

**LIQUOR (FURTHER AMENDMENT) BILL, 1985**

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**EXPLANATORY NOTE**

**(This Explanatory Note relates to this Bill as introduced into Parliament)**

The Registered Clubs (Miscellaneous Provisions) Amendment Bill, 1985, is cognate with this Bill.

The object of this Bill is to amend the Liquor Act, 1982 ("the Act")—

- (a) to enable application to be made to the Licensing Court for an on-licence relating to premises of an indeterminate classification that are the subject of a certificate of suitability issued by the Liquor Administration Board ("the Board") (Schedule 1 (1), (7));
- (b) to ensure that, in a restaurant, liquor is sold, supplied and consumed only in the reception area (if any) or at a table (Schedule 1 (3) (a));
- (c) to prevent parts of premises the subject of a hotelier's licence and a restaurant the subject of an on-licence from being operated as a type of private club (Schedule 1 (3) (b));
- (d) to require the fittings, furniture, equipment and accommodation in a restaurant the subject of an on-licence to remain unaltered during late trading and to prevent such a restaurant from opening only during the late trading hours (Schedule 1 (4) (d));
- (e) to prevent a proliferation of on-licences within a university or other institution for tertiary education (Schedule 1 (5));
- (f) to clarify the circumstances in which freight and delivery charges are not taken into account in calculating licence fees (Schedule 2 (1), (6));
- (g) to permit the prescription of a minimum licence fee in cases where the calculation thereof would otherwise be on a percentage basis (Schedule 2 (3));
- (h) to make further provision with respect to the manufacture and sale, and the keeping in hotels, of amusement devices (Schedule 3);
- (i) to prohibit the sale in a "bottle shop" of liquor in an unsealed container (Schedule 4 (1));
- (j) to provide a procedure for determining whether a person is a fit and proper person to hold, or be financially interested in, a licence where a prima facie case to the contrary arises without an objection on that ground being taken or made out (Schedule 4 (4));

- (k) to provide a procedure for determining whether a director of, or a shareholder in, a proprietary company that is financially interested in a licence, or a natural person so interested, should be disqualified from being such a director or shareholder or, as the case may be, a natural person so interested (Schedule 4 (7), (9));
- (l) to enable the Board to order a licensee, or an owner of licensed premises and the licensee between them, to carry out work on the licensed premises that, notwithstanding a prior order by the Board, the owner has refused or failed to carry out and for the carrying out of which the licensee has failed to seek the authority of the Board (Schedule 4 (16), (17)); and
- (m) to make other provisions of a consequential or ancillary nature.

# LIQUOR (FURTHER AMENDMENT) BILL, 1985

No. , 1985.

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## A BILL FOR

An Act to amend the Liquor Act, 1982, to enable an on-licence to be granted for premises in respect of which no other provision is made by that Act; to make further provision with respect to licence fees payable under that Act; to facilitate the administration of that Act; and for other purposes.

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See also Registered Clubs (Miscellaneous Provisions) Amendment Bill, 1985.

*Liquor (Further Amendment) 1985*

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:—

**5 Short title.**

1. This Act may be cited as the "Liquor (Further Amendment) Act, 1985".

**Commencement.**

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

(2) Schedule 1 (3) (b), and section 5 in its application to that provision, 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.

15 (3) Schedule 2 (1), (2), (3) and (6), and section 5 in its application to those provisions, shall commence on 1st July, 1985.

**Principal Act.**

3. The Liquor Act, 1982, is referred to in this Act as the Principal Act.

**Schedules.**

20 4. This Act contains the following Schedules:—

SCHEDULE 1.—AMENDMENTS TO THE PRINCIPAL ACT RELATING TO ON-LICENCES.

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

25 SCHEDULE 3.—AMENDMENTS TO THE PRINCIPAL ACT RELATING TO AMUSEMENT DEVICES.

SCHEDULE 4.—MISCELLANEOUS AMENDMENTS TO THE PRINCIPAL ACT.

SCHEDULE 5.—SAVINGS.



*Liquor (Further Amendment) 1985***Amendment of Act No. 147, 1982.**

5. The Liquor Act, 1982, is amended in the manner set forth in Schedules 1-4.

**Savings.**

- 5 6. Schedule 5 has effect.

**SCHEDULE 1.**

(Sec. 5.)

**AMENDMENTS TO THE PRINCIPAL ACT RELATING TO ON-LICENCES.**

- (1) (a) Section 18 (4) (e)—  
 10           Omit “, club or other organisation ”, insert instead “or club”.
- (b) Section 18 (4) (e)—  
               Omit “and”.
- (c) Section 18 (4) (f), (g)—  
               At the end of section 18 (4) (f), insert:—  
 15                                   ; and  
                                       (g) any premises in respect of which a certificate given  
   by the Board under section 74A is in force.
- (2) Section 22 (3)—  
 20           After “licensee”, insert “or, where the licence is held on behalf of a  
               corporation or partnership, by employees of the corporation or  
               partnership”.
- (3) (a) Section 23 (3)—  
               Omit the subsection, insert instead:—  
 25                           (3) Where the licensed premises to which an on-licence  
                                   relates are a restaurant, liquor shall be sold, supplied and  
                                   consumed in the restaurant only—  
                                   (a) in the reception area (if any) or at a table in the  
                                       restaurant; and

*Liquor (Further Amendment) 1985*SCHEDULE 1—*continued.*AMENDMENTS TO THE PRINCIPAL ACT RELATING TO ON-LICENCES—*continued.*

5 (b) except where liquor is sold or supplied as provided by section 31 (3) or (4) or 32 (3)—with or as ancillary to a meal consumed at a table in the restaurant.

(b) Section 23 (3A)—

After section 23 (3), insert:—

10 (3A) Where a hotelier's licence, an on-licence relating to a restaurant, or an on-licence relating to premises referred to in section 18 (4) (g), is in force, the business carried on pursuant to the licence shall be a business of selling and supplying liquor in accordance with this Act to the public resorting to the licensed premises and shall not, except as may be prescribed or  
15 to the extent necessary to comply with this or any other Act or law, be or include a business limited at any time only to selling or supplying liquor to persons invited to resort to the premises or only to a particular class, or particular classes, of persons resorting to the premises.

(c) Section 23 (5) (a)—

20 Omit “, club or other organisation”, insert instead “or club”.

(4) (a) Section 32 (3)—

Omit “the court is satisfied that”.

(b) Section 32 (3)—

25 After “time”, insert “with each of those persons being able to see the entertainment”.

(c) Section 32 (3)—

Omit “it may”, insert instead “the court may”.

(d) Section 32 (3A)—

After section 32 (3), insert:—

30 (3A) Where a variation of trading hours is granted in relation to a restaurant under subsection (3)—

*Liquor (Further Amendment) 1985*SCHEDULE 1—*continued.*AMENDMENTS TO THE PRINCIPAL ACT RELATING TO ON-LICENCES—*continued.*

- 5 (a) the variation ceases to have effect if adequate staff, fittings, furniture and accommodation have ceased to be available in the restaurant for the purposes specified in that subsection; and
- (b) the variation is not applicable—
- 10 (i) after 11 p.m. on any day on which; or
- (ii) before 3 a.m. on any day that next succeeds a day on which,
- the restaurant is not continuously open between 6 p.m. and 11 p.m. for the sale or supply of liquor with or as ancillary to a meal.

## (5) Section 54A—

- 15 After section 54, insert:—

**Limitation of on-licences for university or college.**

54A. An application for an on-licence for premises within a university or college shall not be granted unless the court is satisfied—

- 20 (a) that membership of the union, association or club that occupies the premises is open to the whole of the student body of the university or college; and
- 25 (b) that the licensed premises will be available for use by a member of the student body (whether or not a member of the union, association or club) at all times at which it is available for use by any other member of the student body.

## (6) (a) Section 56 (1) (o)—

Omit “and”.

