

## DISORDERLY HOUSES ACT.

### Act No. 6, 1943.

An Act to make provision for the closing of disorderly houses ; and for purposes connected therewith. [Assented to, 20th May, 1943.] George VI.  
No. 6, 1943.

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

1. This Act may be cited as the "Disorderly Houses Act, 1943." Short title.

2. In this Act unless the context or subject matter otherwise indicates or requires— Interpre-  
tation.

"Licensed premises" has the meaning ascribed to it in the Liquor Act, 1912, as amended by subsequent Acts.

"Liquor" has the meaning ascribed to it in the Liquor Act, 1912, as amended by subsequent Acts.

"Occupier" of premises includes the lessee or sub-lessee who is not the owner as defined in this section.

"Owner" of premises includes every person who is, whether by law or in equity—

(a) entitled to the same for any estate of freehold in possession; or

(b) in actual receipt of, or entitled to receive, or if the premises were let to a tenant, would be entitled to receive the rents and profits of the same.

In the case of premises sub-leased "owner" includes any lessee or sub-lessee from whom a sub-lessee holds.

"Premises"

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“Premises” includes any building and any part of any building but does not include licensed premises or the premises of any registered club.

Disorderly  
house—  
Declaration  
by Judge of  
Supreme  
Court.

**3.** (1) Upon the affidavit of a Superintendent or Inspector of Police showing reasonable grounds for suspecting that all or any of the following conditions obtain with respect to any premises, that is to say—

- (a) that drunkenness or disorderly or indecent conduct or any entertainment of a demoralising character takes place on the premises, or has taken place and is likely to take place again on the premises; or
- (b) that liquor or a drug is unlawfully sold or supplied on or from the premises or has been so sold or supplied on or from the premises and is likely to be so sold again on or from the premises; or
- (c) that reputed criminals or associates of reputed criminals are to be found on or resort to the premises or have resorted and are likely to resort again to the premises; or
- (d) that any of the persons having control of or managing or taking part or assisting in the control or management of the premises—
  - (i) is a reputed criminal or an associate of reputed criminals; or
  - (ii) has been concerned in the control or management of other premises which have been declared to be a disorderly house under this Act; or
  - (iii) is or has been concerned in the control or management of premises which are or have been frequented by persons of notoriously bad character or of premises on or from which liquor or a drug is or has been unlawfully sold or supplied;

any judge of the Supreme Court may declare such premises to be a disorderly house.

(2) Such declaration shall be in force until rescinded.

**4.**

**4.** (1) Any such declaration may be rescinded by a judge of the Supreme Court subject to such terms as he thinks fit, on application being made to him—

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Rescission of  
declaration.

(a) by the owner or occupier of the premises, the subject of the declaration, on proof that he has not at any time allowed any of the conditions referred to in subsection one of section three of this Act to obtain in relation to such premises;  
or

(b) by a Superintendent or Inspector of Police on proof that there is no reasonable ground for suspecting that any of the conditions referred to in subsection one of section three of this Act obtain in relation to such premises.

(2) Where an application under this section is made by the owner or occupier of the premises notice in writing of intention to make the same shall be served on a Superintendent or Inspector of Police two days at least before the hearing of such application.

**5.** (1) Notice of any such declaration or any rescission of the same shall be published in the Gazette.

Publication  
of notice of  
declaration  
and  
rescission.

(2) In any proceedings under this Act the production of a copy of the Gazette containing such notice shall be evidence that the declaration or rescission therein notified was duly made.

**6.** (1) The Commissioner of Police or a Superintendent or Inspector of Police, on such declaration being made with respect to any premises—

Notice  
given of  
declaration.

(a) shall cause to be published on two days in a newspaper circulating in the neighbourhood of the premises a notice of the making of such declaration;

(b) shall cause such notice to be served on the owner and occupier of the premises. Such service shall be personal except where it cannot be promptly effected, in which case the notice may be served on the owner and occupier aforesaid by causing a copy thereof to be affixed at or near to the entrance of the premises.

(2)

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(2) In any proceedings under this Act the production of a copy of a newspaper containing any such notice shall be evidence that such notice was duly published in such newspaper on the date appearing thereon.

Person found in premises declared a disorderly house.

7. If after publication in pursuance of paragraph (a) of subsection one of section six of this Act of notice of the making of such declaration with respect to any premises, and during the time that such declaration is in force, any person is found—

(a) in, or on, or entering, or leaving such premises; or

(b) in, or on, or entering, or leaving any land or building used as a means of access to or exit or escape from the same,

such person, unless he proves that he was in, or on, or entering, or leaving as aforesaid for a lawful purpose, shall be guilty of an offence against this Act and shall on summary conviction be liable to imprisonment for a term not exceeding six months.

Penalty on owner.

8. If, after service on an owner in pursuance of paragraph (b) of subsection one of section six of this Act of notice of the making of a declaration with respect to any premises and during the time that such declaration is in force, any of the conditions referred to in subsection one of section three of this Act obtain in relation to such premises such owner shall, unless he proves that he has taken all reasonable steps to evict the occupier from the same, be guilty of an offence against this Act and be liable on summary conviction to a penalty not less than thirty pounds and not exceeding three hundred pounds.

