

LIQUOR (AMENDMENT) ACT.

New South Wales



ANNO VICESIMO SECUNDO

ELIZABETHÆ II REGINÆ

Act No. 41, 1973.

An Act to provide for the granting of permits to sell and supply liquor on premises within a university or college of advanced education; to make further provision with respect to honorary and temporary members of clubs; to provide for the making of certain measurements in accordance with the metric system; for these and other purposes to amend the Liquor Act, 1912; and for purposes connected therewith. [Assented to, 8th May, 1973.]

BE

Liquor (Amendment).

BE it enacted by the Queen's Most Excellent Majesty, by **No. 41, 1973**
 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. (1) This Act may be cited as the "Liquor Short title.
 (Amendment) Act, 1973".

(2) The Liquor Act, 1912, is in this Act referred to as
 the Principal Act.

2. (1) This section and section 1 commence on the date **Commence-**
 of assent to this Act. **ment.**

(2) Subject to subsection (1), the several provisions
 of this Act shall commence on such day or days as may be
 appointed by the Governor in respect thereof and as may be
 notified by proclamation published in the Gazette.

3. The Principal Act is amended—

**Amendment
 of Act No.
 42, 1912.**

(a) by inserting in section 1 next after the matter **Sec. 1.**
 relating to Part X the following new matter :— **(Short title
 and
 division.)**

**PART XA.—LIQUOR IN UNIVERSITIES AND
 COLLEGES OF ADVANCED EDUCATION—ss.
 152A–152s.**

(b)

*Liquor (Amendment).***No. 41, 1973**

Sec. 43.
(Sale of
liquor
without
license or
in breach
of license.)

- (b) (i) by omitting from section 43 (5) the words "of this Act" and by inserting instead the words "or Part XA";
- (ii) by omitting from section 43 (6) the words "of this Act" where firstly occurring and by inserting instead the words "or Part XA";
- (iii) by omitting from section 43 (6) the words "of this Act" where secondly occurring;

Sec. 43AA.
(Making
internal
communica-
tion with
adjoining
licensed
premises.)

- (c) (i) by omitting from section 43AA the words "of this Act" where firstly occurring and by inserting instead the words "or Part XA";
- (ii) by omitting from section 43AA the words "of this Act" where secondly occurring;

Sec. 112A.
(Cancel-
lation
for offence
against
s. 111
or s. 112.)

- (d) (i) by omitting from section 112A the words "of this Act" where secondly occurring and by inserting instead the words "or Part XA";
- (ii) by omitting from section 112A the words "of this Act" where thirdly occurring;

Sec. 113.
(Penalty for
selling
adulterated
liquor.)

- (e) (i) by omitting from section 113 the words "of this Act" where firstly occurring and by inserting instead the words "or Part XA";
- (ii) by omitting from section 113 the words "of this Act" where secondly occurring;

Sec. 114.
(Possession
of
adulterated
liquors or
deleterious
ingredients.)

- (f) (i) by omitting from section 114 the words "of this Act" where secondly occurring and by inserting instead the words "or Part XA";
- (ii) by omitting from section 114 the words "of this Act" where thirdly occurring;
- (iii) by inserting in section 114 after the word "premises" where fourthly occurring the words "; and 'his premises' in relation to the holder of a permit under Part XA includes the premises to which the permit relates";

(g)

Liquor (Amendment).

(g) by inserting next after Part X the following new Part :—

No. 41, 1973
New Part
XA.

PART XA.

LIQUOR IN UNIVERSITIES AND COLLEGES OF
ADVANCED EDUCATION.

152A. (1) In this Part—

Interpre-
tation.

“college” means a college of advanced education established under the Higher Education Act, 1969;

“governing body” means—

(a) in relation to a university—the Senate or Council of the university; and

(b) in relation to a college—the body corporate that constitutes the college;

“permit” means a permit under this Part;

“prescribed premises” means premises within a university or college that are occupied by a union, association, club or other organisation within the university or college;

“university” means a university established by an Act.

(2) Where a permit is granted in respect of a part or parts of prescribed premises, a reference in this Part to the premises in respect of which the permit is granted, or to the premises to which the permit relates, is a reference to that part or, as the case may be, those parts, of the prescribed premises.

152B. The court may, subject to this Part, grant a permit in or to the effect of the prescribed form authorising the holder thereof to sell and supply liquor on the prescribed premises specified in the permit.

Court may
grant
permit.