## (b) Section 56 (1) (p), (q)—

- 30 At the end of section 56 (1) (p), insert:—

; and

- (q) in the case of an on-licence referred to in section 18 (4) (g)—the fee fixed by the Board for the licence.

*Liquor (Further Amendment) 1985*SCHEDULE 1—*continued.*AMENDMENTS TO THE PRINCIPAL ACT RELATING TO ON-LICENCES—*continued.*

## (7) Section 74A—

After section 74, insert:—

5       **Certificate of suitability for on-licence.**

74A. (1) In response to a submission under section 74 (1) (d), the Board may, if it thinks fit, certify in respect of specified premises (not being premises referred to in section 18 (4) (a)–(f)) that, having regard to subsection (2), the Board is of the opinion that the premises are suitable, and are suitably situated, for the sale, supply and consumption of liquor thereon pursuant to an on-licence that is subject to specified conditions in addition to any other conditions to which the licence may be subject.

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(2) The Board shall, before determining whether or not to certify as provided by subsection (1) in relation to any premises—

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(a) satisfy itself that the business proposed to be carried on pursuant to a licence relating to the premises would not be carried on in contravention of section 23 (3A);

(b) consider whether the carrying on of that business would adversely affect—

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(i) any other business in the neighbourhood that is being carried on pursuant to a licence; or

(ii) the amenity of the neighbourhood; and

(c) consider whether there is any reason, other than a reason arising pursuant to paragraph (a) or (b), why the Board should not certify as so provided.

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(3) A certificate issued under subsection (1)—

(a) lapses if an application for an on-licence relating to the premises specified in the certificate is not made within the period of 3 months that next succeeds the issue of the certificate; and

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(b) may be returned to the Board by the court for further consideration and, if the Board thinks fit, for revocation and the issue of another certificate.



*Liquor (Further Amendment) 1985*SCHEDULE 1—*continued.*AMENDMENTS TO THE PRINCIPAL ACT RELATING TO ON-LICENCES—*continued.*

- (8) (a) Section 88 (2) (a)—  
           Omit “or vary”.
- 5       (b) Section 88 (4)—  
           After section 88 (3), insert:—
- (4) The Board may, on the application of the licensee or the  
           licensing inspector—
- 10           (a) vary an authorisation under subsection (1) so that it  
           relates to the use of a part of the licensed premises  
           different from that to which it related before the  
           variation; or
- (b) authorise, by variation of a condition or otherwise, a  
           variation of the design or fittings of a reception area.
- 15 (9) Section 137—  
           After “college”, insert “, or of an on-licence referred to in section  
           18 (4) (g).”.

## SCHEDULE 2.

(Sec. 5.)

## 20 AMENDMENTS TO THE PRINCIPAL ACT RELATING TO LICENCE FEES.

- (1) (a) Section 78 (1) (a) (iv)—

After “reimbursement”, insert “in full”.

- (b) Section 78 (1) (a) (iv)—

- 25       Omit “to a common carrier”, insert instead “ in respect of the  
       carriage and delivery of the liquor within Australia by a carrier  
       in whose business as a carrier the supplier has no direct or  
       indirect pecuniary interest”.



*Liquor (Further Amendment) 1985*SCHEDULE 2—*continued.*AMENDMENTS TO THE PRINCIPAL ACT RELATING TO LICENCE FEES—*continued.*

## (c) Section 78 (1) (a) (v)—

5 After “liquor”, insert “or as shipping, delivery or handling charges incurred by reason of the importation of the liquor from outside Australia”.

## (2) (a) Section 81 (b)—

Omit “and” where lastly occurring.

## (b) Section 81 (c), (d)—

10 At the end of section 81 (c), insert:—  
; and

15 (d) in the case of an on-licence relating to a restaurant—  
such amount, not exceeding 5 per cent of the amount  
calculated under section 80, as the Board thinks fit to  
allow in respect of liquor purchased from a licensee  
other than the holder of an off-licence to sell liquor to  
persons authorised to sell liquor.

## (3) Section 82 (4A)—

After section 82 (4), insert:—

20 (4A) The regulations may prescribe a minimum licence fee for any  
class of licences in respect of which the licence fee is required to be  
assessed on a percentage basis and, where a minimum fee is so  
prescribed for a licence of that class—

25 (a) the Board shall not assess the licence fee for such a licence  
at an amount that is less than the minimum fee so prescribed  
for the licence; and

(b) an assessment of the amount of the minimum fee so  
prescribed shall be deemed to be an assessment made on a  
percentage basis.

## 30 (4) (a) Section 83 (3) (b)—

Omit “the person who furnished the information knew, or  
ought to have known, it to be incorrect”, insert instead “there  
was no reasonable excuse for its being incorrect”.

*Liquor (Further Amendment) 1985*SCHEDULE 2—*continued.*AMENDMENTS TO THE PRINCIPAL ACT RELATING TO LICENCE FEES—*continued.*

## (b) Section 83 (8)—

5           After “payment” where secondly occurring, insert “to the Board”.

## (5) (a) Section 84 (1)—

          Omit the subsection.

## (b) Section 84 (2)—

10           After “licence” where firstly occurring, insert “(other than an off-licence for a vigneron or an on-licence referred to in section 79 (2) or (3))”.

## (c) Section 84 (3)—

15           After “licence” where firstly occurring, insert “(other than an off-licence referred to in subsection (4) or an on-licence referred to in section 79 (2) or (3))”.

## (d) Section 84 (4)—

          After section 84 (3), insert:—

## (4) Where an application for transfer of—

- 20           (a) an off-licence for a vigneron; or  
           (b) an off-licence to sell liquor to persons authorised to sell liquor,

          is granted, the transfer does not take effect until the transferor has given the transferee possession of—

- 25           (c) the records that the transferor was required to retain under section 86 (2); and  
           (d) such other documents as may be prescribed.

## (6) Section 85 (4)–(7)—

          After section 85 (3), insert:—

- 30           (4) Where, in a statement referred to in subsection (1), a licensee who sells liquor to a person authorised to sell liquor provides information regarding shipping, freight, handling or

*Liquor (Further Amendment) 1985*SCHEDULE 2—*continued.*AMENDMENTS TO THE PRINCIPAL ACT RELATING TO LICENCE FEES—*continued.*

5 delivery charges that, in the opinion of the Board, is incorrect, the Board may determine the amount that would be applicable on a reassessment of a fee payable by a person so authorised if the incorrect information had been provided in a statutory declaration by that person.

10 (5) Where the Board determines an amount under subsection (4) in relation to a licensee, the licensee is liable to pay to the Board, within a time specified by the Board, an amount equal to the amount so determined.

(6) The Board may not, as a result of the same incorrect information, both—

- 15 (a) reassess a fee; and  
(b) make a determination under subsection (5).

(7) The amount that a licensee is liable to pay under subsection (5) is a debt due to the Crown.

(7) Section 154 (2) (a)—

20 Omit “each licence fee payable by him”, insert instead “so much of each licence fee payable by the licensee as is referred to in section 80 (2) (a) (i) or (ii), whichever is applicable”.

## SCHEDULE 3.

(Sec. 5.)

## AMENDMENTS TO THE PRINCIPAL ACT RELATING TO AMUSEMENT DEVICES.

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(1) Section 4 (8)—

After “device” where secondly occurring, insert “other than a prescribed component”.

*Liquor (Further Amendment) 1985*SCHEDULE 3—*continued.*AMENDMENTS TO THE PRINCIPAL ACT RELATING TO AMUSEMENT DEVICES—  
*continued.*

## (2) Section 19A (2A)—

5 After section 19A (2), insert:—

(2A) It is a condition of a licence referred to in subsection (1) that premises specified by the court under subsection (2) be used exclusively for carrying on business pursuant to the licence and that the licensee have full, free and unfettered control of the premises.

