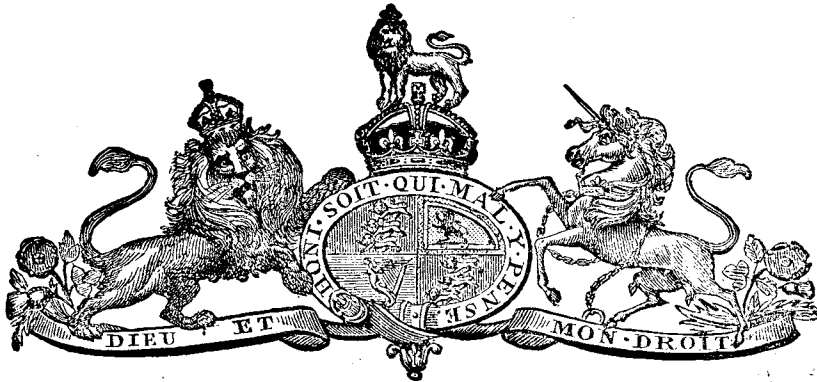


TASMANIA.



1916.

ANNO SEPTIMO

GEORGII V. REGIS.

No. 19.

ANALYSIS.

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| <p>1. Short title and incorporation.
Commencement.</p> <p>2. Amendment of Section 3 of Principal Act.</p> <p>3. Amendment of Section 25 of Principal Act as to packet licences.</p> <p>4. Amendment of Section 120 of Principal Act.
No means of entrance or aperture to bar to be opened or unlocked during prohibited hours.
Further amendment of Section 120 of Principal Act.</p> | <p>5. Presumption in certain cases.</p> <p>6. Penalty for drinking on unlicensed premises during prohibited hours.</p> <p>7. Amendment of Section 63 of Principal Act.</p> <p>8. Amendment of Section 102A of Principal Act.</p> <p>9. Amendment of Section 19 of 8 Edw. VII. No. 39.</p> <p>10. Amendment of Section 23 of 8 Edw. VII. No. 39.</p> <p>11. Licensed house may be closed at Six o'clock.</p> |
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AN ACT to further amend "The Licensing Act, 1902," and for other purposes. A.D. 1916.

[23 December, 1916.]

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 Act (No. 2), 1916," 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. V II. No. 32.

Licensing Act Amendment.

A.D. 1916.

Commencement.

Amendment of
Section 3 of
Principal Act.

(2) This Act shall come into operation on the First day of January, One thousand nine hundred and seventeen.

2 Section **3** of the Principal Act is hereby amended—

i. By inserting the following definition after the definition of the term “justice” :—

“Licensed House” shall mean premises in respect of which an hotel or public-house licence is for the time being in force :

ii. By inserting after the definition of the term “Treasurer,” the following words :—

In this Act the expression “Sale of liquor is prohibited by law,” means sale of liquor in licensed houses **is prohibited** by this Act or any Act amending **this Act.**

Amendment of
Section 25 of
Principal Act as
to packet
licences.

3 Subsection Two of Section Twenty-five of the Principal Act is hereby amended by omitting therefrom the following words :—“ But a packet licence shall not authorise the sale of liquor on the occasion of any excursion or trip of not more than Five hours’ duration on Sunday, on board of any such vessel thereby licensed,” and substituting therefor the following words :—“ A packet licence shall not, on the occasion of any excursion or trip of not more than Eighteen hours’ duration, authorise the sale or consumption of liquor on board of any vessel thereby licensed during any day or time during which the sale of liquor is prohibited by law in licensed houses.”

Amendment of
Section 120 of
Principal Act.
Cf. No. 970 of
1908.
s. 155 (1), S.A.

4 Section **120** of the Principal Act is hereby amended—

i. By omitting paragraph (*h*) of Subsection (1) and substituting therefor the following paragraph :—

“(h) Keeping his licensed house open for the sale of liquor or selling or supplying liquor or permitting any liquor to be consumed in the licensed house on any week day between the hours of Six of the clock in the evening and Six of the clock next morning, or at any time on Sunday, Good Friday, or Christmas Day :”

ii. By omitting from paragraph (*i*) of Subsection (1) the words “ After the hour for closing the house on any night,” and substituting therefor the words “ During any day or time during which the sale of liquor is prohibited by law : Provided, however, that a licensee shall not be liable to any penalty for permitting any female in his employ to sell or assist in the sale of liquor to any *bonâ fide* traveller, inmate, or lodger.”

