

## LIQUOR (AMENDMENT) ACT.

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Act No. 51, 1923.

An Act to vest in licensing magistrates to be appointed the powers and duties of the licensing courts and of the Licenses Reduction Board; to provide for the submission of the question of prohibition with compensation to the popular vote; to amend the Liquor Act, 1912, the Liquor (Amendment) Act, 1919, and certain other Acts; and for purposes connected therewith. [Assented to, 21st December, 1923.]

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BE

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**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 :—

## PART I.

### PRELIMINARY.

Short title  
and division  
into Parts.

**1.** (1) This Act may be cited as the "Liquor (Amendment) Act, 1923."

(2) This Act is divided into Parts as follows :—

PART I.—PRELIMINARY—*s.* 1.

PART II.—CONSTITUTION OF LICENSING COURT,  
&c.—*ss.* 2-5.

PART III.—REFERENDUM AS TO PROHIBITION  
WITH COMPENSATION—*ss.* 6-8.

DIVISION 1.—*Taking of referendum—ss.* 6, 7.

DIVISION 2.—*Compensation—s.* 8.

PART IV.—GENERAL—*ss.* 9-34.

## PART II.

### CONSTITUTION OF LICENSING COURT, &c.

Commence-  
ment.

**2.** This Part of this Act shall come into operation on the first day of July, one thousand nine hundred and twenty-four.

Amendment  
of Act No. 42,  
1912, *ss.* 5, 5A.

**3.** The Liquor Act, 1912, as amended by subsequent Acts, is amended by omitting sections five and 5A, and inserting the following section in lieu thereof :—

Constitution  
of licensing  
courts.

**5.** (1) On and after the first day of July, one thousand nine hundred and twenty-four, licensing courts for the purposes of this Act shall be constituted as provided by this section, and all persons immediately before the said date holding office as members of the licensing courts shall cease to hold office as such.

(2)

(2) The Governor may—

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(a) appoint three persons, each of whom shall be a police or stipendiary magistrate, to be licensing magistrates;

cf. W.A. Act,  
1922,  
s. 20A (2);  
Vict. Act  
2,855, 1916,  
s. 35 (2).

(b) appoint one of such magistrates to be chairman of licensing courts.

(3) The licensing court in each licensing district shall be constituted by the licensing magistrates so appointed under this section.

W.A. Act,  
s. 20A,  
subsec. (3).

(4) Licensing magistrates appointed and licensing courts constituted under this section in addition to any other jurisdiction, powers, authorities, duties and functions conferred on them by any Act, shall have and may exercise all jurisdiction, powers, authorities, duties and functions which immediately before the said first day of July, one thousand nine hundred and twenty-four, were conferred or imposed upon licensing magistrates and licensing courts respectively.

Vict. Act  
2,855, s. 36.

See W.A.  
Act, s. 20A,  
subsec. (3).

(5) (a) Every person appointed as a licensing magistrate—

(i) shall, subject to this Act, hold office for a period of seven years from the date of his appointment;

W.A. s. 20A,  
subsec. (4);  
Vict. Act  
No. 2,855,  
1916, s. 37 (1).

(ii) shall be eligible for re-appointment;

(iii) shall be entitled to receive such salary or remuneration as may be determined by the Governor;

(iv) shall not (save with the sanction of the Governor) engage in any business or employment other than the duties of his office.

Vict. Act,  
s. 37 (1) (c).

(b) Licensing magistrates shall not be subject to the provisions of the Public Service Acts during their tenure of office: Provided that nothing herein contained shall affect the rights accrued or accruing under the said Acts or under the Superannuation Act, 1916, or any Act amending it, to any police or stipendiary magistrate appointed as a licensing

See N.S.W.  
42 of 1919,  
s. 8 (2).  
Vict. Act,  
s. 37 (2).

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licensing magistrate under this section; and all police or stipendiary magistrates so appointed may continue to contribute to any fund or account, and shall be entitled to receive any payment, pension, or gratuity as if they were officers or employees within the meaning of the Public Service Acts or the Superannuation Act, 1916, as the case may be.

Vict. Act,  
s. 35 (3).

(c) Each of the persons holding office as a member of the Licenses Reduction Board immediately before the first day of July, one thousand nine hundred and twenty-four, shall (if he possesses the qualification mentioned in paragraph (a) of subsection two of this section) on and from the said day—

- (i) without further or other appointment than this Act be a licensing magistrate; and
- (ii) be deemed to have been duly appointed by the Governor under this Act.

(d) The person holding office as Chairman of the Licenses Reduction Board immediately before the first day of July, one thousand nine hundred and twenty-four, shall, on and from the said day—

- (i) without further or other appointment than this Act be the chairman of licensing courts; and
- (ii) be deemed to have been duly appointed by the Governor under this Act.

N.S.W. Act  
42 of 1912,  
s. 5 (7).  
W.A. 20A (5).

(6) Two licensing magistrates shall form a quorum for the constitution of the court, provided that one of such magistrates is the chairman for the time being.

N.S.W. Act  
42 of 1912,  
s. 5 (5).

(7) Every licensing court for a licensing district shall be held in some courthouse of a petty sessions district comprised within such licensing district or in some other building appointed for that purpose in the proclamation defining such district or subsequently notified in the Gazette by the Minister.

(8)

(8) The Governor may, upon the recommendation of the Public Service Board, appoint a secretary to the licensing magistrates and such and so many persons as he thinks fit to be registrars, clerks or other officers of licensing courts :

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N.S.W. Act,  
s. 5 (6).  
Vict. Act,  
s. 39.