## 10 (3) (a) Section 20A (1) (a)—

Omit “owned by”, insert instead “owned unconditionally and free from encumbrances after being paid for in full, upon the passing of the property therein, without obtaining financial accommodation for the purpose”.

## 15 (b) Section 20A (1) (a) (i)—

Before “the holder”, insert “by”.

## (c) Section 20A (1) (a) (ii)—

Before “a person”, insert “by”.

## (d) Section 20A (1) (b)—

20 Omit “in such exceptional circumstances as may be approved by the Board,”.

## (e) Section 20A (1) (b)—

Omit “on terms and conditions”, insert instead “in accordance with financial and other arrangements”.

## 25 (f) Section 20A (2)—

Omit “terms and conditions upon”, insert instead “financial and other arrangements in accordance with”.

## (4) Section 21A (3) (b)—

30 Omit “on terms and conditions”, insert instead “in accordance with financial and other arrangements”.



*Liquor (Further Amendment) 1985*SCHEDULE 3—*continued.*AMENDMENTS TO THE PRINCIPAL ACT RELATING TO AMUSEMENT DEVICES—  
*continued.*

## (5) Section 86—

- 5 After “function”, insert “and shall, as prescribed, make and keep up-to-date the prescribed records in the English language containing the prescribed particulars relating to approved amusement devices (if any) kept on the licensed premises”.

## (6) Section 138C (4)—

- 10 Omit “or” where firstly occurring, insert instead “and”.

## SCHEDULE 4.

(Sec. 5.)

## MISCELLANEOUS AMENDMENTS TO THE PRINCIPAL ACT.

## (1) Section 22 (3A)—

- 15 After section 22 (3), insert:—

(3A) Where an off-licence is a licence to sell liquor by retail, liquor shall not, except as provided by section 18 (7), be sold or supplied pursuant to the licence otherwise than in sealed containers.

## (2) Section 40 (1)—

- 20 After “the application”, insert “or are premises already erected”.

## (3) (a) Section 42 (1)—

Omit the subsection, insert instead:—

(1) This section applies where a licence is current and—

- 25 (a) the licensee is evicted from the licensed premises; or  
(b) to the exclusion of the licensee, the owner of the licensed premises comes into, or becomes entitled to, possession of the licensed premises.

## (b) Section 42 (2)—

- 30 Omit “applies as referred to in subsection (1) (a)”, insert instead “applies”.



*Liquor (Further Amendment) 1985*SCHEDULE 4—*continued.*MISCELLANEOUS AMENDMENTS TO THE PRINCIPAL ACT—*continued.*

## (c) Section 42 (3), (4)—

Omit the subsections.

## 5 (d) Section 42 (5)—

Omit the subsection, insert instead:—

10 (5) Where an application is made under subsection (2) not later than 14 days after this section becomes applicable, the applicant shall, until the application is heard and determined or otherwise disposed of, be deemed to be the licensee under the licence to which the application relates.

## (e) Section 42 (6)—

15 Omit “under subsection (1)”, insert instead “for transfer of a licence under this section unless, in the absence of special circumstances,”.

## (4) Section 47 (2), (3)—

At the end of section 47, insert:—

20 (2) Notwithstanding that an objection to the grant of an application for a licence on the ground specified in section 45 (1) (a) or (b) has not been taken or made out, the court may refuse the application if it finds, after subsection (3) has been complied with—

- 25 (a) that the applicant is not a fit and proper person to be the holder of a licence; or
- (b) that a person directly or indirectly interested in the application, or in the business, or the profits of the business, to be carried on pursuant to the licence if the application were granted is not a fit and proper person to be so interested.

## (3) A finding under subsection (2) may not be made unless—

- 30 (a) the applicant has been made aware of reasons for the possibility of such a finding;

*Liquor (Further Amendment) 1985*SCHEDULE 4—*continued.*MISCELLANEOUS AMENDMENTS TO THE PRINCIPAL ACT—*continued.*

- 5 (b) the applicant has been given an opportunity to make submissions, and adduce evidence related to those reasons; and
- (c) those reasons are, or include, the reasons for the finding.
- (5) (a) Section 55 (1)—  
After “paid”, insert “to the registrar or the Principal Registrar”.
- 10 (b) Section 55 (2)—  
After “licence” where secondly occurring, insert “or while a stay under subsection (4) is in force”.
- (c) Section 55 (4)—  
After section 55 (3), insert:—
- 15 (4) The court may stay the issue of a licence—
- (a) until the expiration of the period within which an appeal against the adjudication granting the licence may be made or the expiration of the period of 1 month that next succeeds the adjudication, whichever is the later; and
- 20 (b) where such an appeal is lodged—until the appeal is heard and determined or otherwise disposed of,  
and may at any time terminate such a stay.
- (6) Section 61 (6), (6A)—  
Omit section 61 (6), insert instead:—
- 25 (6) Before a transfer of a licence is granted—
- (a) all records under the control of the transferor that relate to the business carried on pursuant to the licence shall, if this paragraph applies to the licence pursuant to an order under subsection (6A), be produced to the court for inspection; and
- 30 (b) if the court so requires, any unpaid amount of the licence fee shall be paid.

*Liquor (Further Amendment) 1985*SCHEDULE 4—*continued.*MISCELLANEOUS AMENDMENTS TO THE PRINCIPAL ACT—*continued.*

(6A) The Minister may, by order published in the Gazette, apply subsection (6) (a) to—

- 5           (a) all licences of a specified class;  
              (b) all licences that relate to licensed premises situated in a specified area; or  
              (c) all licences of a specified class that relate to licensed premises situated in a specified area.

10   (7) (a) Section 67 (3) (b)—

After “(d)”, insert “, (e), (f) or (h)”.

(b) Section 67 (5)—

Omit the subsection, insert instead:—

15           (5) Where a complaint is made under this section, a copy of the complaint shall be served by post—

- (a) where the licensee occupies the licensed premises under a lease—on the lessor; and  
 (b) on each person named—

20                   (i) in the affidavit referred to in section 38 (3) that accompanied the application for the licence; or

                 (ii) if an affidavit accompanied an application for transfer of the licence as referred to in section 41 (4) or has been produced to the registrar under section 101 (4)—in the later or latest of those affidavits,

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at the address of the person to be served last known to the Board and that lessor and each person so named may, at the hearing of the complaint, be represented and be heard.

(c) Section 67 (7)—

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After section 67 (6), insert:—

(7) Notwithstanding the other provisions of this section, a licensee who fails to comply with a condition of his or her licence is guilty of an offence against this Act but the same

*Liquor (Further Amendment) 1985*SCHEDULE 4—*continued.*MISCELLANEOUS AMENDMENTS TO THE PRINCIPAL ACT—*continued.*

5 failure to comply with a condition of a licence may not be the subject both of proceedings under this subsection and an authorised complaint on the ground referred to in section 68 (1) (a) or (b).

(8) (a) Section 68 (1) (d)—

Omit “, for reasons specified in the complaint,”.

(b) Section 68 (1) (e)—

10 Omit “or”.

(c) Section 68 (1) (g), (h)—

At the end of section 68 (1) (g), insert:—

; or

15 (h) that the licence is considered not to have been exercised in the public interest.

(9) (a) Section 69 (1) (g)—

After “(d)”, insert “or (g)”.