152C.

*Liquor (Amendment).***No. 41, 1973**Application
for permit.

152c. (1) An application for the grant of a permit in respect of prescribed premises—

- (a) shall be made by the university or college within which the prescribed premises to which the application relates are situated and shall be so made on behalf of the person referred to in subparagraph (iii) of paragraph (b) of subsection (2);
- (b) shall be made to the licensing court for the district in which the prescribed premises are situated; and
- (c) may not be made before the expiration of fourteen days after delivery to the clerk of the court and the district licensing inspector of a notice of intention to make the application that complies with subsection (2).

(2) A notice referred to in subsection (1) complies with this subsection if—

- (a) it is in writing under the seal of the university or college that proposes to make the application;
- (b) it specifies—
 - (i) the location of the premises in respect of which the application is to be made;
 - (ii) the name of the union, association, club or organisation that occupies those premises;
 - (iii) the full name and address of the person who will hold the permit, if granted;

(c)

Liquor (Amendment).

(c) it is accompanied by a properly drawn plan No. 41, 1973 of the premises in respect of which the application is to be made, showing—

- (i) the precise locality of the premises;
- (ii) the size, situation and nature of the part or parts of the premises in which the sale, supply or consumption of liquor is proposed;
- (iii) the size, situation and nature of sanitary accommodation for persons of both sexes provided on the premises; and
- (iv) such other particulars as may be prescribed; and

(d) it is accompanied by the written agreement of the union, association, club or organisation referred to in subparagraph (ii) of paragraph (b) to the nomination as the holder of the permit, if granted, of the person referred to in subparagraph (iii) of that paragraph.

152D. Section 27 applies to the granting of a Conditional permit in the same way as it applies to the granting of a license and so applies as if—

- (a) a reference therein to a license were a reference to a permit;
- (b) a reference to a plan and information therein were a reference to a plan that complies with paragraph (c) of subsection (2) of section 152C; and
- (c) a reference to the character of the applicant were a reference to the character of the person who would be the holder of the permit.

152E.

Liquor (Amendment).

No. 41, 1973

Objection
to grant
of permit.

152E. (1) An objection to the grant of a permit by a licensing court may be made to the court by a district inspector or a person authorised by him, or by a member of the police force in charge of the district or place in which are situated the premises in respect of which the application for the permit was made.

(2) An objection referred to in subsection (1) may be made on any one or more of the following grounds :—

- (a) that the person nominated pursuant to subparagraph (iii) of paragraph (b) of subsection (2) of section 152C is a person of drunken or dissolute habits or otherwise of bad repute;
- (b) that the prescribed premises to which the application for a permit relates are conducted in a disorderly manner;
- (c) that proper facilities are not available on those premises for the sale, supply and consumption of liquor;
- (d) that proper sanitary accommodation is not provided on those premises for persons of both sexes;
- (e) that a specified provision of this Act applicable to those premises and persons resorting thereto has not been complied with.

(3) Where an objection under subsection (1) has been made on the ground referred to in paragraph (d) of subsection (2) the court may have regard to the availability of sanitary accommodation not situated in the premises to which the application relates.

152F.

Liquor (Amendment).

152F. Where the court decides to grant a permit **No. 41, 1973** it shall record its decision in the manner prescribed and shall authorise the clerk of the court to issue ^{Grant of} permit. the permit to the person who, pursuant to subparagraph (iii) of paragraph (b) of subsection (2) of section 152C, was nominated in the notice of application for the permit as the person to be the holder thereof.

152G. (1) Subject to this Part, a permit ^{Renewal} remains in force until the expiration of the thirtieth ^{of permit.} day of June that next succeeds its issue but it may be renewed from time to time.

(2) The clerk of the court shall not issue a renewal of a permit unless the fee payable in respect thereof has been paid to him.

(3) Sections 35 and 36 apply to and in respect of a permit and the holder thereof in the same way as they apply to and in respect of a license and the licensee and they so apply as if—

- (a) a reference therein to a licensee (other than the licensee under a booth license or a limited public hall license) were a reference to the holder of a permit and a reference therein to his license were a reference to his permit; and
- (b) the reference in subsection (4) of section 35 to the provisions as to objections were a reference to the provisions of section 152E.

152H. (1) The fee payable for the renewal of **Fees.** a permit is an amount equal to six per centum of the gross amount (including any duties thereon) paid or payable for all liquor which, during the

period

Liquor (Amendment).