Penalty on occupier.

9. If, after service on an occupier in pursuance of paragraph (b) of subsection one of section six of this Act of notice of the making of a declaration with respect to any premises and during the time that such declaration is in force, any of the conditions referred to in subsection one of section three of this Act obtain in relation to such premises such occupier shall, unless he proves that he has taken reasonable steps to prevent such conditions from obtaining in relation to such premises, be guilty of

of an offence against this Act and shall on summary conviction be liable to imprisonment for a term not exceeding six months. No. 6, 1943.

**10.** While any such declaration is in force with respect to any premises any member of the Police Force may, without warrant— Entry by  
police.

- (a) enter the said premises;
- (b) enter any land or building which he has reasonable grounds to suspect is used as a means of access to or of exit or escape from the same;
- (c) pass through, from, over and along any other land or building for the purpose of entering in pursuance of paragraph (a) or paragraph (b) of this section;
- (d) for any of the purposes aforesaid break open doors, windows, and partitions, and do such other acts as may be necessary;
- (e) seize any liquor and any drug in such premises and any drinking glass, vessel, container or device in such premises which is used or is capable of being used for or in connection with the storage, supply or consumption of any liquor or drug or the user or taking of any drug.

**11.** Any person who wilfully obstructs or aids in obstructing or solicits any other person to obstruct or aid in obstructing a member of the Police Force in the exercise of any power conferred on him by this Act shall be guilty of an offence against this Act and shall be liable on summary conviction to a penalty not exceeding twenty-five pounds. Obstructing  
the police.

**12.** Where any member of the Police Force authorised under this Act to enter any premises, land or building is wilfully prevented from or is obstructed or delayed in entering the same or any part thereof, or where any external or internal door of, or means of access to any such premises, land or building authorised to be entered, is found to be fitted or provided with any bolt, bar, chain or any means or contrivance for the purpose of preventing, delaying or obstructing the entry into the same or any part thereof, of any member of the Police Force authorised Evidence of  
premises  
being a  
disorderly  
house.

**No. 6, 1943.** authorised as aforesaid, or for giving an alarm in case of such entry, or if such premises are found to be fitted or provided with any means or contrivance for concealing, removing or destroying any liquor or drug or any such glass, vessel, container or device as is referred to in paragraph (e) of section ten of this Act, it shall be evidence until the contrary is made to appear that the conditions referred to in subsection one of section three of this Act obtain in relation to such premises.

Special  
warrant to  
enter and  
search  
suspected  
premises.

**13.** (1) Any justice upon complaint made on oath that there is reason to suspect that any of the conditions referred to in subsection one of section three of this Act obtain in respect of any premises and that it is commonly reported and believed by the deponent that such condition obtains, may by special warrant under his hand and seal authorise any member of the Police Force to enter into such premises and seize any liquor and any drug in such premises and any such glass, vessel, container or device as is referred to in paragraph (e) of section ten of this Act.

(2) Every member of the Police Force so authorised may if necessary obtain assistance and use force whether by breaking open doors or otherwise for making such entry and may search all parts of such premises, where he suspects that any of the conditions referred to in subsection one of section three of this Act obtain.

(3) Every special warrant under this section shall be in or to the effect of the form prescribed.

Existing  
declarations  
and savings.

**14.** (1) Any declaration of premises as a disorderly house made or purporting to have been made by a Stipendiary or Police Magistrate before the commencement of this Act under the Order Number Ten of the State of New South Wales made by the Premier of the said State and published in the Gazette of the tenth day of March one thousand nine hundred and forty-two shall, if such declaration has not before the commencement of this Act been rescinded by a Court of Petty Sessions in accordance with the provisions of the said Order Number Ten, be deemed to have the same force and effect as if it had been made under section three of this Act and

and this Act shall apply accordingly; and any act, matter or thing done or commenced or purporting to have been done or commenced in pursuance of the said Order Number Ten before the commencement of this Act shall be deemed to have been duly done or commenced: No. 6, 1943.

Provided that nothing in this subsection shall affect the operation of any judgment, order or conviction obtained or made before the commencement of this Act.

(2) No claim shall be made and no action, suit or other proceeding shall be maintainable in any court against any person in respect of anything done or purporting to have been done under the said Order Number Ten before the commencement of this Act.

**15.** The Governor may make regulations prescribing all matters which by this Act are required or permitted to be prescribed or which are necessary or convenient to be prescribed for carrying this Act into effect. Such regulations shall— Regulations.

- (a) be published in the Gazette;
- (b) take effect from the date of publication or from a later date to be specified in such regulations;
- (c) be laid before both Houses of Parliament within fourteen sitting days after publication if Parliament is in session and if not, then with fourteen sitting days after the commencement of the next session.

If either House of Parliament passes a resolution of which notice has been given at any time within fifteen sitting days after such regulations have been laid before such House disallowing any regulation or part thereof, such regulation or part thereof shall thereupon cease to have effect.