

AUSTRALIAN CAPITAL TERRITORY.

No. 1 of 1948.

AN ORDINANCE

To amend the Liquor Ordinance 1929-1946, and for other purposes.

BE it ordained by the Governor-General in and over the Commonwealth of Australia, with the advice of the Federal Executive Council, in pursuance of the powers conferred by the *Seat of Government Acceptance Act 1909-1938* and the *Seat of Government (Administration) Act 1910-1947*, as follows:—

1.—(1.) This Ordinance may be cited as the *Liquor Ordinance 1948*.^{*} Short title and citation.

(2.) The *Liquor Ordinance 1929-1946* is in this Ordinance referred to as the Principal Ordinance.

(3.) The Principal Ordinance, as amended by this Ordinance, may be cited as the *Liquor Ordinance 1929-1948*.

2. Section two of the *Liquor Ordinance 1942* is repealed.

Amendment of
Liquor Ordinance 1942.
Definitions.

3. Section five of the Principal Ordinance is amended—

(a) by omitting from paragraph (a) of the definition of “Bona fide traveller” the word “and” (last occurring);

(b) by adding at the end of that definition the following word and paragraph:—

“; and (c) on being requested so to do by the licensee, makes a declaration in the prescribed form that he has complied with the requirements of paragraphs (a) and (b) of this definition and that the object of his journey was not for the purpose of obtaining liquor;”;

(c) by inserting, after the definition of “Licensee”, the following definition:—

“‘light wines’ means wine, cider or perry made in Australia containing, in the case of wine, not more than twenty-five per centum of proof spirit, and, in the case of cider or perry, not more than twelve per centum of proof spirit;”;

^{*} Notified in the *Commonwealth Gazette* on 30th January, 1948.
7944.—PRICE 8D.

(d) by inserting, after the definition of "liquor", the following definition:—

"'malted liquor' means beer, ale, porter or stout;";

(e) by inserting in the definition of "Prohibited hours", before the word "twenty-fifth", the words "morning of the"; and

(f) by inserting in the definition of "Trading hours", before the word "twenty-fifth", the words "morning of the".

Licensing
Magistrate.

4. Section eight of the Principal Ordinance is amended by omitting sub-section (4.).

5. After section eight of the Principal Ordinance the following section is inserted:—

Deputy
Licensing
Magistrate.

"8A.—(1.) The Governor-General may appoint a Deputy Licensing Magistrate.

"(2.) In the case of the absence from the Territory or temporary incapacity of the Magistrate, the Deputy Licensing Magistrate shall have and may exercise all the powers and duties of the Magistrate in respect of applications under section twenty-four, section thirty or section sixty-one of this Ordinance and for that purpose may appoint days for special sittings to be held for the hearing of those applications.

"(3.) The Deputy Licensing Magistrate shall hold office during the pleasure of the Governor-General."

Registrar.

6. Section thirteen of the Principal Ordinance is amended—

(a) by omitting from sub-section (1.) the word "and" (third occurring); and

(b) by adding at the end of that sub-section the words "and perform such other duties as the Minister directs or as are prescribed".

Inspectors.

7. Section fourteen of the Principal Ordinance is amended by inserting in sub-section (2.), after the word "duties", the words "as the Minister directs or".

Licences.

8. Section eighteen of the Principal Ordinance is amended by inserting in sub-section (1.), after paragraph (a), the following paragraph:—

"(b) Restaurant Licences, which shall be in accordance with Form 2 in the Schedule;".

Residential
Hotel Licence.

9. Section nineteen of the Principal Ordinance is amended—

(a) by omitting the proviso to sub-section (1.);

(b) by omitting from paragraph (c) of sub-section (2.) the words "and their guests and";

- (c) by omitting from paragraph (d) of that sub-section the words "and their guests"; and
- (d) by adding at the end of that sub-section the following paragraphs:—

- "(e) at any time to guests of a lodger only in the company of, and at the expense of, the lodger for consumption on the premises; and
- (f) to guests of a boarder, within the hours prescribed for boarders, only in the company of, and at the expense of, the boarder for consumption on the premises."

10. Section twenty of the Principal Ordinance is amended by omitting from paragraph (a) of sub-section (1.) the word "fifteen" and inserting in its stead the word "twenty-five".

Conditions of
grant or
renewal of
Residential
Hotel Licence.

11. After section twenty of the Principal Ordinance the following sections are inserted:—

"21.—(1.) A Restaurant Licence may be granted to the lessee of premises used as a restaurant.

Restaurant
Licences.

