

[CONFIDENTIAL.]

(Rough Draft for Consideration Only.)

No. , 1935.

A BILL

To make further provisions for regulating the keeping of billiard tables and bagatelle boards ; to amend the Billiards and Bagatelle Act, 1902, and certain other Acts ; 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 and Bagatelle (Amendment) Act, 1935." Short title.

(2) In this Act the Billiards and Bagatelle Act, 1902, as amended by subsequent Acts, is referred to as the Principal Act.

(3) The Principal Act as amended by this Act may be cited as the Billiards and Bagatelle Act, 1902-1935.

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

2. (1) The Principal Act is amended—

(a) (i) by inserting in section three in appropriate positions, having regard to alphabetical order, the following definitions:—

Amendment
of Act No.
38, 1902,
s. 3.
(Interpreta-
tion.)

“ 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;

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

(ii) by omitting from the same section the words and figures “ Liquor Act, 1898,” and by inserting in lieu thereof the words and figures “ Liquor Act, 1912, as amended by subsequent Acts.”

(b) (i) by omitting subsection one of section four and by inserting in lieu thereof the following subsection:—

Sec. 4 (1).

(1) Any person being the holder of a publican's license desirous of keeping billiard tables or bagatelle boards in his licensed premises may make an application in writing in or to the effect of the form of the First Schedule to this Act to the licensing court for the district in which such premises are situated for a license to keep such tables or boards in such premises.

Application
for license.

First
Schedule.

(ii)

(ii) by inserting at the end of the same section the following new subsection:— New subsec. (3).

(3) 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.

(c) by inserting next after section four the following new sections:— New ss. 4A, 4B, 4C.

4A. Any license granted under this Act may subject to this Act be renewed or transferred, or removed from any place within a licensing district to any other place within such district, on application in writing to the licensing court for the district in which the license was granted. Renewal, transfer, and removal of license.

4B. (1) Upon any application under this Act whether for the grant, renewal, removal, or transfer of a license, or upon a conditional application, any objection whatsoever (not being a frivolous or vexatious objection) may be made by any person. Objections.

(2) Objections may be made either personally or by petition to the licensing court.

(3) If at the hearing of any application it appears that the applicant has not received reasonable notice of any objection made against his application he shall be entitled to an adjournment of the proceedings.

4C. Where a licensee has been legally evicted from any licensed premises the licensing court may, notwithstanding the nonproduction 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, 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. Transfer on legal eviction. cf. Act No. 42, 1912, s. 37.

(d)

(d) by omitting sections five and six and by inserting in lieu thereof the following sections:— Secs. 5, 6, 6A.

5. (1) The licensing court, if satisfied that an application for a new license should be granted, may authorise the issue by the clerk of the court of the license upon payment of the proper fee, and shall record the decision upon the application. Issue of license, renewal, etc.

(2) An applicant for renewal of a license shall produce his license to the licensing court and shall, if his application is granted, pay the annual license fee payable under this Act to the clerk of the court.

(3) A license may be transferred or removed by endorsement by or on behalf of the licensing court, and the fee payable for any such endorsement shall be one pound.

(4) Where the licensing court is satisfied that a license has been lost or destroyed or cannot be produced for the purposes of an application for transfer on legal eviction pursuant to section 4c the court may issue a duplicate or substitute license upon payment of the fee of one pound.

6. (1) Any person desirous of obtaining a new license in respect of premises proposed to be erected, or for 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 to the licensing court. Conditional application.

(2) The application shall be in writing in or to the effect of the form of the First Schedule to this Act, and shall be accompanied by the certificate referred to in subsection two of section four of this Act, together with a fee of five pounds. First Schedule.

(3)

(3) The applicant shall submit with his application a sketch plan of the premises proposed to be erected or of the proposed alterations or additions to existing premises.

(4) Where the licensing court is satisfied after considering the conditional application and any objections made thereto, that the application should be granted, such court may, after recording its decision in the book of proceedings of the court furnish a copy of such record to the applicant, and deposit with the clerk of the court the plan submitted.

(5) 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 court, which period may be extended if the court thinks fit.

(6) 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.

6A. (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 and additions.

(2) The application shall be accompanied by a plan of the proposed alterations or additions.

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

(3)

(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.

(e) by omitting section eight and by inserting in lieu thereof the following section:—

8. The license shall authorise the licensee therein named to keep for hire one or more tables or boards for playing the game of billiards or bagatelle according to the tenor of the license and to allow the same to be used:—

Effect of license.