No. 41, 1973

period of twelve months that ended on the thirty-first day of December that next preceded the application for the renewal, was delivered upon, or purchased for, the premises in respect of which the renewal is sought.

(2) The provisions of subsection (1) of section 22 apply to and in respect of a permit and the holder thereof in the same way as they apply to and in respect of the licenses referred to in that subsection and the holders thereof.

(3) The board shall determine the amount of the fee payable on the renewal of a permit and its determination as to that amount is final and conclusive unless, in its absolute discretion, it re-assesses the amount in which case its re-assessment is final and conclusive.

(4) In determining for the purposes of subsection (3) the gross amount paid or payable for liquor as referred to in subsection (1) the board may give credit for any liquor proved to its satisfaction to have been lost, stolen or damaged in transit.

(5) The provisions of subsections (2), (3) and (4) of section 22 apply to and in respect of the fee payable for a permit and the fixing thereof in the same way as they apply to and in respect of the fee payable for a license and the fixing thereof.

Effect of
permit.

152i. (1) In this section "prescribed persons" in relation to prescribed premises means the members and invited guests of members of the union, association, club or organisation that occupies the premises.

(2)

Liquor (Amendment).

(2) A permit may be in the prescribed No. 41, 1973 form and shall authorise the sale and supply of liquor to prescribed persons on the premises to which the permit relates—

- (a) at any time between the hours of twelve noon and two o'clock in the afternoon and between the hours of five o'clock in the afternoon and eight o'clock in the evening on any day other than Sunday, Christmas Day and Good Friday; and
- (b) at a dinner, reception, convention, seminar or the like, or at a ball, or with or as ancillary to a meal—
 - (i) on a Sunday (except a Sunday on which the thirty-first day of December falls) Christmas Day and Good Friday—between the hours of twelve noon and three o'clock in the afternoon and between the hours of six o'clock in the evening and ten o'clock in the evening; and
 - (ii) on any other day—between the hours of twelve noon and three o'clock in the afternoon and between the hours of five o'clock in the afternoon and twelve o'clock midnight.

(3) With the consent of the governing body of a university or college, the holder of a permit in respect of premises within the university or college may, on payment of a fee of ten dollars, apply for an extension, for a special occasion on a specified date, of the hours during which liquor may be sold or supplied on the premises pursuant to subsection (2).

(4)

Liquor (Amendment).

No. 41, 1973

(4) An extension of hours applied for pursuant to subsection (3) may be granted by the licensing court or, where no objection to the application is taken by the licensing inspector, by the clerk of the licensing court, and such an extension may be so granted subject to such conditions and provisions as the court or clerk, as the case may be, imposes.

(5) Where an extension of hours is granted pursuant to an application under subsection (3), liquor may, notwithstanding any other provision of this Act, be sold and supplied during those extended hours in accordance with the permit to which the application relates, subject to compliance with any conditions or provisions to which the grant is made subject.

(6) The holder of a permit is guilty of an offence and liable to a penalty not exceeding four hundred dollars if liquor is sold or supplied on the premises to which the permit relates otherwise than in accordance with the authority conferred by this section.

Removal
of bottles
from
tables.

152j. The holder of a permit is guilty of an offence and liable to a penalty not exceeding one hundred dollars unless, before the expiration of the period of one hour that next succeeds the time after which, pursuant to section 152i, liquor may not be sold or supplied pursuant to the permit, all bottles and other containers in which liquor is so supplied, and all drinking vessels used in the consumption thereof, are removed from the place or places in which liquor is consumed on the premises to which the permit relates.

152k.

Liquor (Amendment).

152K. Where, in contravention of this Act, an agent, employee or servant of the holder of a permit, or a person acting, or purporting to act, on behalf of the holder of a permit, sells, disposes of, supplies or delivers any liquor on the premises to which the permit relates, the holder of the permit is guilty of an offence and liable to the punishment prescribed for the contravention.

Holder of
permit
liable
for acts of
servants.

152L. A person who carries away liquor from premises to which a permit relates is guilty of an offence and liable to a penalty not exceeding one hundred dollars unless he proves that the liquor was in his possession before he entered the premises.

Carrying
away
liquor.

152M. A person who, on any premises in respect of which a permit is in force, obtains or attempts to obtain liquor by falsely representing—

Obtaining
liquor by
false
represent-
ations.