"(2.) Subject to the provisions of this Ordinance, a Restaurant Licence shall authorize the licensee to sell and supply light wines and malted liquors on the licensed premises—

- (a) between the hours of twelve noon and half-past two o'clock in the afternoon, and between six and nine o'clock in the evening, on any day other than a Sunday, Good Friday, Christmas Day or any day or portion of a day which is prescribed;
- (b) as part of a *bona fide* meal, to a person having on the premises a meal for which a price (excluding the price of any liquor) of not less than Two shillings and sixpence is paid; and
- (c) in a sealed bottle at the table at which the person having a meal is seated, subject to the condition that the bottle shall be opened in the presence of that person and shall bear a label showing thereon the name and address of the person responsible for bottling the contents of the bottle and such other particulars as are prescribed.

"(3.) All bottles in which light wine or malted liquor is supplied in a restaurant and all drinking vessels used in the consumption of that wine or malted liquor shall be removed from every dining room of the restaurant—

- (a) where the light wine or malted liquor is served between the hours of twelve noon and half-past two o'clock in the afternoon of any day—before three o'clock in the afternoon of that day; and

- (b) where the light wine or malted liquor is served between the hours of six o'clock and nine o'clock in the evening of any day—before half-past nine o'clock in the evening of that day.

“(4.) A person, other than the holder of a Restaurant Licence or his servant or agent, shall not carry liquor into or away from a restaurant.

“(5.) Except as provided by this section, a person shall not drink liquor or permit or suffer liquor to be drunk in a restaurant licensed under this Ordinance.

“(6.) It shall be a defence to a prosecution under the last preceding sub-section that the liquor was drunk—

- (a) by the occupier of the premises or a member of the family of the occupier dwelling on the premises or a servant of the occupier ; or
- (b) by a person or a member of the class of persons specified in a special permit granted in pursuance of section thirty of this Ordinance and that the liquor was drunk during the hours and in the rooms or places specified in the permit. Proof of any matters referred to in this sub-section shall lie on the person charged.

“(7.) A person who contravenes or fails to comply with any provision of this section shall be guilty of an offence and shall be liable, on conviction, to a penalty not exceeding Fifty pounds.

“22.—(1.) A Restaurant Licence shall not be granted or renewed unless—

- (a) the applicant has submitted with his application for a licence a plan of the premises in which the restaurant to which the application relates is situated, showing—
- (i) the precise locality of the premises;
 - (ii) the part or parts of the premises which constitute the restaurant;
 - (iii) the situation of the restaurant in relation to other parts of the premises;
 - (iv) the size of the room or rooms which constitute the restaurant and, where there is more than one room, the situation of the rooms in relation to each other;
 - (v) the situation, character and extent of the seating accommodation provided for customers in the restaurant;
 - (vi) the situation and character of the sanitary accommodation for both sexes provided in the restaurant; and
 - (vii) such other particulars (if any) as are prescribed;

Conditions of
grant or
renewal of
Restaurant
Licence.

- (b) the restaurant in respect of which the application is made is a well-appointed eating house and is provided, to the satisfaction of the Magistrate, with—
- (i) adequate staff, fittings, furniture, equipment and accommodation for the provision of meals for at least fifty persons at the same time;
 - (ii) not less than fifty separate seats for the accommodation of customers, the separate seats being seats each of which is constructed for occupation by one person only;
 - (iii) sanitary accommodation for both sexes of such extent and standard as, in the opinion of the Magistrate, is necessary;
 - (iv) protection from the ingress of flies and insects by such wire doors and screens as the Magistrate thinks sufficient; and
 - (v) such system of natural or artificial ventilation as the Magistrate thinks sufficient; and
- (c) the applicant has the immediate supervision of the conduct of the business of the restaurant in respect of which the application is made, but the fact that the applicant is an employee of any other person, body corporate or firm shall not, of itself, but subject to this Ordinance, preclude the grant of the application.

“(2.) The licence-fee for the grant of a Restaurant Licence shall be Thirty pounds and for a renewal of the licence a sum equal to Five per centum of the amount paid or payable for all liquor (including duties thereon) purchased or procured, during the twelve months immediately preceding the application, for disposal under the licence sought to be renewed, or Thirty pounds, whichever is the greater:

Provided that, where a licence has not been in force during the whole of the twelve months immediately preceding the application, the licence-fee payable by a licensee on the renewal of a Restaurant Licence shall be not less than Thirty pounds.