Provided that—

- (a) the person who immediately before the first day of July, one thousand nine hundred and twenty-four, is secretary to the Licenses Reduction Board, and all officers of the Board immediately before the said day shall without further or other authority than this Act be and be deemed to have been duly appointed hereunder on the said day as secretary to the licensing magistrates or officers as aforesaid respectively ;
- (b) all registrars, clerks, or other officers of licensing courts holding office immediately before the first day of July, one thousand nine hundred and twenty-four, shall continue to hold office as such, and shall, without further or other authority than this Act, be and be deemed to have been duly appointed hereunder on the said day as registrars, clerks, or officers respectively ;
- (c) until the appointment of any clerk is notified in the Gazette, the clerk of petty sessions for the time being of the court of petty sessions at or nearest to which the licensing court is held shall be the clerk thereof.

(9) Every person shall be disqualified from sitting for the hearing and determination of any matter arising out of or in pursuance of this Act or of any Act amending it, whether as a licensing magistrate or in the exercise of any powers, authorities, duties, or functions delegated to him in pursuance of this section, who is interested beneficially in the manufacture or sale of fermented or spirituous liquors

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liquors or in any premises licensed or proposed to be licensed under this Act, or who holds any license whatsoever within the meaning of this Act, or is beneficially interested in any trade or calling exercised under any such license, or if any of his near relatives or connections is the holder of any license granted in respect of any premises situate in the licensing district for which the sitting is to be held, or is beneficially interested in any trade or calling exercised under any license so granted. And any person so disqualified who knowingly and wilfully sits as aforesaid shall be guilty of a misdemeanour.

Certain  
powers and  
authorities  
may be  
delegated.  
cf. W.A. Act,  
s. 20A (7).

(10) The licensing magistrates may, with the approval of the Minister, delegate, by writing under their hands, either generally or in any special case, any of the jurisdiction, powers, authorities, duties, and functions vested in them (other than the holding of an inquiry upon a petition for the grant of a license in pursuance of section six of the Liquor (Amendment) Act, 1919) either to one or more of their number or to such stipendiary or police magistrate as to the licensing magistrates may seem advisable.

(11) Any licensing magistrate or any person exercising such delegated authority as aforesaid shall sit as in open court, and when sitting shall be deemed to be the licensing court of the district in which he is sitting; and shall have all or any powers conferred by this Act upon the chairman of a licensing court.

(12) (a) The licensing magistrates may, with the approval of the Minister, delegate by writing under their hands, either generally or in any special case, any of the powers, authorities, duties, and functions in respect of the holding of an inquiry upon a petition for the grant of a license, conferred upon licensing courts by section six of the Liquor (Amendment) Act, 1919, to any two of their number together with such stipendiary or police magistrate as to the licensing magistrates may seem advisable.

(b)

(b) The three persons so deputed as aforesaid shall constitute the licensing court for the purpose of the said inquiry, and shall sit as in open court. George V,  
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(c) One of the licensing magistrates so deputed shall be the chairman of such court, and shall have and may exercise all or any of the powers conferred by this Act upon the chairman of a licensing court.

(d) The decision of the majority of the members of such court shall be the decision of the court.

(13) The licensing magistrates may from time to time revoke any such delegation.

**4.** The Liquor (Amendment) Act, 1919, as amended by subsequent Acts, is amended by omitting subsections one, two, three, four, and five of section eight, and inserting the following subsections in lieu thereof :— Amendment  
of Act No. 42,  
1919, s. 8.

(1) From and after the first day of July, one thousand nine hundred and twenty-four, the Licenses Reduction Board for the purposes of this Part of this Act, instead of being constituted in manner provided by the law in force immediately before the said day, shall be constituted as provided by this section. The board as constituted under this section shall be and be deemed to be the same board notwithstanding the change in the constitution thereof. Constitution  
of Licenses  
Reduction  
Board.

(2) The board shall consist of the three licensing magistrates appointed in pursuance of section five of the Liquor Act, 1912, as inserted by the Liquor (Amendment) Act, 1923.

(3) The chairman or acting chairman for the time being of licensing courts shall be the chairman of the board.

(4) No member of the board shall be entitled to receive any salary, remuneration, or allowance other than his salary or remuneration as a licensing magistrate or chairman of licensing courts.

(5) Any two members of the board shall form a quorum, and may as a majority exercise all or any powers of the board : Sec 42 of  
1919, s. 8 (3).  
Provided

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Provided, however, that all of the members of the board shall be present when any determination is made having the effect of closing any licensed premises.

See 42 of 1919,  
s. 8 (1) (c).

(5A) (a) There shall be charged upon and paid out of the compensation fund hereafter provided :—

- (i) The remuneration, salaries, and allowances of the secretary and other officers of the board who are exclusively employed in carrying out the work of the board.
- (ii) All administrative expenses actually incurred in carrying out the work of the board.
- (iii) Such proportion of the remuneration, salaries, and allowances of the licensing magistrates as the Governor may from time to time determine to be properly chargeable to the said fund.

(b) Except as provided in the last preceding paragraph and to the extent specified therein no remuneration, salaries, allowances, or administrative expenses shall be charged upon or paid out of the compensation fund.

(c) To the extent to which the said fund may be insufficient for the purpose of any payments authorised by this subsection, the said payments shall be made out of funds to be provided by Parliament.

#### CONSEQUENTIAL AMENDMENTS.

Amendment of  
Act No. 42,  
1912.

**5.** (1) The Liquor Act, 1912, as amended by subsequent Acts, is amended—

Sec. 3.