- (a) that he is a prescribed person within the meaning of section 152I;
- (b) that he intends to partake of a meal on the premises; or
- (c) that he is bona fide in attendance at a dinner, reception, convention, seminar or the like, or at a ball, being held on the premises,

is guilty of an offence.

152N. (1) The licensing court may cancel a permit if, without the authority of the court, a material alteration or addition is made to the premises to which the permit relates, or the area thereof is substantially increased or decreased, or the use of any portion thereof is substantially altered.

Alterations
or additions
to premises
to which
a permit
relates.

(2)

Liquor (Amendment).

No. 41, 1973

(2) An application for the authority referred to in subsection (1) may be made—

- (a) by the university or college within which the premises to which the application relates are situated; or
- (b) with the consent of the governing body of that university or college, by the holder of the permit in respect of those premises,

and shall be accompanied by a properly drawn plan showing the character of the alterations or additions or increase or decrease or area proposed to be made or, as the case may require, indicating the proposed alteration of use.

(3) Authority given pursuant to an application under subsection (2) to make alterations or additions to, or to increase or decrease the area of, premises remains in force until the expiration of the period specified by the court when giving the authority or, where the court on application made for the purpose allows a further period or periods (not exceeding six months at any one time), until the expiration of the later or latest period allowed.

Application
of certain
provisions
of Act.

152o. The provisions of sections 40D, 44, 45, 46, 49, 50, 53 and 63 apply to the holder of a permit and the premises in respect of which the permit is held in the same way as they apply to a licensee and his licensed premises.

Powers of
inspectors.

152p. (1) Part VIII applies to the holder of a permit, a person in charge of the premises to which the permit relates and those premises in the same way as they apply to a licensee, a person in charge of the licensed premises and those premises.

(2)

Liquor (Amendment).

(2) Where, for the purpose of obtaining ^{No. 41, 1973} access from a public place to premises to which a permit relates, it is necessary to enter land, or a building, or part of a building, that is within the university or college to which the permit relates but does not form part of those premises an inspector or a person referred to in section 122 may, to obtain access to those premises in the execution of his duty or to obtain access from those premises to a public place, enter that land, building or part of a building.

152Q. (1) Upon the complaint of an inspector, made upon oath, a justice may issue a summons calling upon the holder of a permit to show cause before a licensing court why the permit should not be cancelled—

- (a) on all or any of the grounds upon which objection might have been taken to the grant, or may be taken to the renewal, of the permit;
- (b) on the ground that an inspector or other person has been obstructed, hindered or delayed in the exercise of the powers conferred on him by subsection (2) of section 152P.

(2) A summons issued under subsection (1) shall be served on the permit holder to whom it relates, and a copy of the complaint shall be served on the university or college within which are situated the premises to which the permit relates, at least ten days before the day appointed for the sitting of the court before which the matter is to be heard.

(3) A university or college on which a copy of a complaint is served pursuant to subsection (2) may, at the hearing of the matter of the complaint, be represented and be heard.

(4)

Liquor (Amendment).

No. 41, 1973

(4) The licensing court shall hear and determine the matter of a complaint made under subsection (1) and may—

- (a) cancel the permit to which the complaint relates;
- (b) suspend the permit for such period as the licensing court thinks fit; or
- (c) dismiss the complaint.

Change of
holder of
permit.

152s. (1) A person ceases to be the holder of a permit if he is notified to that effect by—

- (a) the union, association, club or other organisation that occupies the premises to which the permit relates; or
- (b) the university or college within which those premises are situated,

and, upon that person being so notified, the permit is suspended until it is produced to the clerk of the licensing court and by him endorsed with the name and address of a person nominated as the holder of the permit by that union, association, club or other organisation and by that university or college.

(2) The clerk of the licensing court shall notify the secretary to the licensing magistrates of the name and address that, pursuant to this section, he endorses on a permit.

Regulations.

152t. (1) The Governor may make regulations prescribing all matters that by this Part are required or permitted to be prescribed or that are necessary or convenient to be prescribed for carrying out or giving effect to this Part.

(2) The provisions of subsections (2), (3) and (4) of section 153 apply to and in respect of regulations made under this section.

(h)

Liquor (Amendment).