“23. The holder of a Restaurant Licence shall, upon ceasing to have the immediate supervision of the conduct of the premises of the restaurant to which the licence relates, forthwith forward the licence to the Registrar, and a licence shall, upon the holder thereof ceasing to have such immediate supervision, cease to have any force or effect. Return of licence.

Penalty: Twenty pounds.

“23A. A person shall not, in any restaurant licensed under this Ordinance, obtain or attempt to obtain light wine or malted liquor by falsely representing that he intends, at the same time, to partake of a meal in the restaurant. Obtaining liquor in restaurant.

Penalty: Twenty pounds.”

Booth Licence. **12.** Section twenty-four of the Principal Ordinance is amended—

- (a) by omitting from sub-section (1.) the words “(being also the holder of a Residential Hotel Licence)”;
- (b) by inserting after that sub-section the following sub-section:—

“(1A.) A Booth Licence may be granted to the holder of a Residential Hotel Licence or a Club Licence or to the Secretary of a club or other body organizing a fair, show, race-meeting or sports meeting on behalf of that club or other body if, in the opinion of the Magistrate or Registrar, the granting of a Booth Licence is desirable for the accommodation of the public and the number of persons likely to be in attendance is sufficient to justify the issue of a Booth Licence.”;

- (c) by omitting from sub-section (3.) the words “seventy-two hours” and inserting in their stead the words “, and shall be published in a newspaper circulating in the Territory, fourteen days”; and
- (d) by inserting after that sub-section the following sub-section:—

“(3A.) Upon receipt of a notice of application, the Registrar shall forthwith forward a copy thereof to the Minister.”.

Renewals. **13.** Section twenty-seven of the Principal Ordinance is amended by omitting from sub-section (1.) the word “seven” and inserting in its stead the word “twenty-one”.

Permits. **14.** Section thirty of the Principal Ordinance is amended—

- (a) by inserting in sub-section (1.), before the word “twenty-fifth”, the words “morning of the”; and
- (b) by inserting in sub-section (5.), after the word “made” (second occurring), the words “and evidence of consent, by the person in possession of or controlling the premises in which it is proposed to hold the entertainment, to the use, by the applicant, of those premises for the purpose of holding the entertainment”.

Applications for licences, &c. **15.** Section thirty-two of the Principal Ordinance is amended—

- (a) by omitting from sub-section (3.) the word “Fourteen” and inserting in its stead the word “Twenty-one”;
- (b) by inserting in that sub-section, after the word “grant”, the word “renewal”; and
- (c) by omitting from sub-section (4.) the words “Club or”.

16. Section thirty-five of the Principal Ordinance is amended by inserting in sub-section (2.), after the word "firm" (second occurring), the words "made in accordance with the provisions of section thirty-two of this Ordinance".

Corporation or firm may hold licence.

17. Section forty-two of the Principal Ordinance is amended by adding at the end thereof the following sub-section:—

Register of lodgers.

"(2.) A person in respect of whom particulars are required to be entered in the register in pursuance of the last preceding sub-section shall not make any false statement or give any false information to the licensee relating to those particulars.

Penalty: Five pounds."

18. Section forty-three of the Principal Ordinance is amended by omitting from paragraph (c) of sub-section (1.) the word "Twenty" and inserting in its stead the word "Fifty".

Offences by licensees.

19. Section forty-three A of the Principal Ordinance is amended by adding at the end thereof the following sub-section:—

Sale of bottled liquor.

"(2.) Nothing in this section shall apply to the purchase of liquor for consumption at an approved entertainment in respect of which a special permit has been granted in pursuance of section thirty of this Ordinance."

20. Section forty-three B of the Principal Ordinance is repealed.

Sale of liquor to intoxicated servicemen.

21. Section forty-three D of the Principal Ordinance is amended by omitting from sub-section (4.) the words "having inspected an identity card apparently issued under the National Security (Man Power) Regulations produced by the person to whom the liquor was sold, given or supplied,".

Sale of liquor to females in bar rooms prohibited, &c.

22. Section forty-five of the Principal Ordinance is amended—

Persons holding more than one licence.

(a) by omitting from sub-section (1.) the words "except with the approval of the Minister (proof whereof shall lie upon the person accused)"; and

(b) by inserting after that sub-section the following sub-section:—

"(2.) Any interference by a licensee, or a person licensed to sell liquor under the law of a State, with the business of any licensed premises, other than the premises in respect of which he is licensed, shall be *prima facie* evidence of a beneficial interest for the purposes of this section."

