



ANNO DECIMO NONO

GEORGII V REGIS.

A.D. 1928.

No. 1867.

An Act to amend the Licensing Act, 1917, and for other purposes.

[Assented to, November 1st, 1928.]

BE it Enacted by the Governor of the State of South Australia, with the advice and consent of the Parliament thereof, as follows :

1. (1) This Act may be cited as the "Licensing Act, 1928". Short titles.
(2) The Licensing Acts, 1917 to 1927, and this Act may be cited together as the "Licensing Acts, 1917 to 1928".
(3) The Licensing Act, 1917, is hereinafter called "the principal Act".
2. This Act is incorporated with the other Acts mentioned in section 1 of this Act, and this Act and those Acts shall be read as one Act. Incorporation.
3. Section 13 of the principal Act (as amended by section 3 of the Licensing Act Amendment Act, 1923) is amended— Amendment of principal Act, s. 13—
Exemption of cider factories from Act in certain circumstances.
 - (a) by inserting before the word "vineyard" in the second line of subsection (2) thereof the words "cider factory".
 - (b) by inserting before the word "vineyard" in paragraph III. of the proviso to the said subsection (2) and before the word "vineyard" in paragraph v. of the said proviso the words "cider factory".

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Re-enactment of
secs. 32 to 35 of
principal Act.

Mode of determin-
ing licence fee
where rating on
land values is in
operation

4. Sections 32 to 35 of the principal Act are repealed and the following sections are hereby enacted and substituted in lieu thereof :

32. When the house or premises described in a publican's licence are situated within a Municipality in which Part II. of the Land Value Assessment Act, 1893, or Division III. of Part XXIII. of the Municipal Corporations Act, 1923, is in operation, or within a District in which Division III. of Part X. of the District Councils Act, 1914, is in operation, the annual fee to be paid for the licence shall be determined as follows :—

(a) If the house or premises are at the time when the fee becomes due, assessed under the Waterworks Act, 1882, or any Act incorporated therewith, such house or premises shall be deemed to be assessed at the annual value thereof shown on the assessment in force under the said Waterworks Act, 1882, or such other Act as aforesaid at the said time :

(b) In any other case the house or premises shall be deemed to be assessed at the annual value on which the fees payable for the last licence granted in respect thereof before the commencement of the Licensing Act, 1928, were computed, but the Treasurer may at any time after the said commencement and from time to time at intervals of not less than two years cause an assessment of the house or premises to be made in such manner as he deems convenient, and such house or premises shall thereafter be deemed to be assessed at the annual value shown by the assessment so made which is for the time being in force,

and in either case the fee to be paid shall be the same as if the house or premises were assessed by the Corporation or District Council for rating purposes at the annual value assessed as aforesaid.

Right of appeal
against Treasurer's
assessment.

33. In any case where the Treasurer has caused an assessment of any house or premises to be made he shall forthwith give the licensee notice thereof and the licensee may within one month thereafter appeal against that assessment to the Local Court, and the said Court shall assess the annual value, and the value so assessed shall be the annual value for determining the amount of the annual fee for the licence.

Adjustment of fee
after appeal.

34. If the annual value as assessed by the Local Court on appeal is different from that shown by the assessment appealed against, the Treasurer shall repay to, or shall be entitled to recover from, the licensee any excess or deficiency (as the case may be) in any fee already paid by the licensee, on the basis of the assessment appealed against, and such excess or deficiency may be recovered as a debt in any Court of competent jurisdiction.

