

LIQUOR (AMENDMENT) ACT, 1981, No. 68

New South Wales



ANNO TRICESIMO

ELIZABETHÆ II REGINÆ

Act No. 68, 1981.

An Act to amend the Liquor Act, 1912, with respect to objections, quietness
and good order, trading hours and the assessment of license fees.
[Assented to, 28th May, 1981.]

See also Registered Clubs (Amendment) Act, 1981.

Liquor (Amendment).

BE it enacted by the Queen'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:—

Short title.

1. This Act may be cited as the "Liquor (Amendment) Act, 1981".

Commencement.

2. (1) Except as provided in subsections (2) and (3), this Act shall commence on the date of assent to this Act.

- (2) Section 5, in its application to Schedule 2, shall commence on the day on which that Schedule commences.

- (3) Schedule 2 shall commence on such day as may be appointed by the Governor in respect thereof and as may be notified by proclamation published in the Gazette.

Principal Act.

3. The Liquor Act, 1912, is referred to in this Act as the Principal Act.

Schedules.

4. This Act contains the following Schedules:—

SCHEDULE 1.—GENERAL AMENDMENTS TO THE PRINCIPAL ACT.

SCHEDULE 2.—AMENDMENTS TO THE PRINCIPAL ACT RELATING TO
LICENSE FEES.

Amendment of Act No. 42, 1912.

5. The Principal Act is amended in the manner set forth in Schedules 1 and 2.

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Transitional provision—objections.

6. (1) Section 167 (2) and (4) (a) of the Principal Act, as amended by this Act, applies to and in respect of an objection under section 29 (1) (e) of that Act, as so amended, to the granting of an application lodged before the date of assent to this Act, as if those subsections had been amended by omitting therefrom the words “at least three clear days” wherever occurring.

(2) Without prejudice to the operation of section 178 of the Principal Act, as amended by this Act, where an objection to the granting of an application was, before the date of assent to this Act, made under section 29 (1) (e) of the Principal Act, as in force when the objection was lodged, the objection shall be heard as if this Act had not been enacted unless, before the time appointed for the hearing (not being a rehearing referred to in section 170 (5) (b)) of the application, an objection to the application is duly made under section 29 (1) (e) of the Principal Act, as amended by this Act.

(3) A reference in section 34 (1) (b) and (d) of the Principal Act, as amended by this Act, to section 29 (1) (e) is a reference to section 29 (1) (e) as in force before, on or after the date of assent to this Act.

Transitional provision—transfer of license.

7. Until regulations prescribing the fee payable for transfer of a license are made under the Principal Act, as amended by this Act, the prescribed fee referred to in section 37 (1) of that Act, as so amended, is—

- (a) where the license is a publican’s license or a spirit merchant’s license—
 - (i) \$500 where the licensed premises are situated within the Metropolitan licensing district; or
 - (ii) \$250 where the licensed premises are not situated within the Metropolitan licensing district;
- (b) where the license is a packet license—\$100; or
- (c) where the license is not a publican’s license, a spirit merchant’s license or a packet license—
 - (i) \$100 where the licensed premises are situated within the Metropolitan licensing district; or

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- (ii) \$50 where the licensed premises are not situated within the Metropolitan licensing district.

Saving.

8. An inspector who, immediately before the date of assent to this Act, held office under the Principal Act shall be deemed to have been duly appointed under the Principal Act, as amended by this Act.

SCHEDULE 1.

(Sec. 5.)

GENERAL AMENDMENTS TO THE PRINCIPAL ACT.

(1) (a) Section 21 (1B)—

After “exported,” insert “or was sold to an embassy or consulate,”.

(b) Section 21 (1B)—

Omit “for export” where secondly occurring.

(2) (a) Section 23A (2)—

Omit “A permit”, insert instead “A license or a permit”.

(b) Section 23A (2)—

Omit “57BA (1)”, insert instead “47”.

(3) (a) Section 29 (1) (iv)—

Omit “application.”, insert instead—
application; or

- (v) any other person with the leave of the court or magistrate, as the case may be.

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SCHEDULE 1—*continued.*GENERAL AMENDMENTS TO THE PRINCIPAL ACT—*continued.*

(b) Section 29 (1) (e)—

Omit the paragraph, insert instead:—

- (e) that the needs of the public in the neighbourhood of the premises can be met by facilities for the supply of liquor existing in, and outside, the neighbourhood;

(c) Section 29 (1)—

Omit “the reasonable requirements of the neighbourhood do justify the grant of the application”, insert instead “the needs of the public in the neighbourhood of the premises cannot be met by facilities for the supply of liquor existing in, and outside, the neighbourhood”.