(b) Section 69 (1A)—

After section 69 (1), insert:—

20 (1A) Where, upon the hearing and determination under subsection (1) of the matter of a complaint, the court finds that the matter of the complaint has been made out, the court may, whether or not it acts under that subsection—

(a) reprimand—

25 (i) a person required by section 67 (5) (b) to be served with a copy of the complaint;

(ii) a director of, or shareholder in, a proprietary company required to be so served; or

30 (iii) a director of, or shareholder in, a corporation that, within the meaning of the Companies (New South Wales) Code, is a related corporation of a proprietary company referred to in subparagraph (ii);



*Liquor (Further Amendment) 1985***SCHEDULE 4—continued.****MISCELLANEOUS AMENDMENTS TO THE PRINCIPAL ACT—continued.**

- 5 (b) order a person, director or shareholder referred to in paragraph (a) to pay to the Crown a monetary penalty not exceeding \$2,000; or
- (c) disqualify, for a period not exceeding 3 years commencing on a specified day, a person, director or shareholder referred to in paragraph (a) from being—
- 10 (i) a person interested in a business, or in the profits of a business, carried on pursuant to a licence; or
- 15 (ii) a director of, or shareholder in, a proprietary company so interested or a corporation that, within the meaning of the Companies (New South Wales) Code is a related corporation of such a proprietary company,
- 20 unless it is proved that the person, director or shareholder had no knowledge of the matter upon which the complaint was made out and used all due diligence to obviate the necessity for the complaint.
- (c) Section 69 (3)—  
After “(1) (b)”, insert “or (1A) (b)”.
- (10) Section 77 (1)—  
Omit “licensing” wherever occurring, insert instead “prescribed”.
- 25 (11) Section 79 (1)—  
Omit “it is, in writing, surrendered to the Board or is”, insert instead “its surrender in writing is accepted by the Board or it is”.
- (12) (a) Section 86 (2)—  
30 After “relates”, insert “or in some other place approved by the Board”.



*Liquor (Further Amendment) 1985*SCHEDULE 4—*continued.*MISCELLANEOUS AMENDMENTS TO THE PRINCIPAL ACT—*continued.*

## (b) Section 86 (2A)—

After section 86 (2), insert:—

- 5 (2A) The holder of a licence shall retain, for the period of 5 years that next succeeds its coming into the licensee's possession, any document that relates to the business carried on pursuant to the licence.

Penalty: \$2,000.

## 10 (13) Section 87—

Omit "court" wherever occurring, insert instead "Board".

## (14) Section 90—

After "premises" where secondly occurring, insert "of its own motion or".

## 15 (15) Section 94 (1)—

Omit the subsection, insert instead:—

(1) An owner of licensed premises, or the licensee, shall not, without the authority of the Board—

- 20 (a) make a material alteration or addition to the licensed premises except by carrying out work pursuant to an order of the Board under section 95; or
- (b) substantially alter the use of any part of the licensed premises.

Penalty: \$500.

## 25 (16) (a) Section 95 (2)—

Omit "occupier of", insert instead "holder of the licence that relates to".

*Liquor (Further Amendment) 1985*SCHEDULE 4—*continued.*MISCELLANEOUS AMENDMENTS TO THE PRINCIPAL ACT—*continued.*

## (b) Section 95 (2A), (2B)—

After section 92 (2), insert:—

## 5 (2A) Where—

- (a) the person against whom an order is made under subsection (1) refuses, or fails within a reasonable time, to comply with the order; and
- 10 (b) the holder of the licence that relates to the premises to which the order relates does not, within a reasonable time after being notified of the refusal or failure referred to in paragraph (a), make an application under subsection (2),

15 the Board may give notice to the owner and the licensee to appear before it at a specified time and place and show cause why an order should not be made under subsection (2B).

(2B) The Board may, after hearing any persons who appear before it in accordance with a notice under subsection (2A), or of its own motion if there is no such appearance—

- 20 (a) order and authorise the licensee to carry out the work to which the order under subsection (1) relates; or
- (b) order and authorise the owner and the licensee each to carry out such part of that work as the Board specified in the order,

25 within a reasonable time so specified or such extended time as the Board may allow.

## (c) Section 95 (3)—

After “subsection (1)” where firstly occurring, insert “or (2B)”.

## (d) Section 95 (3) (a)—

30 Omit “subsection (1)”, insert instead “that subsection”.

## (e) Section 95 (3) (b)—

Omit “paragraph (a)”, insert instead “subsection (1)”.

*Liquor (Further Amendment) 1985*SCHEDULE 4—*continued.*MISCELLANEOUS AMENDMENTS TO THE PRINCIPAL ACT—*continued.*

## (f) Section 95 (4)—

After “subsection (1)”, insert “or (2B)”.

## 5 (17) Section 99 (1)—

After “95 (2)”, insert “or an order made under section 95 (2B)”.

## (18) Section 109—

Omit “Minister”, insert instead “Chairman of the Board”.

## (19) Section 110 (4) (a), (b)—

## 10 Omit the paragraphs, insert instead:—

- (a) examine each room and part of the premises;
- (b) take an account of any or all liquor that is on the premises;
- (c) examine any record that relates to the business carried on pursuant to the licence and make copies thereof or take extracts therefrom; or
- 15 (d) examine any device in the nature of an approved amusement device and take readings therefrom.

## (20) (a) Section 120 (1)—

20 Omit “part of licensed premises”, insert instead “restricted area on premises to which a hotelier’s licence relates”.

## (b) Section 120 (1) (a)—

Omit “that part”, insert instead “the restricted area”.

## (21) Section 129 (1)—

Omit the subsection, insert instead:—

## 25 (1) A person shall not, if supplied on licensed premises with liquor, a meal or accommodation—

- (a) refuse or fail, on demand of payment made by the licensee, or the licensee’s employee or agent, to pay a reasonable amount therefor; or
- 30 (b) avoid such a demand.

Penalty: \$250.

*Liquor (Further Amendment) 1985*SCHEDULE 4—*continued.*MISCELLANEOUS AMENDMENTS TO THE PRINCIPAL ACT—*continued.*

## (22) Section 141 (1A)—

After section 141 (1), insert:—

5

(1A) In any proceedings under this Act—

10

(a) a certificate purporting to be signed by the secretary of the Board and stating that the licence fee for a specified licence has not been paid in respect of a specified licensing period is, without proof of the signature of the secretary of the Board, evidence of the matters stated therein; and

15

(b) a certificate purporting to be signed by the secretary of the Board and stating—

(i) that a specified person held a specified licence immediately before the end of a specified assessment period for the licence; and

(ii) that the statutory declaration required by section 84 (2) to be lodged by that section had not been lodged in accordance with that subsection,

20

is, without proof of the signature of the secretary of the Board, evidence of the matters stated therein.

## (23) (a) Section 156 (1) (k)—

Omit “and” where secondly occurring.

## (b) Section 156 (1) (l), (m)—

25

At the end of section 156 (1) (l), insert:—

; and

(m) certificates to be given by special inspectors and the effect of those certificates in relation to the production of records.



*Liquor (Further Amendment) 1985*

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## SCHEDULE 5.

(Sec. 6.)

## SAVINGS.

**Authority for use of part of premises by minor.**

- 5 1. Where, immediately before the date of assent to the Liquor (Further Amendment) Act, 1985, an authority granted by the court under section 87 of the Principal Act was in force—
- (a) the authority shall be deemed to have been granted on that date by the Board under section 87 of the Principal Act, as amended by this Act; and
- 10 (b) any conditions imposed under section 87 of the Principal Act in relation to the authority shall be deemed to be conditions imposed by the Board under section 87 of the Principal Act, as amended by this Act.

