

[CONFIDENTIAL.]

(Rough Draft for Consideration Only.)

No. , 1937.

A BILL

To regulate the keeping of billiard-tables; to repeal the Billiards and Bagatelle Act, 1902; to amend the Liquor Act, 1912, the Liquor (Amendment) Act, 1916; and certain other Acts in certain respects; and for purposes connected therewith.

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

1. (1) This Act may be cited as the "Billiards Act, 1937." Short title and commencement.

(2) This Act shall commence upon a date to be appointed by the Governor and notified by proclamation published in the Gazette.

2. (1) The Billiards and Bagatelle Act, 1902, is hereby repealed.

Repeal of Act No. 38, 1902.

(2) All licenses granted under the authority of the Act hereby repealed and subsisting at the commencement of this Act shall have force and effect as if this Act had been in force at the time they were granted and they had been granted hereunder, and this Act shall apply to them accordingly.

Savings.

(3) The Liquor Act, 1912, as amended by subsequent Acts, is amended by inserting in subsection ten of section five after the word "them" the words "or in a licensing court, by or under this or any other Act for the time being in force.

Amendment of Act No. 42, 1912, s. 5 (10).

(4) The Liquor (Amendment) Act, 1916, is amended by omitting sections eleven and nineteen.

Repeal of ss. 11 and 19 of Act No. 68, 1916.

3. In this Act, unless the context or subject matter otherwise indicates or requires—

Interpretation.

"Club" includes any society, association, or body of persons corporate or unincorporate.

"District" means a licensing district constituted under the Liquor Act, 1912, as amended by subsequent Acts.

"Inspector" means a district inspector or district sub-inspector appointed or holding office under the Liquor Act, 1912, as amended by subsequent Acts.

"License" means a license issued under this Act.

"Licensee" means a person holding a license issued under this Act.

"Licensed premises" means the premises in respect of which a license issued under this Act is in force.

"Licensing court" means the licensing court constituted under the Liquor Act, 1912, as amended by subsequent Acts.

"Prescribed" means prescribed by this Act or by regulations made thereunder.

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4. Subject to the provisions of this Act—

Billiard-table not to be kept on premises unless licensed.

- (a) a billiard-table shall not be kept for hire or profit by any person on any premises unless such person is the holder of a license issued in respect of such premises;
- (b) a billiard-table shall not be kept in or upon the premises of any club unless a license in respect of such premises is held by some person on behalf of such club.

5. Section four of this Act shall not extend to or in respect of any billiard-table which is kept in or upon the premises of—

Certain clubs exempted.

- (a) any School of Arts approved by the Minister for Education; or
- (b) any club the membership of which is confined to returned sailors or soldiers, that is to say, to persons who were appointed as officers or enlisted as members of the naval or military forces of the Commonwealth of Australia for service outside the Commonwealth of Australia, or who were appointed as officers or enlisted in the United Kingdom of Great Britain and Northern Ireland, or in the Irish Free State or in any of His Majesty's Dominions for service in His Majesty's naval or military forces, and who in either case served in such forces outside the Commonwealth of Australia during the Great War, 1914-1918; or
- (c) any Fire Brigades Club; or
- (d) any Railway and Tramway Institute or Club.

6. (1) (a) An application for a license or for the renewal, removal or transfer thereof shall be made in the manner and in or to the effect of the form prescribed.

Procedure in relation to licenses.

(b) The existing license shall be attached to the form of application for the renewal, removal or transfer of such license.

(2) (a) Every application for a new license or for the removal of a license shall be accompanied by a sketch plan of the premises for which the license is required, or to which it is desired to remove the license.

(b)

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(b) The sketch plan shall indicate the limits of the premises proposed to be licensed.

(3) Every application under this Act shall be lodged with the clerk of the licensing court of the district within which the premises are situated, and, except as provided in subsection six of this section, shall be heard by the licensing court.

(4) (a) Upon receipt of an application under this Act, the clerk shall forthwith notify the inspector who shall inquire into and report upon such application.