(4) (a) Section 37 (1)—

After “transferee” where firstly occurring, insert “and payment of the prescribed fee”.

(b) Section 37 (3)—

Omit the subsection.

(5) Section 47—

After section 46, insert:—

Quiet and good order of neighbourhood.

47. (1) Where, with respect to licensed premises, a complaint is made to the licensing court by—

- (a) an inspector;

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SCHEDULE 1—*continued.*GENERAL AMENDMENTS TO THE PRINCIPAL ACT—*continued.*

- (b) the council of the city, municipality or shire in which the premises are situated; or
- (c) any person authorised in writing by 20 or more persons who reside in the vicinity of the premises,

that the premises are being conducted in a manner that habitually or frequently disturbs unduly the quiet or good order of the neighbourhood or that persons after resorting to the premises have habitually or frequently disturbed unduly the quiet or good order of the neighbourhood, the licensing court shall summon the licensee to appear before the court to show cause why the court should not take action under subsection (4).

(2) A summons under subsection (1) shall be served upon the licensee to whom it is directed not less than 14 days before the day appointed for the hearing of the complaint or, if the licensee evades service or is absent at the time of attempted service, it is sufficient service of the summons if, not less than 7 days before the day so appointed, it is posted up in a conspicuous place on his licensed premises or is left with an inmate of the premises who is apparently above the age of 16 years.

(3) The licensing court—

- (a) shall—
 - (i) upon the appearance of a licensee in answer to a summons under subsection (1); or
 - (ii) in the absence of the licensee upon his failure to appear in answer to such a summons,proceed to hear the matter of the complaint; or
- (b) may, on the application of the complainant or the licensee, adjourn the hearing from time to time.

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SCHEDULE 1—*continued.*GENERAL AMENDMENTS TO THE PRINCIPAL ACT—*continued.*

(4) Where the licensing court is satisfied that the matter of a complaint under subsection (1) has been made out, the court may—

- (a) where the licensee is the holder of a permit under section 57B—cancel the permit and, if it thinks fit, direct that the license be subject to such conditions and provisions as are specified in the direction;
- (b) where a declaration has been made under section 57 (1A) with respect to the premises—revoke the declaration and, if it thinks fit, direct that the license be subject to such conditions and provisions as are specified in the direction; or
- (c) in any other case—direct that the license or permit be subject to such conditions and provisions as are specified in the direction.

(6) (a) Section 57 (1A) (a)—

Omit the paragraph.

(b) Section 57 (1A) (b)—

Omit “is held and which are situated outside any such district”, insert instead “or Australian wine license is held”.

(c) Section 57 (1A) (c) (i)—

Omit the subparagraph.

(d) Section 57 (1A) (c) (ii)—

Omit “thirteen”, insert instead “14”.

(e) Section 57 (1C) (b)—

Omit:—

liquor on a day, not being Sunday—

- (a) after 8 p.m.; and

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SCHEDULE 1—*continued.*

GENERAL AMENDMENTS TO THE PRINCIPAL ACT—*continued.*

(b) for a total period in excess of 12 hours.

insert instead:—

liquor—

(a) on any Sunday—

(i) before 10 a.m.; or

(ii) for a total period in excess of 8 hours; or

(b) on any other day—

(i) after 8 p.m.; or

(ii) for a total period in excess of 12 hours.

(7) Section 57BA—

Omit the section.

(8) (a) Section 78IA (2)—

Omit “57BA (1)”, insert instead “47”.

(b) Section 78IA (2A)—

After section 78IA (2), insert:—

(2A) A permit in respect of which a declaration under section 78K (4AA) has been made is subject to such additional conditions and provisions as the court, upon making the declaration or upon any complaint made as referred to in section 47, as applied by section 78S (1B), directs.

(c) Section 78IA (3)—

Omit “or (2)”, insert instead “, (2) or (2A)”.

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SCHEDULE 1—*continued.*GENERAL AMENDMENTS TO THE PRINCIPAL ACT—*continued.*

(9) Section 78K (4AA)—

After section 78K (4), insert:—

(4AA) The court may, in respect of a particular restaurant, declare that, in the application of subsection (4) to the restaurant, the hours specified in that subsection shall be varied in such manner as the court thinks desirable and thereupon that subsection shall, in its application to that restaurant, be read and construed so as to give effect to that variation.

(10) (a) Section 78S (1A)—

Omit “57BA”, insert instead “47”.

(b) Section 78S (1B)—

After section 78S (1A), insert:—

(1B) The provisions of section 47 apply to and in respect of a declaration under section 78K (4AA), the restaurant in respect of which the declaration was made, the holder of the permit for the restaurant and that permit in the same way as they apply to and in respect of a declaration under section 57 (1A), the licensed premises in respect of which the declaration was made, a licensee and a license.