**On-licence for premises within university or college.**

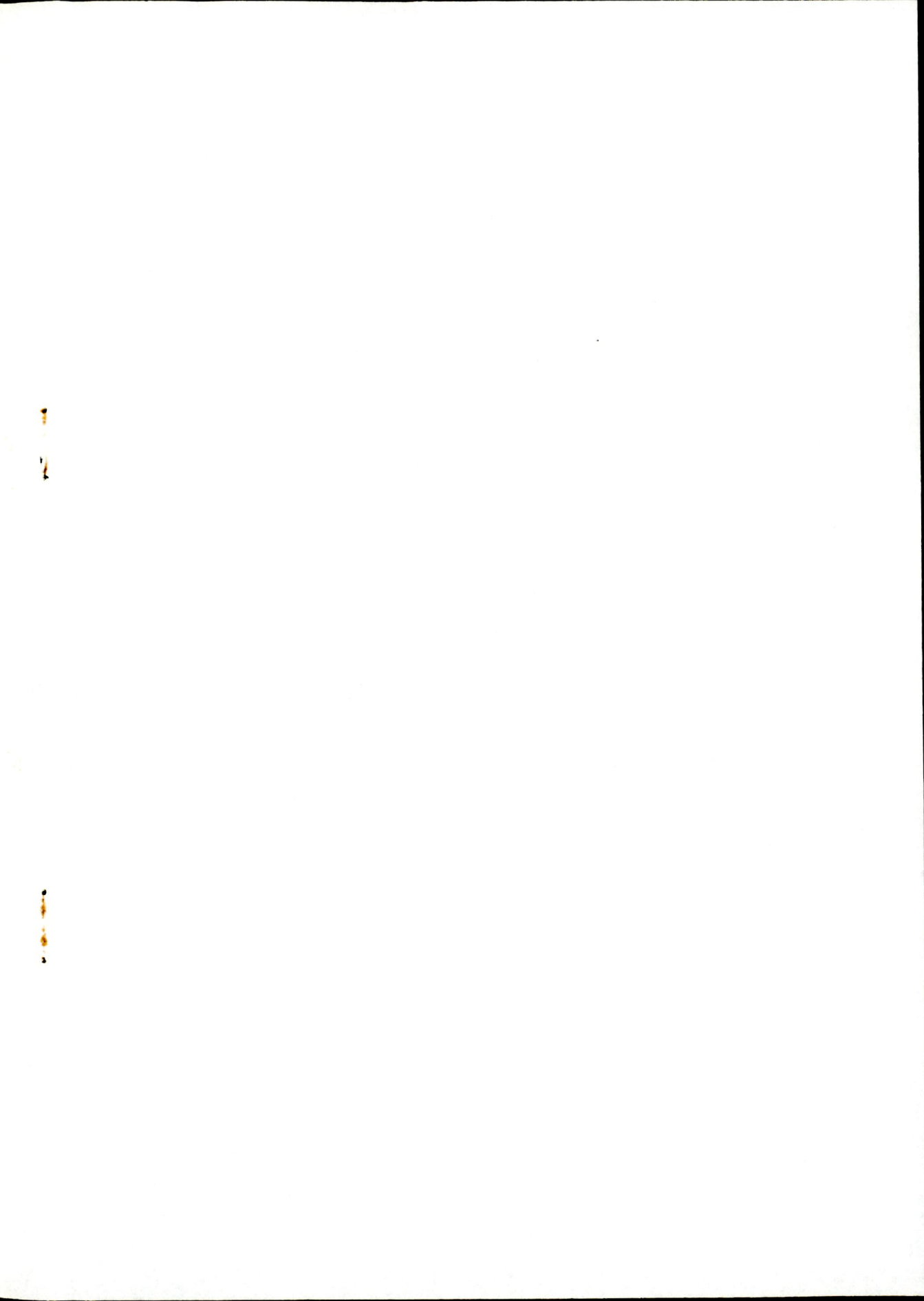
2. The amendments of the Principal Act effected by Schedule 1 (1) (a) and (c) and
- 15 (5), and section 5 in its application to those provisions, do not affect—
- (a) an application for an on-licence referred to in section 18 (4) (e) of the Principal Act if the hearing of the application on the merits commenced before the date of assent to this Act; or
- 20 (b) an on-licence referred to in section 18 (4) (e) of the Principal Act that was in force immediately before the date of assent to this Act.

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BY AUTHORITY

D. WEST, GOVERNMENT PRINTER, NEW SOUTH WALES—1985







**LIQUOR (FURTHER AMENDMENT) ACT, 1985, No. 77**

*New South Wales*



ANNO TRICESIMO QUARTO

**ELIZABETHÆ II REGINÆ**

\* \* \* \* \*

**Act No. 77, 1985.**

An Act to amend the Liquor Act, 1982, to enable an on-licence to be granted for premises in respect of which no other provision is made by that Act; to make further provision with respect to licence fees payable under that Act; to facilitate the administration of that Act; and for other purposes. [Assented to, 27th May, 1985.]

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See also Registered Clubs (Miscellaneous Provisions) Amendment Act, 1985.

*Liquor (Further Amendment) 1985*

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**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 (Further Amendment) Act, 1985".

**Commencement.**

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

(2) Schedule 1 (3) (b), and section 5 in its application to that provision, 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.

(3) Schedule 2 (1), (2), (3) and (6), and section 5 in its application to those provisions, shall commence on 1st July, 1985.

**Principal Act.**

3. The Liquor Act, 1982, is referred to in this Act as the Principal Act.

**Schedules.**

4. This Act contains the following Schedules:—

SCHEDULE 1.—AMENDMENTS TO THE PRINCIPAL ACT RELATING TO ON-LICENCES.

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

SCHEDULE 3.—AMENDMENTS TO THE PRINCIPAL ACT RELATING TO AMUSEMENT DEVICES.

SCHEDULE 4.—MISCELLANEOUS AMENDMENTS TO THE PRINCIPAL ACT.

SCHEDULE 5.—SAVINGS.



*Liquor (Further Amendment) 1985***Amendment of Act No. 147, 1982.**

5. The Liquor Act, 1982, is amended in the manner set forth in Schedules 1-4.

**Savings.**

6. Schedule 5 has effect.

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**SCHEDULE 1.**

(Sec. 5.)

**AMENDMENTS TO THE PRINCIPAL ACT RELATING TO ON-LICENCES.**

(1) (a) Section 18 (4) (e)—

Omit “, club or other organisation ”, insert instead “or club”.

(b) Section 18 (4) (e)—

Omit “and”.

(c) Section 18 (4) (f), (g)—

At the end of section 18 (4) (f), insert:—

; and

(g) any premises in respect of which a certificate given by the Board under section 74A is in force.

(2) Section 22 (3)—

After “licensee”, insert “or, where the licence is held on behalf of a corporation or partnership, by employees of the corporation or partnership”.

(3) (a) Section 23 (3)—

Omit the subsection, insert instead:—

(3) Where the licensed premises to which an on-licence relates are a restaurant, liquor shall be sold, supplied and consumed in the restaurant only—

(a) in the reception area (if any) or at a table in the restaurant; and

*Liquor (Further Amendment) 1985*

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SCHEDULE 1—*continued.*

AMENDMENTS TO THE PRINCIPAL ACT RELATING TO ON-LICENCES—*continued.*

- (b) except where liquor is sold or supplied as provided by section 31 (3) or (4) or 32 (3)—with or as ancillary to a meal consumed at a table in the restaurant.
- (b) Section 23 (3A)—  
After section 23 (3), insert:—  
(3A) Where a hotelier's licence, an on-licence relating to a restaurant, or an on-licence relating to premises referred to in section 18 (4) (g), is in force, the business carried on pursuant to the licence shall be a business of selling and supplying liquor in accordance with this Act to the public resorting to the licensed premises and shall not, except as may be prescribed or to the extent necessary to comply with this or any other Act or law, be or include a business limited at any time only to selling or supplying liquor to persons invited to resort to the premises or only to a particular class, or particular classes, of persons resorting to the premises.
- (c) Section 23 (5) (a)—  
Omit “, club or other organisation”, insert instead “or club”.
- (4) (a) Section 32 (3)—  
Omit “the court is satisfied that”.
- (b) Section 32 (3)—  
After “time”, insert “with each of those persons being able to see the entertainment”.
- (c) Section 32 (3)—  
Omit “it may”, insert instead “the court may”.
- (d) Section 32 (3A)—  
After section 32 (3), insert:—  
(3A) Where a variation of trading hours is granted in relation to a restaurant under subsection (3)—

*Liquor (Further Amendment) 1985***SCHEDULE 1—continued.****AMENDMENTS TO THE PRINCIPAL ACT RELATING TO ON-LICENCES—continued.**

(a) the variation ceases to have effect if adequate staff, fittings, furniture and accommodation have ceased to be available in the restaurant for the purposes specified in that subsection; and

(b) the variation is not applicable—

(i) after 11 p.m. on any day on which; or

(ii) before 3 a.m. on any day that next succeeds a day on which,

the restaurant is not continuously open between 6 p.m. and 11 p.m. for the sale or supply of liquor with or as ancillary to a meal.