- (h) (i) by omitting from section 156 the words "of this Act" and by inserting instead the words "or Part XA"; No. 41, 1973
Sec. 156.
(Exclusion of inebriates and others from licensed premises.)
- (ii) by inserting in section 156 after the word "restaurant" the words "or premises";
- (i) (i) by omitting from section 160 the words "of this Act" and by inserting instead the words "or Part XA"; Sec. 160.
(Production of license.)
- (ii) by inserting in section 160 after the word "restaurant" the words "or premises";
- (j) (i) by omitting from section 170 (4) the words "of this Act" where firstly and secondly occurring; Sec. 170.
(Appeals.)
- (ii) by omitting from section 170 (4) the words "of this Act" where thirdly occurring and by inserting instead the words ", and to a permit issued under Part XA";
- (iii) by omitting from section 170 (5) (a) the words "of this Act" where firstly, secondly, thirdly, fourthly, fifthly and sixthly occurring;
- (iv) by omitting from section 170 (5) (a) the words "of this Act" where seventhly occurring and by inserting instead the words "or an application or conditional application for a permit under Part XA or an application under section 152I for an extension of hours";
- (k) (i) by omitting from section 170A (1) the words "of this Act" where firstly occurring and by inserting instead the words "or under section 152D,"; Sec. 170A.
(Conditional grant not to be made final during pendency of appeal.)
- (ii) by omitting from section 170A (1) the words "of this Act" where secondly occurring.

*Liquor (Amendment).***No. 41, 1973** **4. The Principal Act is further amended—**

Further
amend-
ment of
Act No. 42,
1912.

Sec. 135.
(Provisions
to be made
in rules
of clubs.)

(a) (i) by inserting in section 135 (1) (d) after the word "members" where firstly occurring the words ", other than honorary or temporary members,";

(ii) by omitting from section 135 (1A) the word "section" where firstly occurring and by inserting instead the word "subsection";

Sec. 151.
(Registers of
members.)

(b) by inserting in section 151 (1) (b) after the words "names and addresses" the words "and particulars of qualifications for honorary or temporary membership".

Further
amendment
of Act No.
42, 1912.

5. A provision of the Principal Act specified in the First Column of the Schedule is amended in the manner specified opposite that provision in the Second Column of the Schedule.

SCHEDULE.

Liquor (Amendment).

SCHEDULE.

No. 41, 1973

| First Column. | Second Column. |
|------------------------|--|
| Section 13 (1) .. | .. Omit "two gallons"; insert "nine litres". |
| Section 13 (1) (f) .. | .. Omit "ten gallons"; insert "forty-five litres". |
| Section 18 .. | .. Omit "two gallons"; insert "nine litres". |
| Section 19 .. | .. Omit "one hundred yards"; insert "one hundred metres". |
| Section 26 .. | .. Omit "ten miles"; insert "sixteen kilometres". |
| Section 34 (2) .. | .. Omit "one mile" wherever occurring; insert "1.61 kilometres". |
| Section 40B (1A) .. | .. Omit "one gallon"; insert "five litres". |
| Section 40B (1A) .. | .. Omit "one mile"; insert "two kilometres". |
| Section 60 .. | .. Omit "thirty miles"; insert "forty-eight kilometres". |
| Section 60 .. | .. Omit "ten miles"; insert "sixteen kilometres". |
| Section 67 (1) .. | .. Omit "contain five, or seven, or ten, or fifteen, or twenty fluid ounces."; insert the following:— contain— (a) 5 fluid ounces or 140 millilitres; (b) 7 fluid ounces or 200 millilitres; (c) 10 fluid ounces or 285 millilitres; (d) 15 fluid ounces or 425 millilitres; (e) 20 fluid ounces or 575 millilitres. |
| Section 67 (2) .. | .. After "measure" insert "or a full thirty millilitre measure". |
| Section 67 .. | .. After subsection (3) insert the following new subsection:— (3A) For the purposes of subsection (3), where a purchaser of malted liquor specifies a glass or other container of a size prescribed by paragraph (a), (b), (c), (d) or (e) of subsection (1), it is not a refusal to supply liquor in a glass or other container of the specified size if the liquor is supplied in a glass or other container of the other size prescribed by the paragraph. |
| Section 96 .. | .. Omit "two reputed gallons" wherever occurring; insert "nine litres". |
| Section 134 (a) .. | .. Omit "fifteen miles"; insert "twenty-four kilometres". |
| Section 141 (1) (c) .. | .. Omit "one mile"; insert "two kilometres". |
| Section 141 (1) (c) .. | .. Omit "five miles"; insert "eight kilometres". |
| Section 165 .. | .. Omit "one mile"; insert "two kilometres". |