(11) (a) Section 119 (1)—

Omit the subsection, insert instead:—

(1) As inspectors of premises licensed under this Act or in which the sale of liquor is otherwise permitted under this Act—

(a) the Governor may, in the case of the Metropolitan licensing district; and

(b) the Commissioner of Police may, in the case of any other licensing district,

appoint a district inspector and district sub-inspectors.

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SCHEDULE 1—*continued.*

GENERAL AMENDMENTS TO THE PRINCIPAL ACT—*continued.*

(b) Section 119 (2A)—

Omit “Governor”, insert instead “Commissioner of Police”.

(12) Section 121A (1)—

After “premises”, insert “, may inspect and take an account of all stocks of liquor therein”.

SCHEDULE 2.

(Sec. 5.)

AMENDMENTS TO THE PRINCIPAL ACT RELATING TO LICENSE FEES.

(1) Section 14 (2)—

Omit “thirtieth day of June next following such date”, insert instead “day prescribed by the regulations for the purposes of this paragraph”.

(2) (a) Section 21 (1) (b), (d), (g), (i), (l), (n) and (q)—

Omit “twelve months ended on the thirty-first day of December next preceding” wherever occurring, insert instead “period prescribed by the regulations for the purposes of this subsection that ended on the day so prescribed that last preceded”.

(b) Section 21 (1) (k)—

Omit the paragraph, insert instead:—

(k) For a new theatre license—

(i) where the period for which the license is to be in force is 1 year—\$100; or

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SCHEDULE 2—*continued.*AMENDMENTS TO THE PRINCIPAL ACT RELATING TO LICENSE FEES—
continued.

- (ii) where the period for which the license is to be in force is to be less than 1 year—the amount that bears to \$100 the same proportion as the period for which the license is to be in force bears to 1 year.
- (c) Section 21 (1) (m)—
Omit the paragraph, insert instead:—
 - (m) For a new general public hall license—
 - (i) where the period for which the license is to be in force is 1 year—\$250; and
 - (ii) where the period for which the license is to be in force is less than 1 year—the amount that bears to \$250 the same proportion as the period for which the licence is to be in force bears to 1 year.
- (d) Section 21 (1) (o1)—
Omit “twelve months ended on 31st December next preceding”, insert instead “period prescribed by the regulations for the purposes of this subsection that ended on the day so prescribed that last preceded”.
- (3) (a) Section 22 (1)—
Omit “on the first day of January in any year, shall, during that month, forward to the board a statutory declaration setting forth, in respect of the twelve months ended on the preceding thirty-first day of December, or in respect of the portion of the said twelve months”, insert instead “or of an annual functions license (not being such a license held by the holder of a publican’s license or an Australian wine license) on the first day of a month that is prescribed by the regulations for the purposes

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SCHEDULE 2—*continued.*

AMENDMENTS TO THE PRINCIPAL ACT RELATING TO LICENSE FEES—
continued.

of this subsection shall, during that month, forward to the board a statutory declaration specifying, in respect of the period that is prescribed by the regulations for the purposes of this subsection, or in respect of the part of that period”.

(b) Section 22 (2)—

Omit “during the month of January in each year forward to the board a statutory declaration setting forth, in respect of the twelve months ended on the preceding thirty-first day of December, or in respect of the portion of the said twelve months”, insert instead “, during a month prescribed by the regulations for the purposes of this subsection, forward to the board a statutory declaration specifying, in respect of the period that is prescribed by the regulations for the purposes of this subsection, or in respect of the part of that period”.

(c) Section 22 (3)—

Omit “preceding thirty-first day of December”, insert instead “day prescribed by the regulations for the purposes of this subsection”.

(d) Section 22 (5)—

Omit “the grant of the license and the preceding thirty-first day of December”, insert instead “the day on which the license is granted and an earlier day prescribed by the regulations for the purposes of this subsection”.

(4) Section 23 (6) (c)—

Omit “first day of July in the year in respect of which the original license fee was fixed or reassessed”, insert instead “day prescribed by the regulations for the purposes of this paragraph”.

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SCHEDULE 2—*continued.*AMENDMENTS TO THE PRINCIPAL ACT RELATING TO LICENSE FEES—
continued.

(5) (a) Section 23B (1)—

Omit “twentieth day of June next preceding the date of expiry of the license”, insert instead “day prescribed by the regulations for the purposes of this subsection”.

(b) Section 23B (2) (a)—

Omit “thirtieth day of November next following the due date”, insert instead “day prescribed by the regulations for the purposes of this paragraph”.

(c) Section 23B (3)—

Omit “thirtieth day of November next following the due date” wherever occurring, insert instead “day prescribed by the regulations for the purposes of this subsection”.