iii. By inserting after paragraph (*i*) of Subsection (1) the following paragraph :—

Licensing Act Amendment

“(j) Failing to prevent—during any day or time during which the sale of liquor is prohibited by law—

(a) Any door or other entrance or means of any kind by which admission can be gained, whether from outside or inside any licensed house, to—

i. Any bar-room in such licensed house; or

ii. Any place in such house where liquor is kept for sale or is stored; or

(b) Any aperture or other means of any kind through or by which any liquor can be delivered or obtained from any bar-room in any licensed house or from any place in such house where liquor is kept for sale or is stored—

being opened or unlocked, except for the purpose of supplying liquor to persons being travellers, lodgers, or inmates of the licensed house, and for such time only as is necessary for supplying such liquor to such persons, the onus of proving which exception shall be upon the defendant.”

iv. By omitting paragraph (b) of Subsection (2) and substituting therefor the following :—

(b) On Good Friday and Christmas Day after Half-past Twelve of the clock in the afternoon, but not before—

i. Keep the licensed house open and permit ingress and egress to any person as on any other weekday : and

ii. Sell and supply liquor and permit liquor to be consumed in the licensed house between Half-past Twelve of the clock in the afternoon and Six of the clock in the evening, and at no other time : and

v. By omitting paragraph (c) of Subsection (2) and substituting therefor the following :—

(c) Sell and supply liquor after the hour of Six of the clock in the evening, and before the hour of Six of the clock next morning on a weekday to persons being travellers, lodgers, or inmates of the licensed house.”

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No means of entrance or aperture to bar to be opened or unlocked during prohibited hours.
Cf., *Ibid.*, S.A., s. 45.

Further amendment of Section 120 of Principal Act.

5 After Section 120 of the Principal Act, the following section numbered 121 is inserted :—

“121 If in any proceedings for an alleged offence under paragraph (h) of Section 120 of this Act, it is proved to the satisfaction of the

Presumption in certain cases.
Ibid., S.A., s. 44,

Licensing Act Amendment.

A D. 1916.

magistrate or justices hearing the case that, during any day or time during which the sale of liquor is prohibited by law—

- i. Any door or other entrance or means of any kind by which admission could be gained, whether from outside or inside the licensed house, to—

- (a) Any bar-room in the licensed house ; or

- (b) Any place in such house where liquor is kept for sale or is stored, or

any aperture or other means of any kind through or by which any liquor could be delivered or obtained from any such bar-room or place, was opened or unlocked : or

- ii. Any person other than the licensee or his servant was in any such bar-room or place ; or

- iii. Any artificial light was in any such bar-room or place—

the licensee shall, unless he proves to the satisfaction of the magistrate or justices that the act or thing proved as aforesaid was done or existed solely for the purpose of supplying liquor to some traveller, lodger or inmate of the licensed house, and not for a longer time than was necessary for supplying such liquor to such person, be found guilty of such offence.”

Penalty for drinking on unlicensed premises during prohibited hours.
Cf. Vict. 2584, 1915, s. 5.
Cf. S. A. 1236, 1915, s. 64.

6—(1) After Section **125** of the Principal Act, the following section numbered **126** is inserted :—

“ **126**—(1)—

- i. Any person (except the following residents on the premises, viz—the occupier, his family, servants, and any *bona fide* lodger) who, during any day or time during which the sale of liquor is prohibited by law, drinks liquor in any unlicensed premises (as defined by this section) shall for every such offence be liable to a penalty for the First offence of not more than Five Pounds, and for any subsequent offence of not more than Ten Pounds :
- ii. Any person who permits or allows any liquor to be drunk (except by any of the persons excepted as aforesaid) on his unlicensed premises (as defined by this section) during any such day or time as aforesaid, shall be liable to a penalty for the First offence of not less than Five Pounds and not more than Twenty Pounds, and for every subsequent offence of not less than Ten Pounds and not more than Fifty Pounds.