(b) It shall be the duty of the inspector to report as to the character of every applicant and of any proposed transferee, and also, having regard to the safety, health and convenience of the public, as to the suitability of premises proposed to be licensed.

(5) Upon the hearing of any application for a new license or for the removal or transfer of a license the applicant shall attend personally at the licensing court unless prevented by sickness or infirmity.

(6) Where no objection is lodged to the grant of an application for renewal of a license, the clerk with whom the application was lodged shall, on payment to him of the prescribed fee, issue the license.

(7) Where an objection is lodged to the grant of any application under this Act—

(a) the clerk of the licensing court shall notify the applicant that the grant of his application will be objected to, and shall set out in the notice the nature of the objection proposed to be made and the day upon which and the hour at which the application will be heard by the licensing court;

(b) the hearing of such application shall not take place until after the expiration of seven days after the lodging of the application.

(8) Subject to the provisions of subsection six of this section every application shall be heard in open court and the consideration of the application shall be deemed a judicial proceeding.

(9)

(9) (a) It shall be the duty of the licensing court to refuse the grant, renewal, or transfer of a license to any person who is of bad or doubtful character.

(b) Upon the hearing of an application for a new license, or for the removal of a license, the licensing court, where it considers the premises for which the license is sought are unsuitable to be licensed, may refuse to grant the application.

7. A license may subject to this Act be removed from any place within a district to any other place within such district. Removal of license.

8. (1) Upon the hearing of any application under this Act any objection whatsoever (not being a frivolous or vexatious objection) may be made by any person. Objections.

(2) Any applicant, upon an objection of which previous notice has not been given to him being raised at the hearing, shall be entitled to an adjournment thereof.

9. (1) Where the licensing court grants an application for a license or renewal of a license the clerk of the court shall, on payment to him of the annual fee, issue the license. Issue of licenses.

(2) Where the licensing court is satisfied that a license has been lost or destroyed or cannot be produced the court may issue a duplicate or substitute license upon payment of the fee of one pound.

10. (1) A license may be transferred or removed by endorsement by or on behalf of the licensing court. Transfer of license.

(2) Where a licensee has been legally evicted from any licensed premises or where the owner of such premises has come into legal possession to the exclusion of the licensee the licensing court may, notwithstanding the non-production of the license therefor, grant on the application in writing of the owner of the premises and the proposed transferee a transfer of such license to such transferee in the manner and in or to the effect of the form prescribed and such transferee shall until the end of the year for which the license has been granted possess all the rights of the original licensee and shall be liable to the same duties, obligations, and penalties as if such license had been originally granted to him. cf. Act No. 42, 1912, s. 37.

(3)

(3) For every such endorsement or grant of transfer a fee of one pound shall be paid.

11. (1) Any person desirous of obtaining a new license in respect of premises proposed to be erected, or in respect of premises already erected but requiring additions or alterations to make them suitable to be licensed under this Act may, before building such new premises or making such additions or alterations to premises already erected, make a conditional application in or to the effect of the form prescribed.

Conditional application in respect of premises to be erected or altered. cf. Act No. 42, 1912, s. 27.

(2) The applicant shall submit with his application a sketch plan and specifications of the premises proposed to be erected or of the proposed additions or alterations to existing premises, indicating upon such plan the limits of the premises proposed to be licensed.

(3) Where the licensing court grants a conditional application the clerk of the court shall retain the plan submitted.

(4) The granting of a conditional application shall remain in force until the completion of the premises, provided such completion is effected within the period prescribed by the licensing court, which period may be extended upon application as prescribed if the licensing court thinks fit.

(5) Upon completion of the premises within the prescribed period or any extension thereof, an inspector for the district in which the premises are situated shall, after examination of the premises, certify whether or not they are completed in accordance with the plan furnished, and if he certifies in the affirmative the clerk of the court shall issue the license upon payment of the proper license fee.

12. (1) Any owner or licensee of premises licensed under this Act, who is desirous of making any material alterations or additions to his licensed premises shall make application in writing to the licensing court for the district for permission to do so.

