "The Licensing Act (No. 2), 1916."

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Court to
adjust rents.

59 Upon such hearing the court may receive as evidence statutory declarations made as prescribed, and shall take the oral evidence of the parties and of witnesses called on their behalf. But the police magistrate may, if he thinks fit, require the attendance of any declarant for purposes of cross-examination on the contents of his declaration, and failing such attendance the declaration shall not be receivable as evidence.

Evidence.

60 The practice upon the hearing of any application under this Part shall, in respect of the examination and cross-examination of witnesses and the right of addressing the magistrate upon the case in reply or otherwise, be as nearly as possible in accordance with that of the Supreme Court upon the trial of an issue of fact in an action at law.

Practice of court.

61—(1) Notwithstanding anything in any Act or in any lease or agreement made or entered into prior to the Twenty-third day of December, One thousand nine hundred and sixteen, where, as the result of any adjustment under this Part the amount of any rent payable as mentioned in Section Fifty-five of this Act to an owner is reduced, and the said owner is himself a lessee of another person who is, within the meaning of the Principal Act, an owner of the licensed house, the amount of the rent payable by the first-mentioned owner to such other person shall be reduced by such an amount as, in default of agreement between the said first-mentioned owner and such other person, the court determines to be fair and equitable.

Where owner
himself tenant of
another person.

(2) If upon receipt of the notice, or a copy of the notice, provided for by Section Fifty-six of this Act, such first-mentioned owner desires to apply for a reduction under this section of the rent payable by him in respect of the said premises, he shall within Seven days after the receipt of such notice or copy, or within such further time as the police magistrate may allow—

- I. Make application in writing to the magistrate for that purpose: and
- II. Serve notice in writing that such application has been made on any person from whom he desires to claim such reduction—

and, subject to this Part, the court may make a determination reducing or otherwise adjusting the said rent accordingly.

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All matters as
to same premises
to be determined
at one time.
7 Geo. V. No. 19.

Costs of
application.

Effect of
determination of
licensing court.

Recovery of
excess rent
actually paid.

Service of notices.

62 The court shall, as far as practicable, determine all matters under this Part relating to the same licensed house at the one time, and may make all such (if any) adjustments of rents between all persons interested as, in its opinion, are fair and equitable in consequence of the operation of "The Licensing Act (No. 2), 1916."

63 The court may award costs to or against any of the parties to any proceedings before it under this Part, and the amount of any costs so awarded may be recovered as a debt in any court of competent jurisdiction.

64—(1) Every determination of a court under this Part shall be binding and conclusive upon the parties to the matter, including every person served with the notice or a copy of the notice of the application, and shall not be removable to any court by *certiorari* or otherwise; and no determination or award or proceeding of a court, under this Part shall be challenged, appealed against, reviewed, quashed, or called in question, in any court or tribunal on any account whatever other than excess or want of jurisdiction.

(2) The amount of the rent, as adjusted or reduced by the court, shall, notwithstanding anything in any lease or agreement made or entered into prior to the Twenty-third day of December, One thousand nine hundred and sixteen, be the amount of the rent payable under the said lease or agreement, as from the commencement of "The Licensing Act (No. 2), 1916," until the said lease or agreement ceases to operate.

(3) Any provision, covenant, clause, condition, or other stipulation, in any conveyance, settlement, contract, transfer, mortgage, power of attorney, underlease, assignment, lease, sublease, agreement, or document whatsoever, whether under seal or not, made or entered into prior to the Twenty-third day of December, One thousand nine hundred and sixteen, which directly or indirectly negatives or excludes, or purports to negative or exclude, or can be construed as negating or excluding or affecting, the provisions of this section or any other provision of this Part, shall be absolutely void.

65 Where any person has actually paid any rent, with respect to any period after the commencement of "The Licensing Act (No. 2), 1916," in excess of the amount of rent determined by the court under this Part to be payable, or to have been payable, in respect of such period by such person, the amount of such excess shall be a debt due to that person from the person to whom the same was paid, and may be recovered in any court of competent jurisdiction.

66 A notice, or a copy of a notice, under Sections Fifty-five, Fifty-six, or Sixty-one of this Act, may be served personally, or by

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post by letter addressed to the last known address of the person upon whom the notice or copy is required to be served; and if any person directed by or pursuant to this Part to serve such notice or copy is unable to ascertain such address, or if the person required to be served is out of the State, service may be made as aforesaid upon his authorised agent or upon such other person, on behalf of the person required to be served, as the police magistrate directs.

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67 For the purposes of this Part, all persons (whether trustees or not) are hereby authorised, notwithstanding anything to the contrary in any Act or instrument, to enter into an agreement to adjust or reduce, pursuant to this Part, the amount of rent payable by any lessee in respect of any licensed house.

Trustees
empowered to
agree to
adjustment.

68 For the purposes of any proceeding or matter under this Part, the Court—

Supplementary
powers and duties
of court.

- I. Shall be satisfied that any notice required has been duly served :
- II. In the event of the non-appearance of any party, may proceed with and determine the matter in his absence : and
- III. May make such orders as to procedure (including orders to prevent undue multiplicity of proceedings) as the Court thinks necessary.

69 The Police Magistrate shall have the powers, discretion, and privileges conferred by Division II. of Part II. of "The Evidence Act, 1910," on a sole commissioner appointed thereunder; and the said Division II. (Section Nineteen excepted) shall, *mutatis mutandis*, apply to any witness or person summoned by or appearing before the court, and be deemed to be incorporated with this Part.

Powers of the
magistrate as to
parties, witnesses,
evidence, &c.

70 Notwithstanding anything contained in this Part of this Act, the Governor may, by proclamation, declare that every or any rents revision court shall consist of a judge of the Supreme Court appointed by the Governor in lieu of a police magistrate, and may by the same or any subsequent proclamation make any such appointment, and the same judge may be appointed in respect of more than one such court.

Governor may
appoint a judge
instead of police
magistrate for the
purposes of this
Part.

Upon the publication of such proclamation this Part of this Act shall be read and construed as if the expression "judge of the Supreme Court" were substituted for the expression "police magistrate," and "court" or any similar expressions wherever occurring throughout this part.

71 Notwithstanding anything contained in this Act the Governor may, by proclamation, appoint a judge of the Supreme Court to give effect within any city or municipality to the vote to be taken therein, pursuant to the provisions of Part V. of "The Licensing Act, 1908," in lieu of the licensing court for any

Governor may
appoint judge
to give effect to
vote under Part
V. of 8 Ed. VII.
No. 39.

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licensing district, as directed by Section Seven of this Act, and upon the publication of such proclamation Section Seven of this Act, so far as it relates to the giving effect to such vote or any matter connected therewith, shall be read and construed as if the expression "judge of the Supreme Court" were substituted for the expression "licensing court for such district," or any similar expression.

Regulations.

Regulations.

72 The Governor may make all such regulations as he may deem necessary or convenient for carrying out and giving effect to any of the provisions and objects of any Part of this Act.