(a) by omitting from section three the definition of “licensing magistrate” ;

Sec. 8.

(b) by omitting section eight.

Amendment of  
Act No. 68, 1916,  
consequential on  
omission of ss. 5  
and 5A of Liquor  
Act, 1912.

(2) The Liquor Amendment Act, 1916, is amended by omitting sections fourteen and fifteen.

Amendment of  
Act No. 42, 1922,  
consequential on  
omission of s. 5  
of Liquor Act,  
1912.

(3) The Liquor (Amendment) Act, 1922, is amended by omitting subsection three of section two.

(4)



(4) The Liquor (Amendment) Act, 1922, is further amended by omitting subsection four of section three.

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Amendment  
*ibid.*, consequen-  
tial on omission  
of s. 8 (1)-(5) of  
Act 42 of 1919.

### PART III.

#### REFERENDUM AS TO PROHIBITION WITH COMPENSATION.

##### DIVISION 1.—*Taking of referendum.*

**6.** The Liquor (Amendment) Act, 1919, as amended by subsequent Acts, is amended as follows:—

Amendment  
of Liquor  
(Amendment)  
Act, 1919,  
No. 42, Part  
III.

- (a) (i) In Part III, by omitting the words “Referendum on the questions of prohibition with compensation and of the hour at which licensed and registered premises shall be closed” which occur at the commencement of the Part as a heading thereto, and inserting in lieu thereof the words “Provisions for the taking of a referendum on the question of prohibition with compensation”;

- (ii) by omitting from section one the words “Part III—The taking of and giving effect to a referendum on the question of prohibition with compensation, and on the question of the hour at which licensed and registered premises shall be closed—ss. 37-93” and by inserting in lieu thereof the words “Provisions for the taking of a referendum on the question of prohibition with compensation—ss. 37-93”;

Consequen-  
tial amend-  
ment.

- (b) by omitting section thirty-seven and by inserting the following section in lieu thereof:—

Amendment.  
*ibid.*, s. 37.

37. (1) On the first Saturday in September, one thousand nine hundred and twenty-eight, there shall be taken a vote by ballot of the electors of every electoral district throughout the State (in this Part referred to as a referendum) upon the question whether prohibition with compensation shall come into force throughout New South Wales.

State  
referendum.

(2)

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(2) The Governor shall issue a writ returnable on a day not later than the eighty-eighth clear day after the issue thereof, and directed to the chief electoral officer for the taking of the referendum. Such writ shall be issued not more than fifty-three days before the day fixed for the referendum;

Sec. 38.

(c) by omitting from section thirty-eight the words "of such vote" and by inserting in lieu thereof the words "upon which a referendum is taken";

Sec. 39.

(d) by omitting section thirty-nine and by inserting the following section in lieu thereof:—

Who may  
vote.

39. The persons entitled to vote at a referendum shall be those entitled to vote at an election of Members of the Legislative Assembly, and no others;

Sec. 40.

(e) by omitting from section forty the word "vote" and by inserting in lieu thereof the word "referendum";

Sec. 43.

(f) by omitting from section forty-three the word "poli" and by inserting in lieu thereof the word "referendum";

Secs. 44 and  
45.

(g) by omitting sections forty-four and forty-five and by inserting the following sections in lieu thereof:—

Voting-  
papers.

44. The voting-papers shall be in the form set out in Schedule Two to this Act, but voting-papers for absent voters shall be headed "absent voters" voting-paper.

Method of  
voting.

45. An elector shall vote under this Act as follows:—He shall insert in the square on the voting-paper opposite to the word "Yes" or to the word "No" a cross (thus—X) to indicate whether he records his vote in favour of or against prohibition with compensation;

Sec. 47.

(h) by omitting from section forty-seven all words following the words "invalid voting-papers" and by inserting the following in lieu thereof:—

(a) count the number of votes recorded for "Yes" and for "No" respectively;

(b)

- (b) place in one parcel all the voting-papers in which the vote is recorded for "Yes" and in a separate parcel all those in which the vote is recorded for "No";
  - (c) place in a third separate parcel all invalid voting-papers;
  - (d) seal up the said separate parcels and endorse the same severally with a description of the contents thereof, the name of the electoral district, and the date of the poll, and sign with his name the said endorsement;
  - (e) transmit the said parcels together with a statement setting out the result of the count to the chief electoral officer;
- (i) by omitting section forty-eight and inserting the following section in lieu thereof:—
48. The chief electoral officer shall examine such voting-papers and shall deal with them in like manner as is required of returning officers under paragraphs (a), (b), and (c) of section forty-seven of this Act;
- (j) by omitting from paragraph two of section forty-nine the words "or to one of the two specified closing hours, as the case may be";
- (k) by omitting section fifty and by inserting the following section in lieu thereof:—
50. On so dealing with the voting-papers the chief electoral officer shall endorse upon the writ his certificate setting out the number of valid votes recorded for "Yes" and for "No" respectively throughout the State, and return the writ to the Governor, who shall thereupon cause the result of the referendum to be published in the Gazette;
- (l) by omitting from section fifty-two the words "on a day to be proclaimed by the Governor, being a day not later than six months next after the day on which such vote is taken" and by inserting in lieu thereof the words "on the

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Examination  
of voting-  
papers.

Return of  
writ.

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the first day of July next after the expiration of one year from the date upon which such referendum is held, or upon such earlier date as is fixed by the Governor and notified in the Gazette"; and by adding at the end of the same section the words "As far as is practicable, compensation as hereinafter provided shall be assessed and paid prior to the coming into force of the determination";

Sec. 53.