(a) where the licensee is the holder of a publican's license, and the tables or boards are situate within the premises in respect of which the publican's license is held—between the hours of nine o'clock in the morning and six o'clock in the evening of the same day; or

(b) in any other case, between the hours of nine o'clock in the morning and ten o'clock in the evening of the same day.

(f) by omitting section ten.

Sec. 10. (Consequential.)

(2) Section nineteen of the Liquor (Amendment) Act, 1916, is repealed.

Amendment of Act No. 68, 1916, s. 19.

3. The Principal Act is further amended by omitting section nine and by inserting in lieu thereof the following section:—

Further amendment of Act No. 38, 1902, s. 9.

9. (1) Every license under this Act shall be in or to the effect of the form of the Fourth Schedule and shall remain in force from the date thereof until the first day of January next following, and shall be renewed annually.

Form of license and fee for license. Fourth Schedule.

(2) The annual license fee shall be—

(a) in the case of a license to keep one billiard table or bagatelle board, the sum of five pounds;

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

Provided

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Provided that the maximum fee payable in respect of any one license shall not exceed one hundred 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.

4. The Principal Act is further amended—

Further amendment of Act No. 33, 1902.

(a) by omitting from section eleven the word "twice";

Sec. 11. (Cancellation.)

(b) by inserting in section fifteen after the words "eighteen years" the words "to frequent his licensed premises or";

Sec. 15. (Offences.)

(c) by inserting next after section sixteen the following new sections:—

New ss. 16A, 16B, 16C.

16A. Any licensee under this Act 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.

Licensee not to sublet.

16B. If a licensee under this Act suffers any gaming for stakes or any unlawful game whatsoever to be carried on in his licensed premises; or if he or any servant or person in charge of such premises connives at the playing of any such game therein or in the appurtenances thereof; or if any such licensee opens, keeps, or uses, or suffers his premises to be opened, kept, or used in contravention of the Gaming and Betting Act, 1912, or of any Act amending the same, every such person so offending shall be liable to a penalty not exceeding for the first offence *ten* pounds, and not exceeding for the second or any subsequent offence *twenty* pounds.

Gaming prohibited.

16c. (1) Every licensee under this Act shall—

Sanitary provisions.

(a) cause his licensed premises to be furnished with proper sanitary appliances sufficient for persons resorting to the premises; and

(b)

- (b) maintain such appliances and any room or place in which they are in a good sanitary condition; and
- (c) keep his licensed premises free from offensive or unwholesome matters.

(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.

5. The Principal Act is further amended—

Further amendment of Act No. 38, 1902.

- (a) by inserting in section three in appropriate position, having regard to alphabetical order, the following definition:—

Sec. 3.
(Definition of "club.")

“ club ” includes any society, association, or body of persons, corporate or unincorporate.

- (b) by inserting at the end of section sixteen the following new subsection:—

Sec. 16.

(2) (a) A billiard table or bagatelle board shall not be kept by or on behalf of any club for use by any person whomsoever unless a license under this Act is held by some person authorising the keeping of such billiard table or bagatelle board.

Club not to keep billiard table or bagatelle board unless license is held.

(b) The person for the time being in charge or apparently in charge of any billiard table or bagatelle board kept in contravention of this subsection, shall be liable to a penalty not exceeding *ten* pounds nor less than *forty* shillings, and for every subsequent offence to a penalty not exceeding *thirty* pounds nor less than *ten* pounds.

It shall be a sufficient defence in any prosecution under this paragraph if the person charged proves that he had reasonable grounds for believing, and did in fact believe, that at the time of the alleged offence a license under this Act was held by some person authorising the keeping of such billiard table or bagatelle board.

(c)

(c) The proprietor of a proprietary club by or on behalf of which a billiard table or bagatelle board is kept in contravention of this section shall be liable to a penalty not exceeding *fifty* pounds nor less than *five* pounds and also to a penalty of *one* pound for each day during which the billiard table or bagatelle board is so kept.

(c) by inserting next after section 16c, as inserted ^{New ss. 16d, 16e.} by section four of this Act, the following new sections:—

16d. (1) Section sixteen of this Act shall not extend to or in respect of any billiard table or bagatelle board which is kept by or on behalf of a club registered or deemed to be registered under this Act. ^{Registered clubs.}

(2) Where registration under this Act of any club is sought application therefor shall be made to the licensing court for the district in which are situated the premises upon which a billiard table or bagatelle board is being or is proposed to be kept by or on behalf of the club.