(d) Section 23B (3) (e) (i)—

Omit “thirtieth day of November next following the expiry of the license”, insert instead “day prescribed by the regulations for the purposes of this paragraph”.

(6) (a) Section 35 (2)—

Omit “first day of June next preceding the due date for the expiry of the license”, insert instead “day prescribed by the regulations for the purposes of this subsection”.

(b) Section 35 (2) (a)—

Omit “thirty-first day of May next preceding the due date for the expiry of the license”, insert instead “day prescribed by the regulations for the purposes of this paragraph”.

Liquor (Amendment).

SCHEDULE 2—*continued.*

AMENDMENTS TO THE PRINCIPAL ACT RELATING TO LICENSE FEES—
continued.

(c) Section 35 (3)—

Omit “thirty-first day of May next preceding the due date for the expiry of the license”, insert instead “day prescribed by the regulations for the purposes of this subsection”.

(7) Section 36 (2)—

Omit “one year”, insert instead “the period for which the license would have continued in force if it had been renewed before its expiry”.

(8) Section 37 (4)—

Omit “year”, insert instead “period”.

(9) (a) Section 57B (1A)—

Omit “30th June next following that date”, insert instead “the day prescribed by the regulations for the purposes of this subsection”.

(b) Section 57B (1C)—

Omit “1st June next preceding the due date for the expiry of the permit”, insert instead “the day prescribed by the regulations for the purposes of this subsection”.

(c) Section 57B (1C) (a)—

Omit “31st May next preceding the due date for the expiry of the permit”, insert instead “the day prescribed by the regulations for the purposes of this paragraph”.

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SCHEDULE 2—*continued.*AMENDMENTS TO THE PRINCIPAL ACT RELATING TO LICENSE FEES—
continued.

(d) Section 57B (1D)—

Omit “31st May next preceding the due date for the expiry of the permit”, insert instead “the day prescribed by the regulations for the purposes of this subsection”.

(10) (a) Section 78H (1) (c)—

Omit “dollars:”, insert instead “dollars.”.

(b) Section 78H (1)—

Omit the proviso.

(c) Section 78H (1A)—

After section 78H (1), insert:—

(1A) Notwithstanding subsection (1), where a new permit is granted, or a new endorsement under section 78D is authorised, and the period for which the permit or endorsement is to be in force is less than 1 year, the fee payable for the permit or endorsement is the amount that bears to the fee prescribed by subsection (1) for such a permit or endorsement the same proportion as the period for which the permit or endorsement is to be in force bears to 1 year.

(d) Section 78H (2)—

Omit “twelve months ended on the thirty-first day of December next preceding the date of the application for the renewal of the permit”, insert instead “period prescribed by the regulations for the purposes of this subsection”.

Liquor (Amendment).

SCHEDULE 2—*continued.*

AMENDMENTS TO THE PRINCIPAL ACT RELATING TO LICENSE FEES—
continued.

(11) Section 78I (1)—

Omit “thirtieth day of June next following such date”, insert instead “day prescribed by the regulations for the purposes of this subsection”.

(12) (a) Section 95 (5)—

Omit “thirtieth day of June next following such date”, insert instead “day prescribed by the regulations for the purposes of this paragraph”.

(b) Section 95 (5)—

Omit “annually”.

(13) Section 131—

Omit “thirtieth day of June next succeeding the lapse, expiry or non-renewal of the license”, insert instead “day prescribed by the regulations for the purposes of this section”.

(14) Section 152G (1)—

Omit “thirtieth day of June that next succeeds its issue”, insert instead “day prescribed by the regulations for the purposes of this section”.

(15) Section 152H (1)—

Omit “of twelve months that ended on the thirty-first day of December that next preceded”, insert instead “prescribed by the regulations for the purposes of this subsection that ended on the day so prescribed that last preceded”.

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SCHEDULE 2—*continued.*AMENDMENTS TO THE PRINCIPAL ACT RELATING TO LICENSE FEES—
continued.

(16) Section 167 (4) (b)—

Omit “thirty-first day of May next preceding the due date for the expiry of the license or permit”, insert instead “day prescribed by the regulations for the purposes of this paragraph”.

(17) Section 168B—

Omit “during the month of January in each year forward to the board a correct statement in writing setting forth in respect of the twelve months ended on the preceding thirty-first day of December”, insert instead “, during a month prescribed by the regulations for the purposes of this section, forward to the board a correct statement in writing specifying, in respect of the period that is prescribed by the regulations for the purposes of this section”.

(18) Section 170 (3)—

Omit “by the thirtieth day of June next following the cancellation of his license”, insert instead “on or before the date on which, but for its cancellation, his license would have expired,”.