(m) by omitting section fifty-three and by inserting the following section in lieu thereof:—

Compulsory  
voting.  
cf. Queens-  
land Act,  
6 Geo. V,  
No. 13 (1915),  
s. 63.

53. (1) It shall be the duty of every person entitled to vote at a referendum (in this section referred to as an "elector") to record his vote at such referendum.

(2) It shall be the duty of the returning officer for each electoral district at the close of each referendum to compile a list of the names and descriptions, as appear by the roll, of the electors for the district who have not voted at the referendum, and to certify such list by statutory declaration under his hand.

Such list so certified shall in all proceedings be prima facie evidence of the contents thereof and of the fact that the electors whose names appear therein did not vote at the said referendum.

(3) Within sixty days after the close of the said referendum, the returning officer shall send by post to each elector whose name appears on such list, at the address therein mentioned, a notice in the form prescribed by regulations made under this Part.

The returning officer, before sending such notice, shall insert therein the name of the elector, and his number on the roll, and a date on which such notice is to be in the hands of the returning officer.

(4) Every elector to whom such notice has been sent shall on the prescribed form at the foot of the said notice state the true reason why

why he failed so to vote, and sign the same, and post the same so as to reach the said returning officer not later than the date in the said notice mentioned.

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The returning officer shall, after making all reasonable inquiries, decide whether such reason is a valid and sufficient excuse for such failure to vote, and shall write his decision on the said notice.

(5) The returning officer, within two months after the date in the said notice mentioned, shall send to the chief electoral officer the certified list mentioned in subsection two hereof and all the forms of notice received by him from electors as mentioned in the last preceding subsection, together with a list of electors, certified by statutory declaration under his hand, to whom the said form was posted and by whom it has not been duly returned properly filled up and signed.

The last-mentioned list so certified shall in all legal proceedings be prima facie evidence of the contents thereof and of the fact that the electors whose names appear therein did not vote at the said referendum, and having received the said notice did not comply with the requisitions thereof.

(6) Every elector who—

- (a) failed to vote at the referendum without a valid and sufficient excuse for such failure; or
- (b) on receipt of such notice, fails to fill up and sign and post the same to the returning officer so as to reach him within the time prescribed; or
- (c) states in such form a false reason for not voting,

shall for each such offence be liable, on the complaint of the chief electoral officer, to a penalty not exceeding two pounds.

(n)

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- (n) by omitting from section fifty-four all words after the word "thereat";
- (o) by omitting Schedule Two and by inserting the following Schedule in lieu thereof :—

**SCHEDULE TWO.***Form of voting-paper.*

Are you in favour of prohibition with compensation ?

<input type="checkbox"/>	<b>Yes.</b>
<input type="checkbox"/>	<b>No.</b>

Indicate your vote by placing a cross (thus—X) in one of the above squares.

**Sch. 3.**

- (p) by omitting Schedule Three.

**CONSEQUENTIAL AMENDMENTS.****Amendment  
of Act No. 42,  
1919.  
Sec. 3.****7. The Liquor (Amendment) Act, 1919, is amended—**

- (a) by omitting from section three all words following the word "twenty" and by inserting in lieu thereof the following words:—"and shall remain in force during a period expiring on the date upon which the referendum is taken in pursuance of Part III of this Act";
- Sec. 9.** (b) by omitting from section nine (as amended by the Liquor (Amendment) Act, 1922) the words "during the aforesaid period of six years and";
- Sec. 10.** (c) by omitting from section ten (as inserted by the Liquor (Amendment) Act, 1922) the words "during the said period of six years";
- Sec. 36A.** (d) by omitting from subsection one of section 36A (as inserted by the Liquor (Amendment) Act, 1922)

1922) the words "During the period commencing on the first day of January, one thousand nine hundred and twenty-three, and ending on the thirty-first day of December, one thousand nine hundred and twenty-five" and by inserting in lieu thereof the words "From and after the first day of January, one thousand nine hundred and twenty-three."

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DIVISION 2.—*Compensation.*

**8.** The Liquor (Amendment) Act, 1919, as amended by subsequent Acts, is further amended—

- (1) by omitting from the definition of "Employee" <sup>Sec. 58.</sup> in section fifty-eight the words "three years" and inserting the words "eighteen months" in lieu thereof, and by omitting the words "in or upon the premises of his employer" and by inserting in lieu thereof the words "in connection with the manufacture of or the trade in alcoholic liquor";
- (2) by inserting in paragraph (a) of section sixty- <sup>Sec. 61.</sup> one before the word "buildings" the words "land and";
- (3) by inserting the following new sections next <sup>New sections.</sup> after section sixty-nine:—

*Claims in respect of different subject-matters.*

**69A.** Where a claim is made by the same claimant upon more than one subject-matter <sup>Court may set off.</sup> in respect of the same premises, the court may deal with the claim as a single claim, and may set off any gain which in its opinion will accrue to the claimant in respect of any of the subject-matters upon which the claim is made against any loss which it may assess in respect of any other subject-matter, and may award compensation accordingly;

- (4) by omitting from section seventy the word <sup>Sec. 70.</sup> "licensee" and inserting the word "person" in lieu thereof;

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Sec. 71.

Cancellation  
of lease.

(5) by omitting section seventy-one and by inserting the following section in lieu thereof:—

71. (1) Notwithstanding any covenant or agreement to the contrary, if any license granted in respect of any licensed premises lapses by reason of the coming into force of a determination in favour of prohibition with compensation, and the owner of such premises is not also the licensee, the lease or agreement under which the licensee holds the same shall, if the licensee within three months after the license has so lapsed by written notice served upon his lessor so elect, be deemed to have been determined by effluxion of time as from the date of service of such notice.