35. Any

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35. Any assessment made under sections 32 or 33, or both, by the Treasurer or the Local Court, shall be merely for the purpose of determining the licence fee, and shall be made according to the principles laid down in section 340 of the Municipal Corporations Act, 1923 Principles governing assessments.
5. Sections 36 and 37 of the principal Act are repealed. Repeal of principal Act, ss. 36 and 37.
6. Section 65 of the principal Act is amended by striking out the words "twenty-eight" in the sixth line thereof and inserting in lieu thereof "forty-two". Amendment of principal Act, s. 65—
Time for delivering notice of removal.
7. Section 67 of the principal Act is amended—
- (a) by striking out the word "seven" in the third line of subsection (2) thereof and inserting in lieu thereof the word "twenty-one"; Amendment of principal Act, s. 67—
Time for presenting petition against removal.
- (b) by inserting at the end of subsection (2) thereof the following passage:
- For the purposes of this subsection a certificate purporting to be signed by the Secretary to the Minister stating that a petition has been received within the time prescribed by this subsection and that such petition complies with the requirements of this subsection, shall be conclusive evidence of the matters so certified.
8. Section 159 of the principal Act is amended—
- (a) by striking out the word "to" in the seventh line and inserting in lieu thereof "shall"; Amendment of principal Act, s. 159—
Penalty for retailing without a licence.
- (b) by inserting after the word "year" in the eighth line thereof the words "and no Court shall have power to impose a fine in lieu of imprisonment for any such subsequent offence".
9. Part VI. of the principal Act is amended by inserting therein after section 159 the following new section:— New section, 159A—
Penalty on purchasing liquor from unlicensed persons.
- 159A. Except as allowed by this Act, no person shall purchase, or attempt to purchase, any liquor from, or in or from the premises of, any person who does not hold a licence under this Act.
- Penalty—For a first offence not exceeding Twenty Pounds; for any subsequent offence not exceeding Fifty Pounds.
10. Part VI. of the principal Act is amended by inserting therein after section 166 the following section:— New section, 166A—
Exclusion of children from billiard saloons.
- 166A. (1) If any child is in or upon the licensed premises of any holder of a billiard table licence, and that child is not the son, daughter, or servant of the said holder of the licence, the said holder, if he is on the premises while the child is there, or, if

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if he is not on the premises at that time, the person in charge of the premises at that time, shall forthwith remove the said child or cause him to be removed from the licensed premises.

(2) Any person who fails to comply with this section shall be guilty of an offence against this Act.

Penalty—Not less than Two Pounds nor more than Twenty Pounds.

(3) In this section “child” means person under the age of sixteen years.

Amendment of
principal Act,
s. 190—

False entries in
Register of Lodgers.

11. Section 190 of the principal Act is amended by inserting in subsection (6) thereof after paragraph (c) the following passage:—

or (d) enters or causes to be entered in the Register of Lodgers the name of any person who is not at the time when the entry is made a *bona fide* lodger.

Amendment of
principal Act,
s. 197—
Purchasing liquor
after hours from
licensed premises.

12. Section 197 of the principal Act is amended by inserting after the word “liquor” in the second line thereof the words “in or from any licensed premises”.

Amendment of
principal Act,
s. 200—
Penalty for carrying
liquor from licensed
premises.

13. Section 200 of the principal Act is amended by striking out the words “to a penalty not exceeding Two Pounds” at the end of subsection (1) thereof and inserting in lieu thereof the words “for the first offence to a penalty of not less than Five Pounds and not more than Twenty Pounds, and for the second and every subsequent offence of not less than Ten Pounds and not more than Fifty Pounds”.

Amendment of
principal Act,
Part VI.—

Penalty on licensee
when liquor
delivered to persons
outside licensed
premises after hours.

14. Part VI. of the principal Act is amended by inserting therein after section 200 the following section:—

200A. (1) If any liquor is conveyed by any person from any licensed premises to any person outside those licensed premises during any day or time during which the sale of liquor is prohibited by law, the holder of the licence in respect of those licensed premises shall be guilty of an offence, and shall be liable to a penalty for the first offence of not more than Twenty Pounds, and for the second and every subsequent offence of not less than Five Pounds, and not more than One Hundred Pounds, unless the holder of the licence proves to the satisfaction of the Special Magistrate or Justices hearing the case that the liquor was conveyed as aforesaid—

(a) contrary to the will of the holder of the licence, or if he was not at the time on the licensed premises, contrary to the will of the person at that time in charge thereof, and that the holder of the licence or the person in charge, as the case may be, took all reasonable steps to prevent the person conveying the liquor from doing so; or

(b) without

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(b) without the knowledge of the holder of the licence, or if he was not at the time on the licensed premises, without the knowledge of the person at that time in charge thereof, and that the holder of the licence or the person in charge, as the case may be, exercised all practicable diligence to prevent the person conveying the liquor as aforesaid from doing so.

(2) The offence created by this section shall be included in the offences mentioned in section 269 for which a licence is liable to be forfeited as provided in section 80.

(3) In this section the term "convey" includes to transmit by hand or otherwise, with or without any change of bodily position on the part of the person conveying.

15. Section 214 of the principal Act is amended by striking out the words "has reason to believe" in the second line and inserting in lieu thereof "is of opinion".

Amendment of
principal Act,
s. 214—

Power of search.

In the name and on behalf of His Majesty, I hereby assent to
this Bill.

A. HORE-RUTHVEN, Governor.