(2) For the purpose of enforcing the provisions of this section any member of the Police Force who—

- i. Is not below the rank of sergeant : or
- ii. Has been authorised either generally or specially by a justice or the Commissioner of Police or a superintendent of police to enforce the provisions of the Licensing Acts—

Licensing Act Amendment.

may, at any time during any day or time during which the sale of liquor is prohibited by law, demand entrance into any unlicensed premises or the appurtenances thereof, and if admittance is delayed for such time that it may reasonably be inferred that wilful delay was intended, the occupier of the premises shall be liable to a penalty of not less than Five Pounds and not more than Twenty Pounds; and if such admittance is delayed as aforesaid such member of the Police Force may break into and enter such premises and any part thereof in which he suspects that an offence against this section is being or has been committed.

A.D. 1916.

(3) In this section "unlicensed premises" means any premises where meals or refreshments are ordinarily sold or disposed of to the public for consumption on the premises, and, without affecting the generality of this definition, includes any café, restaurant, oyster saloon, or other eating-house, not being a licensed house, and any premises which the occupier of such unlicensed premises is permitted to use or uses for the purposes of or in connection with his business."

Cf. s. 23 (3).

7 Section **63** of the Principal Act, as re-enacted by Section **2** of "The Licensing Act, 1916," is hereby amended by omitting therefrom the words "Ten at night," and substituting therefor the words "Six in the evening."

Amendment of Section 63 of Principal Act. 6 Geo. v. No. 61.

8 Section **102a** of the Principal Act is hereby amended—

Amendment of Section 102a of Principal Act (inserted therein by 6 Geo. v. No. 6, s. 3.)

- i. By omitting from paragraph 1 of Subsection (1) the words "Ten at night" wherever occurring throughout that paragraph, and substituting therefor the words "Six in the evening";
- ii. By inserting the words "*bonâ fide*" immediately before the word "meal" occurring in paragraph ii. of Subsection (1).
- iii. By inserting at the end of the said section the following subsection—

"(3) Nothing in the foregoing provisions of this section shall be deemed to prohibit, where otherwise lawful, the sale, supply, or delivery of liquor, for his personal consumption, to, or the consumption of such liquor by, any person on the premises of any certificated and *bonâ fide* residential club, where such person is *bonâ fide* residing."

9 Section **19** of "The Licensing Act, 1908" is hereby amended by omitting from paragraph i. of Subsection (2) thereof the word "Seven" and substituting therefor the word "Six."

Amendment of Section 19 of 8 Edw. VII., No. 39.

10 Section **23** of "The Licensing Act, 1908," is hereby amended—

- i. By omitting Subsection (1) thereof, and substituting therefor the following subsection—

Amendment of Section 23 of Principal Act. 8 Edw. VII., No. 39. Cf. *Ibid.*, S.A., s. 46 (1).

"(1) Every person not being a traveller, lodger, servant, or inmate of the licensed premises, who purchases or obtains liquor, or consumes, or is found drinking liquor,

Licensing Act Amendment.

A.D. 1916.

Ibid., S.A.,
s. 46 (2.)

on any licensed premises, or in any yard, stable, outhouse, shed, or any other place whatsoever of, belonging, or in any way appertaining to the licensed premises during any day or time during which the sale of liquor is prohibited by law, or, during any such day or time is present in any bar-room on any licensed premises, or in any such place as mentioned in Section 121 of this Act shall for every such offence be liable to a penalty not exceeding Five Pounds."

- ii. By inserting the following new subsection after Subsection (1) thereof—

"(1a) Any person not being a traveller, lodger, servant, or inmate of the licensed premises, who during any day or time during which the sale of liquor is prohibited by law is present in any room or other part of any licensed premises, which room or part adjoins any bar-room on such premises or any place therein where liquor is kept for sale or is stored, and has any door or other entrance or means of any kind by which admission can be gained to such bar-room or place, or which has any aperture or other means of any kind through or by which any liquor can be delivered or obtained from such bar-room or place, such door, entrance, means, or aperture being at the time open or unlocked, shall be liable 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 unless he satisfies the magistrate or justices that his presence in such room or part was not for the purpose of purchasing or obtaining, or attempting to purchase or obtain, liquor":

- iii. By omitting from Subsection (2) and from Subsection (3) the words "not be open for the sale of liquor," and substituting therefor the words "be kept closed."

Licensed house
may be closed at
Six o'clock.

11 Nothing in this Act contained shall make it compulsory on the holder of a public-house or hotel licence to keep open his licensed house after Six o'clock in the evening, except for the admission of *bonâ fide* travellers.