(2) If the lessor of a licensee who has given such notice is not the owner of the premises in respect of which such notice has been given, then, notwithstanding any covenant or agreement to the contrary, such lessor may, within three months after service upon him of such notice as aforesaid, determine the lease or agreement under which he holds the said premises by written notice served upon his immediate lessor, and in such event such last-mentioned lease or agreement shall be deemed to have been determined by effluxion of time as from the date of service of such notice.

(3) In like manner any lessor to whom notice has been given under this section, and who is not the owner of the licensed premises, may, notwithstanding any covenant or agreement to the contrary, within three months after service upon him of such notice as aforesaid, determine the lease or agreement under which he holds the said premises, by written notice served upon his immediate lessor, and in such event, such last-mentioned lease or agreement shall be deemed to have been determined by effluxion of time as from the date of service of such notice.

(4)



(4) Notice for the purpose of this section may be given by prepaid registered letter sent through the post, and addressed to the addressee at his usual or last known place of abode or business;

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(6) (a) by omitting from paragraph (a) of section seventy-three the words "the commencement of this Act" and by inserting in lieu thereof the words "taking of the referendum in respect of which the determination in favour of prohibition with compensation comes into force";

Sec. 73.

(b) by omitting from paragraph (b) of the same section the words "the commencement of this Act" and by inserting in lieu thereof the words "the taking of such referendum";

(7) by omitting subsection one of section seventy-five and by inserting the following new subsection in lieu thereof:—

Sec. 75.

(1) Where compensation is claimed under this Part in respect of the termination of trade, such compensation shall not be awarded unless the court is satisfied, having regard to all the circumstances of the case, that the claimant will sustain loss by the termination of his trade. And if the court is so satisfied it shall award to the claimant such sum as it deems just and reasonable; but in no case shall such sum exceed three times the amount of the average annual net profit received by the claimant for the period (not exceeding in any case three years) during which the claimant was the licensee prior to the date of the coming into force of the determination in favour of prohibition with compensation.

Termination  
of trade.

When the claimant under this section is an Australian wine licensee or the holder of a spirit merchant's license, the court may take into

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into account the extent (if any) to which any other trade carried on by such claimant is likely to be increased by the cessation of the trade in alcoholic liquor.

#### PART IV.

##### GENERAL.

Amendment  
of Act No. 42,  
1912, s. 9.  
See W.A.  
Act, 1922,  
s. 22.

**9.** The Liquor Act, 1912, as amended by subsequent Acts, is amended by inserting the following paragraph at the end of section nine :—

(12) Every applicant for a license or the transfer of a license shall with his application deliver to the clerk of the licensing court testimonials, and the court may call and receive evidence as to the character and suitability for the particular premises of the applicant as a licensee or the proposed transferee as the case may be, and it shall be the duty of the district inspector to make a searching investigation as to such applicant's or proposed transferee's character and suitability, and as to the genuineness and value of such testimonials, and to report in writing thereon to the court, and the court in dealing with every such application shall take into consideration such testimonials and report and evidence. The written report abovementioned shall be open to inspection by the applicant not less than forty-eight hours prior to the hearing of the application.

Amendment  
of Act No. 42,  
1912, s. 11.

**10.** The Liquor Act, 1912, as amended by subsequent Acts, is further amended by inserting in section eleven after the word "renewals" the words "and removals."

Amendment.  
*Ibid.* s. 13 (5).

**11.** The Liquor Act, 1912, as amended by subsequent Acts, is further amended by omitting from paragraph five of section thirteen the words "and under regulations made

made by them for that purpose" and by inserting in lieu thereof the words "and under such conditions as may from time to time be prescribed." George V,  
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**12.** The Liquor Act, 1912, as amended by subsequent Acts, is further amended—

- (a) By inserting in section eighteen after the word "specified" the words "(but subject to the provisions of this Act)" and by omitting from the same section the word "thirty" and inserting the words "thirty-five" in lieu thereof; Sec. 18.
- (b) by inserting the following paragraph at the end of the same section:—

The licensing court may in the manner and form prescribed in granting any such license or at the request of the applicant in granting any renewal of an Australian wine license, impose the condition that liquor shall not be consumed upon the premises;

- (c) by omitting paragraph (n) of section one hundred and fifty-three and by inserting the following new subsection in the same section next after paragraph (m):— Sec. 153.

(1A) Notwithstanding the provisions contained in sections eighteen and sixty-four regulations may be made by the Governor prescribing the accommodation and conveniences to be provided by the holders of Australian wine licenses, the number and dimensions of rooms on premises in respect of which an Australian wine license is held, which may be used for the sale or consumption of liquor authorised to be sold by the holder of such license, and the internal fittings and arrangement of such rooms, and for regulating generally the conduct of the business of holders of Australian wine licenses.

**13.** (1) The Liquor Act, 1912, as amended by subsequent Acts, is further amended by omitting from the first and second provisos to section twenty-one the words "this Act" and by inserting in lieu thereof the words "the Liquor (Amendment) Act, 1922." Amendment  
of Act No. 42,  
1912, s. 21.

(2)

**George V.** (2) This section shall be deemed to have come  
**No. 51.** into force upon the date of the commencement of the  
 Liquor (Amendment) Act, 1922.

**Amendment** **14.** The Liquor Act, 1912, as amended by subsequent  
 of Act No. 42, Acts, is further amended by inserting in subsection two  
 1912, s. 23(2). of section twenty-three, before the words "to the board" the words "or where upon the first renewal after the grant of a new license no particulars or insufficient particulars are available."