(5) Section 54A—

After section 54, insert:—

**Limitation of on-licences for university or college.**

54A. An application for an on-licence for premises within a university or college shall not be granted unless the court is satisfied—

(a) that membership of the union, association or club that occupies the premises is open to the whole of the student body of the university or college; and

(b) that the licensed premises will be available for use by a member of the student body (whether or not a member of the union, association or club) at all times at which it is available for use by any other member of the student body.

(6) (a) Section 56 (1) (o)—

Omit “and”.

(b) Section 56 (1) (p), (q)—

At the end of section 56 (1) (p), insert:—

; and

(q) in the case of an on-licence referred to in section 18 (4) (g)—the fee fixed by the Board for the licence.

*Liquor (Further Amendment) 1985*

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SCHEDULE 1—*continued.*

AMENDMENTS TO THE PRINCIPAL ACT RELATING TO ON-LICENCES—*continued.*

(7) Section 74A—

After section 74, insert:—

**Certificate of suitability for on-licence.**

74A. (1) In response to a submission under section 74 (1) (d), the Board may, if it thinks fit, certify in respect of specified premises (not being premises referred to in section 18 (4) (a)–(f)) that, having regard to subsection (2), the Board is of the opinion that the premises are suitable, and are suitably situated, for the sale, supply and consumption of liquor thereon pursuant to an on-licence that is subject to specified conditions in addition to any other conditions to which the licence may be subject.

(2) The Board shall, before determining whether or not to certify as provided by subsection (1) in relation to any premises—

- (a) satisfy itself that the business proposed to be carried on pursuant to a licence relating to the premises would not be carried on in contravention of section 23 (3A);
- (b) consider whether the carrying on of that business would adversely affect—
  - (i) any other business in the neighbourhood that is being carried on pursuant to a licence; or
  - (ii) the amenity of the neighbourhood; and
- (c) consider whether there is any reason, other than a reason arising pursuant to paragraph (a) or (b), why the Board should not certify as so provided.

(3) A certificate issued under subsection (1)—

- (a) lapses if an application for an on-licence relating to the premises specified in the certificate is not made within the period of 3 months that next succeeds the issue of the certificate; and
- (b) may be returned to the Board by the court for further consideration and, if the Board thinks fit, for revocation and the issue of another certificate.



*Liquor (Further Amendment) 1985*

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SCHEDULE 1—*continued*.

AMENDMENTS TO THE PRINCIPAL ACT RELATING TO ON-LICENCES—*continued*.

(8) (a) Section 88 (2) (a)—

Omit “or vary”.

(b) Section 88 (4)—

After section 88 (3), insert:—

(4) The Board may, on the application of the licensee or the licensing inspector—

(a) vary an authorisation under subsection (1) so that it relates to the use of a part of the licensed premises different from that to which it related before the variation; or

(b) authorise, by variation of a condition or otherwise, a variation of the design or fittings of a reception area.

(9) Section 137—

After “college”, insert “, or of an on-licence referred to in section 18 (4) (g),”.

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SCHEDULE 2.

(Sec. 5.)

AMENDMENTS TO THE PRINCIPAL ACT RELATING TO LICENCE FEES.

(1) (a) Section 78 (1) (a) (iv)—

After “reimbursement”, insert “in full”.

(b) Section 78 (1) (a) (iv)—

Omit “to a common carrier”, insert instead “ in respect of the carriage and delivery of the liquor within Australia by a carrier in whose business as a carrier the supplier has no direct or indirect pecuniary interest”.

*Liquor (Further Amendment) 1985*SCHEDULE 2—*continued.*AMENDMENTS TO THE PRINCIPAL ACT RELATING TO LICENCE FEES—*continued.*

## (c) Section 78 (1) (a) (v)—

After “liquor”, insert “or as shipping, delivery or handling charges incurred by reason of the importation of the liquor from outside Australia”.

## (2) (a) Section 81 (b)—

Omit “and” where lastly occurring.

## (b) Section 81 (c), (d)—

At the end of section 81 (c), insert:—

; and

- (d) in the case of an on-licence relating to a restaurant—  
such amount, not exceeding 5 per cent of the amount calculated under section 80, as the Board thinks fit to allow in respect of liquor purchased from a licensee other than the holder of an off-licence to sell liquor to persons authorised to sell liquor.

## (3) Section 82 (4A)—

After section 82 (4), insert:—

(4A) The regulations may prescribe a minimum licence fee for any class of licences in respect of which the licence fee is required to be assessed on a percentage basis and, where a minimum fee is so prescribed for a licence of that class—

- (a) the Board shall not assess the licence fee for such a licence at an amount that is less than the minimum fee so prescribed for the licence; and  
(b) an assessment of the amount of the minimum fee so prescribed shall be deemed to be an assessment made on a percentage basis.

## (4) (a) Section 83 (3) (b)—

Omit “the person who furnished the information knew, or ought to have known, it to be incorrect”, insert instead “there was no reasonable excuse for its being incorrect”.

*Liquor (Further Amendment) 1985*SCHEDULE 2—*continued.*AMENDMENTS TO THE PRINCIPAL ACT RELATING TO LICENCE FEES—*continued.*

## (b) Section 83 (8)—

After “payment” where secondly occurring, insert “to the Board”.

## (5) (a) Section 84 (1)—

Omit the subsection.

## (b) Section 84 (2)—

After “licence” where firstly occurring, insert “(other than an off-licence for a vigneron or an on-licence referred to in section 79 (2) or (3))”.

## (c) Section 84 (3)—

After “licence” where firstly occurring, insert “(other than an off-licence referred to in subsection (4) or an on-licence referred to in section 79 (2) or (3))”.

## (d) Section 84 (4)—

After section 84 (3), insert:—

## (4) Where an application for transfer of—

(a) an off-licence for a vigneron; or

(b) an off-licence to sell liquor to persons authorised to sell liquor,

is granted, the transfer does not take effect until the transferor has given the transferee possession of—

(c) the records that the transferor was required to retain under section 86 (2); and

(d) such other documents as may be prescribed.

## (6) Section 85 (4)–(7)—

After section 85 (3), insert:—

(4) Where, in a statement referred to in subsection (1), a licensee who sells liquor to a person authorised to sell liquor provides information regarding shipping, freight, handling or

*Liquor (Further Amendment) 1985***SCHEDULE 2—continued.****AMENDMENTS TO THE PRINCIPAL ACT RELATING TO LICENCE FEES—continued.**

delivery charges that, in the opinion of the Board, is incorrect, the Board may determine the amount that would be applicable on a reassessment of a fee payable by a person so authorised if the incorrect information had been provided in a statutory declaration by that person.

(5) Where the Board determines an amount under subsection (4) in relation to a licensee, the licensee is liable to pay to the Board, within a time specified by the Board, an amount equal to the amount so determined.

(6) The Board may not, as a result of the same incorrect information, both—

- (a) reassess a fee; and
- (b) make a determination under subsection (5).

(7) The amount that a licensee is liable to pay under subsection (5) is a debt due to the Crown.

(7) Section 154 (2) (a)—

Omit “each licence fee payable by him”, insert instead “so much of each licence fee payable by the licensee as is referred to in section 80 (2) (a) (i) or (ii), whichever is applicable”.

**SCHEDULE 3.**

(Sec. 5.)

**AMENDMENTS TO THE PRINCIPAL ACT RELATING TO AMUSEMENT DEVICES.**

(1) Section 4 (8)—

After “device” where secondly occurring, insert “other than a prescribed component”.