Alterations or additions to licensed premises. cf. *Ibid.* s. 40 (2).

(2)

(2) The application shall be accompanied by a plan and specifications of the proposed alterations or additions. Such plan shall indicate thereon any proposed alteration of the limits of the licensed premises.

A fee of one pound shall be payable on lodgment of the application.

(3) The license of any person who makes any material alteration or addition to his licensed premises without such permission shall be liable to cancellation.

13. No unmarried woman, not being a widow, shall be capable of holding a license.

Unmarried women.
Act No. 38,
1902, s. 7.

14. (1) Every license under this Act shall be in or to the effect of the form prescribed and shall remain in force from the date thereof until the thirty-first day of December next following, and shall be renewed annually.

Form and duration of license.
cf. Act No. 42, 1912, s. 9.

(2) The annual license fee shall be—

- (a) in the case of a license to keep one billiard-table, the sum of five pounds;
- (b) in the case of a license to keep more than one of such tables, a sum calculated on the basis of five pounds each for two of such tables, and two pounds ten shillings for each additional table:

Provided that the fee payable in respect of any one license shall not exceed thirty pounds.

(3) In the case of a license granted after the first day of July in any year, the fee for the remainder of such year shall be one-half the annual fee payable in respect of such license.

15. A license shall authorise the licensee therein named to keep one or more tables for playing the game of billiards according to the tenor of the license and to allow the same to be used between the hours of nine o'clock in the morning and eleven o'clock at night.

Effect of license.
cf. Act No. 38, 1902, s. 8.

16. (1) Upon the complaint of an inspector, any justice of the peace may summon any licensee to appear before a licensing court and show cause why his license should not be cancelled.

Cancellation of licenses.
cf. Act No. 42, 1912, s. 123.

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(2) Upon the appearance of such licensee, or in his absence after being duly summoned, such court shall proceed to hear and determine the matter of such complaint and if it appears that the circumstances justify such course may adjudge such license to be cancelled.

(3) Every such summons shall be served personally upon the licensee not less than fourteen days before the day appointed for the hearing of the complaint, or if such licensee evades service thereof, or if personal service cannot conveniently be effected, it shall be sufficient if the summons is posted up in a conspicuous place on his licensed premises not less than seven days before the day so appointed.

17. Licensed premises under this Act shall be deemed to be licensed premises within the meaning and for the purposes of the one hundred and twenty-second, one hundred and fifty-sixth, and one hundred and sixty-sixth sections of the Liquor Act, 1912, as amended by subsequent Acts.

Application of provisions of Liquor Act, 1912. cf. Act No. 38, 1902, s. 13.

18. (1) Every licensee, not being the holder of a license on behalf of a club, shall have and keep painted in letters at least two inches long on the front of his premises, or, in case he occupies a portion only of a building, on the front or entrance door of every room in which such licensee keeps a billiard-table, his name in full, with the words "Licensed to keep billiard-tables."

Licensed premises to have name of licensee, etc., painted thereon. cf. Ibid. s. 14.

(2) Any such licensee who neglects to comply with the requirements of this section shall, for the first offence, be liable to a penalty not exceeding forty shillings, and for any subsequent offence to a penalty not exceeding ten pounds.

19. Any licensee who—

- (a) permits or allows a billiard-table on the licensed premises to be used at any other time than during the hours permitted by this Act, or upon Sunday, Christmas Day, or Good Friday; or
- (b) knowingly permits any person under the age of eighteen years to frequent the licensed premises, or to play on any such table,

Offences by licensees. cf. Act No. 38, 1902, s. 15.

shall,

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shall, for the first offence, be liable to a penalty not exceeding *ten* pounds, and for every subsequent offence to a penalty not exceeding *thirty* pounds.

20. (1) Any person who keeps any billiard-table for hire or profit on any premises in contravention of paragraph (a) of section four of this Act, shall, for the first offence, be liable to a penalty not exceeding *twenty* pounds, and for every subsequent offence to a penalty not exceeding *fifty* pounds.