**Amendment.** **15.** The Liquor Act, 1912, as amended by subse-  
*Ibid.* s. 24. quent Acts, is further amended by inserting in subsection  
 one of section twenty-four after the words "the said  
 premises" the words "(or on a notice board on the land  
 on which it is proposed to erect the building)."

**Amendment.** **16.** The Liquor Act, 1912, as amended by subsequent  
*Ibid.* Acts, is amended as follows :—

- Sec. 39.** (1) In subsection one of section thirty-nine—
- (a) by inserting after the word "another" the words "or to premises which are not within a radius of one mile from the premises in respect of which the license is held";
  - (b) by inserting after the word "premises" where secondly occurring the words "which are situated within a radius of one mile from such licensed premises, and are."

**Amendment.** (2) In section 39A by adding the following sub-  
*Ibid.* s. 39A. section :—

(3) No order shall be made under this section unless the premises to which it is desired to remove the license are situated within a radius of one mile from the licensed premises.

(3) By adding the following new section next after section 39A :—

**Limitation on removal.**

39B. Nothing in the two last preceding sections shall be deemed to authorise the removal of a license from one electoral district to another.

(4)

- (4) This section shall only apply to licensed premises in the Metropolitan Licensing District and the Newcastle Licensing District. **George V, No. 51.**

**17.** The Liquor Act, 1912, as amended by subsequent Acts, is further amended— Amendment of Act No. 42, 1912, new s. 40A.

- (1) by inserting the following section next after section forty :—

40A. (1) (a) Upon proof that public convenience requires additional accommodation in, or the renovation, structural alteration, or rebuilding of any premises in respect of which a publican's license is held, the licensing court may order the owner of the premises to carry out, within a reasonable time to be set out in the order, the work specified in the order ; Renovation, &c., of premises.

(b) Not less than thirty days' notice of intention to make application for any order under this subsection shall be given to the owner and to the occupier of the premises, and to the clerk of the licensing court for the licensing district.

(c) The notice shall set out reasonable particulars of the work which it is proposed to ask the court to order to be done.

(2) Where an order has been made under the last preceding subsection—

(a) the court may if it thinks fit authorise an increase or decrease of the area licensed, and thereafter renew the license for the premises with the area so increased or decreased ;

(b) where an owner has carried out the work and he is not the occupier of the premises, the occupier shall, during the remainder of his tenancy, pay to the owner, by way of increase in the rent, an amount at the rate of eight pounds per centum per annum on the total amount expended by the owner in carrying out such work ;

(c)

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- (c) where the work is not completed by the owner within the time specified in the order, the court may if it thinks fit, upon application made for the purpose prior to the expiration of the time so specified, extend the period ;
- (d) if the owner fails to carry out the work within the time allowed by the court, the occupier may within the prescribed period make application to the court for an authority to carry out the same, and the provisions of subsection six of this section shall apply accordingly ;
- (e) upon proof to the satisfaction of the court that—
  - (i) an owner has failed to comply with an order within the time allowed by the court, and that no authority as aforesaid has been granted to the occupier to carry out the work ; or
  - (ii) an occupier has failed to carry out the work within the period specified in an authority granted to him under this subsection,

the court may suspend the license for such period as it thinks fit, or may cancel the license.

(3) The making of any such order shall not prevent the owner and occupier of any such premises from surrendering the license and receiving compensation in pursuance of section twelve of the Liquor (Amendment) Act, 1919, if such surrender is tendered within three months after the making of the order.

(4) Pending the completion of any such work, the licensing court may renew the license for the premises notwithstanding the temporary non-provision of the required accommodation, or the temporary carrying on of the business on neighbouring premises, and

and on the completion of the work may there-  
after renew the license for the premises so  
altered.

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(5) In any award of compensation under Part II of the Liquor (Amendment) Act, 1919, in respect of the closing of any such premises, any additional loss arising through the carrying out of any work under an order made by the court in pursuance of this section shall be taken into consideration.

(6) Where the occupier of any such premises is not the owner thereof, and is not under covenant or agreement with the owner to do any work which the court may order under this section, the owner shall pay to such occupier any money expended by him pursuant to paragraph (d) of subsection two of this section in carrying out any such work, and in default such occupier shall, in addition to any other remedy available to him, be entitled to retain possession of the premises at the same rental he was paying at the time the expenditure was incurred, until the rent accruing is sufficient to repay him the money expended as aforesaid, and such rent may be retained by him, and the authority of this Act shall be an answer to any action by the owner for the recovery of the same. The occupier shall pay to the owner during the remainder of his tenancy by way of increase in the rent an amount at the rate of six pounds per centum per annum on the total amount so expended by the occupier.

cf. Vict. Act  
2,683, 1915,  
s. 140.

(7) For the purposes of this and the twenty-ninth section of this Act, "additional accommodation" shall include the provision of bath facilities, the erection of garages for the accommodation of motor vehicles, the installation of a water storage system in cases where a water supply service is not available, the provision of additional closets, privies and other sanitary necessities;

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(2) by inserting in section twenty-nine before the proviso the following paragraph :—

The following objection may be made to any application for renewal, transfer, or removal of any publican's license, namely, that public convenience requires additional accommodation in, or the renovation, structural alteration, or rebuilding of the premises.

Amendment  
of Act No. 42,  
1912, s. 43.