*Liquor (Further Amendment) 1985***SCHEDULE 3—continued.****AMENDMENTS TO THE PRINCIPAL ACT RELATING TO AMUSEMENT DEVICES—  
continued.****(2) Section 19A (2A)—**

After section 19A (2), insert:—

(2A) It is a condition of a licence referred to in subsection (1) that premises specified by the court under subsection (2) be used exclusively for carrying on business pursuant to the licence and that the licensee have full, free and unfettered control of the premises.

**(3) (a) Section 20A (1) (a)—**

Omit “owned by”, insert instead “owned unconditionally and free from encumbrances after being paid for in full, upon the passing of the property therein, without obtaining financial accommodation for the purpose”.

**(b) Section 20A (1) (a) (i)—**

Before “the holder”, insert “by”.

**(c) Section 20A (1) (a) (ii)—**

Before “a person”, insert “by”.

**(d) Section 20A (1) (b)—**

Omit “in such exceptional circumstances as may be approved by the Board,”.

**(e) Section 20A (1) (b)—**

Omit “on terms and conditions”, insert instead “in accordance with financial and other arrangements”.

**(f) Section 20A (2)—**

Omit “terms and conditions upon”, insert instead “financial and other arrangements in accordance with”.

**(4) Section 21A (3) (b)—**

Omit “on terms and conditions”, insert instead “in accordance with financial and other arrangements”.

*Liquor (Further Amendment) 1985*SCHEDULE 3—*continued.*AMENDMENTS TO THE PRINCIPAL ACT RELATING TO AMUSEMENT DEVICES—  
*continued.*

## (5) Section 86—

After “function”, insert “and shall, as prescribed, make and keep up-to-date the prescribed records in the English language containing the prescribed particulars relating to approved amusement devices (if any) kept on the licensed premises”.

## (6) Section 138C (4)—

Omit “or” where firstly occurring, insert instead “and”.

## SCHEDULE 4.

(Sec. 5.)

## MISCELLANEOUS AMENDMENTS TO THE PRINCIPAL ACT.

## (1) Section 22 (3A)—

After section 22 (3), insert:—

(3A) Where an off-licence is a licence to sell liquor by retail, liquor shall not, except as provided by section 18 (7), be sold or supplied pursuant to the licence otherwise than in sealed containers.

## (2) Section 40 (1)—

After “the application”, insert “or are premises already erected”.

## (3) (a) Section 42 (1)—

Omit the subsection, insert instead:—

(1) This section applies where a licence is current and—

- (a) the licensee is evicted from the licensed premises; or
- (b) to the exclusion of the licensee, the owner of the licensed premises comes into, or becomes entitled to, possession of the licensed premises.

## (b) Section 42 (2)—

Omit “applies as referred to in subsection (1) (a)”, insert instead “applies”.

*Liquor (Further Amendment) 1985*SCHEDULE 4—*continued.*MISCELLANEOUS AMENDMENTS TO THE PRINCIPAL ACT—*continued.*

## (c) Section 42 (3), (4)—

Omit the subsections.

## (d) Section 42 (5)—

Omit the subsection, insert instead:—

(5) Where an application is made under subsection (2) not later than 14 days after this section becomes applicable, the applicant shall, until the application is heard and determined or otherwise disposed of, be deemed to be the licensee under the licence to which the application relates.

## (e) Section 42 (6)—

Omit “under subsection (1)”, insert instead “for transfer of a licence under this section unless, in the absence of special circumstances,”.

## (4) Section 47 (2), (3)—

At the end of section 47, insert:—

(2) Notwithstanding that an objection to the grant of an application for a licence on the ground specified in section 45 (1) (a) or (b) has not been taken or made out, the court may refuse the application if it finds, after subsection (3) has been complied with—

- (a) that the applicant is not a fit and proper person to be the holder of a licence; or
- (b) that a person directly or indirectly interested in the application, or in the business, or the profits of the business, to be carried on pursuant to the licence if the application were granted is not a fit and proper person to be so interested.

## (3) A finding under subsection (2) may not be made unless—

- (a) the applicant has been made aware of reasons for the possibility of such a finding;

*Liquor (Further Amendment) 1985*SCHEDULE 4—*continued.*MISCELLANEOUS AMENDMENTS TO THE PRINCIPAL ACT—*continued.*

- (b) the applicant has been given an opportunity to make submissions, and adduce evidence related to those reasons; and
  - (c) those reasons are, or include, the reasons for the finding.
- (5) (a) Section 55 (1)—  
After “paid”, insert “to the registrar or the Principal Registrar”.
- (b) Section 55 (2)—  
After “licence” where secondly occurring, insert “or while a stay under subsection (4) is in force”.
- (c) Section 55 (4)—  
After section 55 (3), insert:—
- (4) The court may stay the issue of a licence—
    - (a) until the expiration of the period within which an appeal against the adjudication granting the licence may be made or the expiration of the period of 1 month that next succeeds the adjudication, whichever is the later; and
    - (b) where such an appeal is lodged—until the appeal is heard and determined or otherwise disposed of,and may at any time terminate such a stay.
- (6) Section 61 (6), (6A)—  
Omit section 61 (6), insert instead:—
- (6) Before a transfer of a licence is granted—
    - (a) all records under the control of the transferor that relate to the business carried on pursuant to the licence shall, if this paragraph applies to the licence pursuant to an order under subsection (6A), be produced to the court for inspection; and
    - (b) if the court so requires, any unpaid amount of the licence fee shall be paid.



*Liquor (Further Amendment) 1985*SCHEDULE 4—*continued.*MISCELLANEOUS AMENDMENTS TO THE PRINCIPAL ACT—*continued.*

(6A) The Minister may, by order published in the Gazette, apply subsection (6) (a) to—

- (a) all licences of a specified class;
- (b) all licences that relate to licensed premises situated in a specified area; or
- (c) all licences of a specified class that relate to licensed premises situated in a specified area.

(7) (a) Section 67 (3) (b)—

After “(d)”, insert “, (e), (f) or (h)”.

(b) Section 67 (5)—

Omit the subsection, insert instead:—

(5) Where a complaint is made under this section, a copy of the complaint shall be served by post—

- (a) where the licensee occupies the licensed premises under a lease—on the lessor; and
- (b) on each person named—

- (i) in the affidavit referred to in section 38 (3) that accompanied the application for the licence; or
- (ii) if an affidavit accompanied an application for transfer of the licence as referred to in section 41 (4) or has been produced to the registrar under section 101 (4)—in the later or latest of those affidavits,

at the address of the person to be served last known to the Board and that lessor and each person so named may, at the hearing of the complaint, be represented and be heard.

(c) Section 67 (7)—

After section 67 (6), insert:—

(7) Notwithstanding the other provisions of this section, a licensee who fails to comply with a condition of his or her licence is guilty of an offence against this Act but the same

*Liquor (Further Amendment) 1985*SCHEDULE 4—*continued.*MISCELLANEOUS AMENDMENTS TO THE PRINCIPAL ACT—*continued.*

failure to comply with a condition of a licence may not be the subject both of proceedings under this subsection and an authorised complaint on the ground referred to in section 68 (1) (a) or (b).

## (8) (a) Section 68 (1) (d)—

Omit “, for reasons specified in the complaint,”.

## (b) Section 68 (1) (e)—

Omit “or”.

## (c) Section 68 (1) (g), (h)—

At the end of section 68 (1) (g), insert:—

; or

(h) that the licence is considered not to have been exercised in the public interest.

## (9) (a) Section 69 (1) (g)—

After “(d)”, insert “or (g)”.