Penalty for keeping billiard-tables without license.

(2) Where a billiard-table is kept in or upon the premises of any club in contravention of paragraph (b) of section four of this Act, the secretary of the club, and every person who is for the time being in charge or apparently in charge of such billiard-table, shall severally be liable for the first offence to a penalty not exceeding *twenty* pounds, and for every subsequent offence to a penalty not exceeding *fifty* pounds.

(3) The proprietor of a proprietary club in or upon the premises of which a billiard-table is kept in contravention of paragraph (b) of section four of this Act shall be liable to a penalty not exceeding *fifty* pounds and in addition thereto to a penalty of *one* pound for each day during which such billiard-table is so kept.

21. Any licensee who without the permission of the licensing court sublets his licensed premises or any part thereof shall be guilty of an offence against this Act, and shall be liable to a penalty not exceeding *thirty* pounds.

Subletting licensed premises.

22. If a licensee suffers any gaming for stakes or any unlawful game to be carried on in his licensed premises; or if he or any servant or person in charge of a billiard-table in or upon such premises permits or allows or connives at the playing of any such game therein or in the appurtenances thereof; or if any licensee or servant or person in charge of a billiard-table in or upon the licensed premises uses or permits or allows or connives at the use of the licensed premises in contravention of the Gaming and Betting Act, 1912, or of any Act amending or replacing the same, every such person so offending shall

Gaming prohibited in licensed premises. cf. Act No. 42, 1912, s. 44.

shall be liable to a penalty not exceeding for the first offence *ten* pounds, and not exceeding for the second or any subsequent offence *fifty* pounds.

23. (1) Every licensee shall—

- (a) cause the licensed premises to be furnished with proper sanitary appliances sufficient for persons resorting to the premises; and
- (b) maintain such appliances and any room or place in which they are in a good sanitary condition; and
- (c) keep the licensed premises free from offensive or unwholesome matters.

Require-
ments as to
sanitary
appliances
on licensed
premises.

(2) Any licensee who fails to carry out any of the provisions of this section shall be liable to a penalty not exceeding *ten* pounds.

24. All penalties imposed by this Act or the regulations made thereunder may be recovered in a summary way before the licensing court of the licensing district in which the offence was committed, or before a stipendiary or police magistrate or two or more justices.

Recovery
of penalties,
etc.

25. (1) Any person dissatisfied with any adjudication of a licensing court under this Act may appeal from such adjudication to a court of quarter sessions. The provisions of Division 4 of Part V of the Justices Act, 1902, or of any Act amending the same, shall, save as is hereinafter provided, apply, *mutatis mutandis*, to appeals under this section from any such adjudication.

Appeals.
Act No. 42,
1912, s. 170.

(2) Any person appealing against the cancellation or the refusal of a renewal of a license shall, at the time he gives notice of his intention to appeal, lodge with the clerk of the licensing court the sum of five pounds as security for costs, and in the case of a refusal of a renewal, a further sum equal to the prescribed license fee; and thereupon the license shall be deemed to be in force until the hearing of the appeal.

If, at the hearing of the appeal, the matter is determined against the appellant, the last-mentioned sum shall be applied in paying a proportionate part of the license fee for the time after the expiration of the former license, and the balance shall be refunded to the appellant.

26.

26. (1) In any proceedings under this Act against any person alleged to be the holder of a license in respect of any premises, the averment in the information or complaint that such person is the holder of a license in respect of such premises shall be prima facie evidence thereof.

Proof of license.

(2) In any proceedings under this Act against any person alleged not to be the holder of a license, such person for all purposes connected with such proceedings shall be deemed and taken to be unlicensed, unless he produces such license or other satisfactory proof of his being duly licensed.

cf. Act No. 42, 1912, s. 174 (2).

27. (1) The Governor may make regulations prescribing all matters which by this Act are required or permitted to be prescribed, or which are necessary or convenient to be prescribed for carrying this Act into effect.

Regulations.

(2) The regulations shall—

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

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