**18.** The Liquor Act, 1912, as amended by subsequent Acts, is further amended by omitting subsection two of section forty-three and by inserting the following subsection next after subsection three of that section :—

(4) Upon any conviction under this section of a person who is not the holder of a license of any description under this Act, the offender shall forfeit all liquor in his possession, with the vessels containing the same, to the use of His Majesty.

Amendment  
of Act No. 42,  
1912.  
Sec. 57.

**19.** (1) The Liquor Act, 1912, as amended by subsequent Acts, is amended :—

(a) In section fifty-seven—

(a) by omitting from paragraph (c) of subsection one the words “during the hours when votes may be recorded at such election” and by inserting in lieu thereof the words “except between six o'clock in the morning and the hour at which the taking of votes at such election commences”;

(b) by omitting from paragraph (d) of subsection one the word “eleven” and inserting in lieu thereof the word “six”;

Sec. 15.

(b) by omitting from section fifteen the word “eleven” and inserting in lieu thereof the word “six”;

Sec. 18.

(c) by omitting from section eighteen the word “eleven” and inserting in lieu thereof the word “six.”

Amendment  
of Act No. 42,  
1919, s. 2.

(2) The Liquor (Amendment) Act, 1919, is amended by omitting section two.

Repeal of Act  
No. 10, 1916.

(3) The Liquor Referendum Act, 1916, is repealed.



**20.** The Liquor Act, 1912, as amended by subsequent Acts, is further amended by inserting in section sixty before the words "the county of Cumberland" the words "the police district of Newcastle or of Maitland or in." George V,  
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Amendment  
of Act No. 42,  
1912, s. 69.

**21.** The Liquor Act, 1912, as amended by subsequent Acts, is further amended— *Ibid.* s. 66.

- (1) by inserting the following new subsection next after subsection one of section sixty-six:—

(1A) (a) The licensing court may, either generally or in respect of particular premises, by order prescribe the hours during which meals shall be obtainable.

(b) Where the licensing court is satisfied that any such holder as aforesaid is not genuinely catering for the requirements of the public the court may by order prescribe tariffs for meals to be supplied by him, and it shall be the duty of the holder to provide meals as prescribed if so required by any person as aforesaid at not exceeding the tariff so fixed.

(c) A printed list of charges for meals and sleeping accommodation shall be kept posted up in the main entrance of the licensed premises and in each bedroom.

(d) Any such holder who fails to comply with the provisions of this subsection shall be liable to a penalty not exceeding five pounds.

- (2) by inserting in paragraph (a) of section one hundred and twenty-six after the words "sixty-five" the words "subsection (1A) of section sixty-six."

**22.** The Liquor Act, 1912, as amended by subsequent Acts, is further amended by inserting the following section next after section seventy-eight:— Amendment of  
Act No. 42 of  
1912, new  
section.

78A. Any person who, being the auctioneer at any auction sale, or the owner of property which is to be submitted for auction at such sale, or a person acting Liquor at  
auction sales.

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acting for or on behalf of such auctioneer or owner, brings or provides or causes to be brought or provided any liquor upon the premises at which such sale is to be held, or upon premises appurtenant or adjacent thereto (not being premises licensed under this Act) for consumption by persons attending the sale, shall be guilty of an offence against this Act, and shall be liable upon summary conviction to a penalty not exceeding twenty pounds for the first offence, and not exceeding fifty pounds for the second or any subsequent offence.

Amendment of  
Act No. 42, 1912.

**23.** The Liquor Act, 1912, as amended by subsequent Acts, is further amended—

Sec. 119.

- (1) by omitting from subsection one of section one hundred and nineteen the words “a district inspector and such other district sub-inspectors as he may think fit to be” and by inserting in lieu thereof the words “such persons as he may think fit to be the district inspector and district sub-inspectors. Persons so appointed shall be”;
- (2) by inserting in subsection two of the same section immediately before the words “the rank” the words “or above.”

Amendment  
of Act No. 42,  
1919, s. 6

**24.** The Liquor (Amendment) Act, 1919, as amended by subsequent Acts, is amended by omitting from section six the words “the Governor may grant the petition and in that event” and by inserting in lieu thereof the words “the Governor shall grant the petition and”; and by inserting in the same section after the words “inquiry in open court by a licensing court” the following proviso:

“Provided that if a petition for a license for any premises has upon inquiry by the court been rejected, no petition for a license for any premises within a radius of one mile from the premises in respect of which the petition has been rejected shall be referred for inquiry by the licensing court until the expiration of three years from the date of such rejection, unless in the opinion of the Minister there has been an abnormal increase

increase in the population within the said radius;" and by inserting in the same section after the words "prayer of the petition" the following proviso:—

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"Provided further that if upon application made for the purpose to the said quarterly meeting of the licensing court as prescribed by regulations made under the Principal Act, the applicant can satisfy the court that the public interest would be served to a greater degree by the grant of the license to some premises other than those in respect of which the petition was granted, but situated in the same area, the licensing court may so determine; and in that case the application for the license for such other premises shall be made to the quarterly meeting of the licensing court next following the meeting at which such determination was made."

**25.** The Liquor (Amendment) Act, 1919, as amended by subsequent Acts, is further amended by omitting from paragraph (a) of subsection two of section seventeen the words "in duplicate."

Amendment  
of Act No. 42,  
1919, s. 17.

**26.** The Liquor (Amendment) Act, 1919, as amended by subsequent Acts, is further amended—

Amendment.  
*Ibid.* s. 20.

- (1) by inserting in paragraph one of section twenty after the words "other than" the words "a licensee or";
- (2) by omitting from paragraph two of the same section the word "annulment" and by inserting in lieu thereof the words "diminution in value."