## (b) Section 69 (1A)—

After section 69 (1), insert:—

(1A) Where, upon the hearing and determination under subsection (1) of the matter of a complaint, the court finds that the matter of the complaint has been made out, the court may, whether or not it acts under that subsection—

## (a) reprimand—

- (i) a person required by section 67 (5) (b) to be served with a copy of the complaint;
- (ii) a director of, or shareholder in, a proprietary company required to be so served; or
- (iii) a director of, or shareholder in, a corporation that, within the meaning of the Companies (New South Wales) Code, is a related corporation of a proprietary company referred to in subparagraph (ii);

*Liquor (Further Amendment) 1985*SCHEDULE 4—*continued.*MISCELLANEOUS AMENDMENTS TO THE PRINCIPAL ACT—*continued.*

- (b) order a person, director or shareholder referred to in paragraph (a) to pay to the Crown a monetary penalty not exceeding \$2,000; or
- (c) disqualify, for a period not exceeding 3 years commencing on a specified day, a person, director or shareholder referred to in paragraph (a) from being—
  - (i) a person interested in a business, or in the profits of a business, carried on pursuant to a licence; or
  - (ii) a director of, or shareholder in, a proprietary company so interested or a corporation that, within the meaning of the Companies (New South Wales) Code is a related corporation of such a proprietary company,

unless it is proved that the person, director or shareholder had no knowledge of the matter upon which the complaint was made out and used all due diligence to obviate the necessity for the complaint.

## (c) Section 69 (3)—

After “(1) (b)”, insert “or (1A) (b)”.

## (10) Section 77 (1)—

Omit “licensing” wherever occurring, insert instead “prescribed”.

## (11) Section 79 (1)—

Omit “it is, in writing, surrendered to the Board or is”, insert instead “its surrender in writing is accepted by the Board or it is”.

## (12) (a) Section 86 (2)—

After “relates”, insert “or in some other place approved by the Board”.

*Liquor (Further Amendment) 1985*

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SCHEDULE 4—*continued.*

MISCELLANEOUS AMENDMENTS TO THE PRINCIPAL ACT—*continued.*

(b) Section 86 (2A)—

After section 86 (2), insert:—

(2A) The holder of a licence shall retain, for the period of 5 years that next succeeds its coming into the licensee's possession, any document that relates to the business carried on pursuant to the licence.

Penalty: \$2,000.

(13) Section 87—

Omit "court" wherever occurring, insert instead "Board".

(14) Section 90—

After "premises" where secondly occurring, insert "of its own motion or".

(15) Section 94 (1)—

Omit the subsection, insert instead:—

(1) An owner of licensed premises, or the licensee, shall not, without the authority of the Board—

(a) make a material alteration or addition to the licensed premises except by carrying out work pursuant to an order of the Board under section 95; or

(b) substantially alter the use of any part of the licensed premises.

Penalty: \$500.

(16) (a) Section 95 (2)—

Omit "occupier of", insert instead "holder of the licence that relates to".



*Liquor (Further Amendment) 1985*SCHEDULE 4—*continued.*MISCELLANEOUS AMENDMENTS TO THE PRINCIPAL ACT—*continued.*

## (b) Section 95 (2A), (2B)—

After section 92 (2), insert:—

## (2A) Where—

- (a) the person against whom an order is made under subsection (1) refuses, or fails within a reasonable time, to comply with the order; and
- (b) the holder of the licence that relates to the premises to which the order relates does not, within a reasonable time after being notified of the refusal or failure referred to in paragraph (a), make an application under subsection (2),

the Board may give notice to the owner and the licensee to appear before it at a specified time and place and show cause why an order should not be made under subsection (2B).

(2B) The Board may, after hearing any persons who appear before it in accordance with a notice under subsection (2A), or of its own motion if there is no such appearance—

- (a) order and authorise the licensee to carry out the work to which the order under subsection (1) relates; or
- (b) order and authorise the owner and the licensee each to carry out such part of that work as the Board specified in the order,

within a reasonable time so specified or such extended time as the Board may allow.

## (c) Section 95 (3)—

After “subsection (1)” where firstly occurring, insert “or (2B)”.

## (d) Section 95 (3) (a)—

Omit “subsection (1)”, insert instead “that subsection”.

## (e) Section 95 (3) (b)—

Omit “paragraph (a)”, insert instead “subsection (1)”.

*Liquor (Further Amendment) 1985*SCHEDULE 4—*continued.*MISCELLANEOUS AMENDMENTS TO THE PRINCIPAL ACT—*continued.*

## (f) Section 95 (4)—

After “subsection (1)”, insert “or (2B)”.

## (17) Section 99 (1)—

After “95 (2)”, insert “or an order made under section 95 (2B),”.

## (18) Section 109—

Omit “Minister”, insert instead “Chairman of the Board”.

## (19) Section 110 (4) (a), (b)—

Omit the paragraphs, insert instead:—

- (a) examine each room and part of the premises;
- (b) take an account of any or all liquor that is on the premises;
- (c) examine any record that relates to the business carried on pursuant to the licence and make copies thereof or take extracts therefrom; or
- (d) examine any device in the nature of an approved amusement device and take readings therefrom.

## (20) (a) Section 120 (1)—

Omit “part of licensed premises”, insert instead “restricted area on premises to which a hotelier’s licence relates”.

## (b) Section 120 (1) (a)—

Omit “that part”, insert instead “the restricted area”.

## (21) Section 129 (1)—

Omit the subsection, insert instead:—

(1) A person shall not, if supplied on licensed premises with liquor, a meal or accommodation—

- (a) refuse or fail, on demand of payment made by the licensee, or the licensee’s employee or agent, to pay a reasonable amount therefor; or
- (b) avoid such a demand.

Penalty: \$250.

*Liquor (Further Amendment) 1985*

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SCHEDULE 4—*continued.*MISCELLANEOUS AMENDMENTS TO THE PRINCIPAL ACT—*continued.*

## (22) Section 141 (1A)—

After section 141 (1), insert:—

(1A) In any proceedings under this Act—

- (a) a certificate purporting to be signed by the secretary of the Board and stating that the licence fee for a specified licence has not been paid in respect of a specified licensing period is, without proof of the signature of the secretary of the Board, evidence of the matters stated therein; and
- (b) a certificate purporting to be signed by the secretary of the Board and stating—
  - (i) that a specified person held a specified licence immediately before the end of a specified assessment period for the licence; and
  - (ii) that the statutory declaration required by section 84 (2) to be lodged by that section had not been lodged in accordance with that subsection,is, without proof of the signature of the secretary of the Board, evidence of the matters stated therein.

## (23) (a) Section 156 (1) (k)—

Omit “and” where secondly occurring.

## (b) Section 156 (1) (l), (m)—

At the end of section 156 (1) (l), insert:—

; and

- (m) certificates to be given by special inspectors and the effect of those certificates in relation to the production of records.
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*Liquor (Further Amendment) 1985*

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## SCHEDULE 5.

(Sec. 6.)

## SAVINGS.

**Authority for use of part of premises by minor.**

1. Where, immediately before the date of assent to the Liquor (Further Amendment) Act, 1985, an authority granted by the court under section 87 of the Principal Act was in force—

- (a) the authority shall be deemed to have been granted on that date by the Board under section 87 of the Principal Act, as amended by this Act; and
- (b) any conditions imposed under section 87 of the Principal Act in relation to the authority shall be deemed to be conditions imposed by the Board under section 87 of the Principal Act, as amended by this Act.

**On-licence for premises within university or college.**

2. The amendments of the Principal Act effected by Schedule 1 (1) (a) and (c) and (5), and section 5 in its application to those provisions, do not affect—

- (a) an application for an on-licence referred to in section 18 (4) (e) of the Principal Act if the hearing of the application on the merits commenced before the date of assent to this Act; or
- (b) an on-licence referred to in section 18 (4) (e) of the Principal Act that was in force immediately before the date of assent to this Act.

*In the name and on behalf of Her Majesty I assent to this Act.*

**J. A. ROWLAND,**  
*Governor.*

**Government House,**  
*Sydney, 27th May, 1985.*

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BY AUTHORITY

D. WEST, GOVERNMENT PRINTER, NEW SOUTH WALES—1985