(3) Every club registered under Part X of the Liquor Act, 1912, and every school of arts, literary institute, returned soldiers' club, residential club having accommodation for at least ten members (or if its premises are situated within the Metropolitan Licensing District or Newcastle Licensing District for at least twenty members), and club registered under the Companies Act, 1899, before the thirty-first day of December, one thousand nine hundred and twenty-seven, shall be deemed to be a club registered under this Act.

16e. (1) The Governor may make regulations ^{Regulations.} prescribing all matters which are necessary or convenient to be prescribed for carrying this Act into effect.

(2) In particular and without prejudice to the generality of subsection one of this section the Governor may make regulations providing for

for the procedure in relation to the registration of clubs under this Act, the conditions under which clubs may be so registered and for all matters connected with such registration, including any of the matters dealt with in Part X of the Liquor Act, 1912.

(3) The regulations may impose a penalty not exceeding *thirty* pounds for any breach thereof.

(4) 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.

(5) 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.

6. (1) The Principal Act is further amended—

- (a) by omitting from section twelve the words “seventy-seventh and seventy-ninth sections of the Liquor Act, 1898,” and by inserting in lieu thereof the words “one hundred and sixteenth and one hundred and eighteenth sections of the Liquor Act, 1912, as amended by subsequent Acts”;

Further amend-
ment of Act No.
38, 1902.
(Revision.)

Sec. 12.
(Deceased
and insane
licensee.)

(b)

- (b) by omitting from section thirteen the words "eighty-third, ninety-first, and one hundred and first sections of the Liquor Act, 1898," and by inserting in lieu thereof the words "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"; Sec. 13.
(Billiard-room to be licensed.)
- (c) by omitting from section seventeen the words "Liquor Act, 1898, as amended by the Act No. 71, 1900, consolidated in " and by inserting in lieu thereof the words "Liquor Act, 1912, as amended by subsequent Acts, and " Sec. 17.
(Legal proceedings.)
- (d) by omitting the First Schedule and by inserting in lieu thereof the following Schedule:— First Schedule.

FIRST SCHEDULE.

Sec. 4 (1).

Form of application for a billiard or bagatelle license.

To the Licensing Court of the Licensing District of _____, I, A.B., now residing at _____ in the Licensing District of _____, in New South Wales, do hereby give notice that it is my intention to apply to the Licensing Court to be holden on the day of _____ for a *billiard *[or bagatelle] license for premises situate at [state short particulars of premises].
I intend to use † _____ *tables or *boards on such premises.

Given under my hand this _____ day of 19 _____

(Name and address of applicant.)

* Strike out unnecessary words.
† State number of tables or boards.

- (e) by omitting the Third Schedule; Third Schedule.
- (f) by omitting the Fourth Schedule and by inserting the following Schedule in lieu thereof:— Fourth Schedule.

FOURTH SCHEDULE.

Sec. 9.

Form of Billiard or Bagatelle License.

WHEREAS the Licensing Court holden at _____ on the _____ day of _____, one thousand nine hundred and _____, have authorised the issue to _____, under the Billiards and Bagatelle Act

Billiards and Bagatelle (Amendment).

Act, 1902-1935, of *(the renewal of) { a billiard license
} a bagatelle license
(held by him) for the premises †(known by the sign of the
) (or situated at) in the State
of New South Wales: And whereas the sum of

as the fee on such license has been
paid to me: Now I, the officer duly authorised to issue
licenses under the said Act, in virtue of the powers vested
in me by the said Act, do hereby declare that the said
is licensed to keep, set up, and maintain
‡ billiard tables or bagatelle boards in the said
premises, but not elsewhere, to be used only during the
hours prescribed by section 8 of the Billiards and Bagatelle
Act, 1902-1935, as amended by subsequent Acts. And this
license shall commence on the day of
, one thousand nine hundred and
, and continue in force until the first day
of January next following, provided it be not forfeited in
the meantime.

Given under my Hand and Seal of the said Court
this day of , one thousand
nine hundred and

Number of †tables or boards‡

Fee, £

(L.S.)

Clerk of the Licensing Court for the
Licensing District.

* Words in brackets to be ruled out in case of new license.
† Strike out unnecessary words.
‡ State number of tables or boards.