**27.** The Liquor (Amendment) Act, 1919, as amended by subsequent Acts, is further amended by omitting from subsection one of section twenty-three the words "of payment" and by inserting in lieu thereof the words "upon which compensation is awarded."

Amendment.  
*Ibid.* s. 23.

**28.** The Liquor (Amendment) Act, 1919, as amended by subsequent Acts, is further amended by omitting subsections one and two of section twenty-two and by inserting the following subsections:—

Amendment.  
*Ibid.* s. 22.

- (1) The compensation payable to the licensee shall, in respect of each year or part of a year of the

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the unexpired term of his tenancy (not exceeding three years) remaining at the date of the determination of the board that his licensed premises shall be deprived of its license, be—

- (a) where the licensee has been the licensee for a period of three years or more immediately before the said date a sum which is equal to the average annual net profits made by him during the three years immediately preceding the said date ;
- (b) where the licensee has been the licensee for a period of less than three years but more than one year immediately before the said date, the sum which is equal to the net profits made by him during the year immediately before the said date ;
- (c) where the licensee has been the licensee for a period of less than a year before the said date, a sum which is assessed by the court as being the sum which the licensee would have made as net profits from his business had he been carrying on the same for the period of one year immediately before the said date, regard being had in the assessment of such sum to all relevant circumstances and so far as relevant to the actual net profits made by the licensee in the periods during which he so carried on the said business.

(2) In determining the amount of such net profit the board shall take into consideration the income earned by the licensee during the said period of three years or less, and for such purpose the licensee shall as and when required by the board furnish to the board a duplicate copy of any income tax return made by him verified by a statutory declaration of such licensee, and it shall not be lawful for him to question or deny at any time the accuracy or truth of any statement in such verified copy. Any such licensee on applying to the Commissioner of Income Tax may inspect his own returns and make a copy thereof.

**29.** The Liquor (Amendment) Act, 1919, as amended by subsequent Acts, is further amended by omitting section twenty-four and by inserting the following section in lieu thereof:—

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of Act No. 42,  
1919, s. 24.

24. (1) Any person aggrieved by a determination of the board in respect of compensation awarded may appeal therefrom in accordance with rules of court to the Land and Valuation Court.

Appeal to  
Land and  
Valuation  
Court.

(2) This section shall apply to any determination made after the date of the passing of the Liquor (Amendment) Act, 1923, or which upon such date has not been finally given effect to by payment and acceptance of the compensation.

(3) For the purposes of this section jurisdiction is hereby expressly conferred upon the Land and Valuation Court to hear and determine any such appeal. Such appeal shall be by way of rehearing.

(4) Except as provided in this section, every determination of the Board shall be final and conclusive and shall not be questioned in or reviewed or amended by any court whatsoever.

**30.** The Liquor (Amendment) Act, 1919, as amended by subsequent Acts, is further amended by omitting from paragraph (f) of subsection four of section twenty-nine the words “and executor or administrator.”

Amendment.  
*Ibid.* s. 29.

**31.** The Liquor (Amendment) Act, 1919, as amended by subsequent Acts, is further amended by omitting subsection two of section thirty and by inserting the following subsections in lieu thereof:—

Amendment.  
*Ibid.* s. 30.

(2) The license in respect of the said premises shall remain in force until—

Date of  
closing.

- (a) the expiration of the current year of the period thereof; or
- (b) the expiration of six months after the determination of the board that the license of the said premises shall cease to be in force under section twelve or the decision of the board

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board that the said premises shall be deprived of their license under section eighteen, whichever shall be the longer period, and shall then cease to be in force :

Provided that if the compensation payable in respect of the said premises has not been tendered or paid as aforesaid to the party entitled to the same at least twenty-one days before the expiration of the last-mentioned period, the license in respect of the said premises shall remain in force until the compensation has been tendered or paid as aforesaid and for a further period of twenty-one days thereafter.

Application  
of provisions  
of Principal  
Act.

(2A) Until a license ceases to be in force as provided in this section the licensee shall be deemed to be the holder of a license under the Principal Act, the license shall be subject to renewal under the Principal Act, and a compensation fee shall be payable as provided by this Act :

Provided that the licensee shall be entitled to a refund of a proportionate amount of the license fee and compensation fee in respect of any period for which the license has been renewed or for which a compensation fee has been paid and during which the license has ceased to be in force. The sum payable as a refund shall be the sum assessed by the board.

Amendment  
of Act No. 42,  
1919, s. 32.

**32.** The Liquor (Amendment) Act, 1919, as amended by subsequent Acts, is amended by inserting the following subsection next after subsection one of section thirty-two :—

Investment  
of fund.

(1A) The compensation fund may be invested in any manner for the time being allowed by Act of Parliament or by rules of court for the investment of trust funds.

Substitution  
of "Austra-  
lian" for  
"colonial" in  
reference to  
wine.

**33.** Wherever in the Liquor Act, 1912, the Liquor (Amendment) Act, 1919, or any other Act, the word "colonial" occurs in reference to wine, the word "Australian" shall be substituted therefor.

**34.**

**34.** The Liquor Act, 1912, as amended by subsequent Acts, is further amended-- **George V, No. 51.**

- (a) by omitting from subsection two of section forty-two the words "of any borough or municipal district" wherever occurring, and by inserting in lieu thereof the words "of any municipality or township within a shire"; Amendment of Act No 42, 1912. Sec. 42 (2).
- (b) by inserting in subsections one and two of section forty-nine after the words "belonging to" wherever occurring the words "or apparently belonging to." Sec. 49 (1) (2).

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