23. After section forty-five of the Principal Ordinance the following section is inserted:—

"45A. A licence shall not be granted, renewed or transferred to a person, body corporate or firm licensed under an Act to manufacture liquor."

Licence not to be granted to manufacturer.

Liquor in vicinity of public halls.

24. Section fifty-four A of the Principal Ordinance is amended—

- (a) by omitting from sub-section (1.) the words “in the vicinity” and inserting in their stead the words “within a radius of four hundred yards”; and
 (c) by omitting paragraph (a) of sub-section (3.).

25. After section fifty-four A of the Principal Ordinance the following section is inserted:—

Liquor in public motor vehicle, or private hire car.

“54B.—(1.) The driver or person in charge of a public motor vehicle or private hire car shall not, whilst the public motor vehicle is plying for hire or conveying passengers, have any liquor in his possession or under his control, in or on that public motor vehicle or private hire car.

Penalty: Fifty pounds.

“(2.) In this section, ‘public motor vehicle’ and ‘private hire car’ have the same meanings as in the *Motor Traffic Ordinance 1936-1947.*”

Supply of meals and accommodation.

26. Section fifty-eight of the Principal Ordinance is amended by omitting sub-section (2.) and inserting in its stead the following sub-sections:—

“(2.) The holder of a Residential Hotel Licence shall not, without reasonable cause, proof whereof shall lie upon him, refuse to supply meals or accommodation, or any service required by the provisions of this Ordinance, when demanded, at any reasonable time, provided that a reasonable sum is tendered in payment therefor.

Penalty: Ten pounds.

“(3.) The holder of a Residential Hotel Licence shall reserve at least five bedrooms for the accommodation of persons other than permanent lodgers.”

27. After section fifty-eight of the Principal Ordinance the following section is inserted:—

Recovery of debts.

“58A.—(1.) A licensee shall not maintain any action for, or recover any debt or demand on account of, liquor sold or delivered unless the debt has been *bona fide* contracted at one time to the amount of Twenty shillings or upwards.

“(2.) Notwithstanding the provisions of the last preceding sub-section, a licensee may keep an account with lodgers or *bona fide* travellers in which any charge for liquor may be included and lawfully recovered as part of the amount thereof.

“(3.) A person who at the time is being supplied with liquor or is supplied with meals or accommodation on licensed premises shall not, on demand of payment by the licensee or his servant or agent, refuse to pay a reasonable sum for the liquor, meals or accommodation supplied.

Penalty: Ten pounds.”

28. The Schedule to the Principal Ordinance is amended— The Schedule.

- (a) by omitting from Form 1 the words "situated at" and inserting in their stead the words "situated at and delineated on the attached plan";
- (b) by inserting in paragraph (a) of that Form, before the word "twenty-fifth", the words "morning of the";
- (c) by omitting from paragraph (c) of that Form the words "and their guests; and";
- (d) by omitting from paragraph (d) of that Form the words "and their guests";
- (e) by inserting in that Form, after paragraph (d), the following paragraphs:—
 - "(e) at any time to the guests of a lodger, only in the company of, and at the expense of, the lodger for consumption on the said premises; and
 - (f) to guests of a boarder, within the hours prescribed for boarders, only in the company of, and at the expense of, the boarder for consumption on the said premises."
- (f) by inserting after Form 1 the following Form:—

"Section 18.

FORM 2.

THE AUSTRALIAN CAPITAL TERRITORY.

Liquor Ordinance 1929-1948.

RESTAURANT LICENCE.

Whereas the Licensing Magistrate for the Australian Capital Territory has granted to _____ of _____ a Restaurant Licence _____ the renewal of a Restaurant Licence in respect of certain premises known as _____ situated at _____ and delineated on the attached plan:

And whereas the requisite fee for the said licence, renewal as specified hereunder, has this day been paid into my office, I do hereby declare that the person aforesaid is, subject to the provisions of the said Ordinance, authorized by himself, his servants or agents to sell and supply light wines and malted liquors on the said premises—

- (a) between the hours of twelve noon and half-past two o'clock in the afternoon, and between six and nine o'clock in the evening, on any day other than a Sunday, Good Friday, Christmas Day or any day or portion of a day which is prescribed;
- (b) as part of a *bona fide* meal to a person having on the premises a meal for which a price (excluding the price of any liquor) of not less than Two shillings and sixpence is paid; and
- (c) in a sealed bottle at the table at which the person having the meal is seated, subject to the condition that the bottle shall be opened in the presence of that person and shall bear a label showing thereon the name and address of the person responsible for bottling the contents of the bottle and such other particulars as are prescribed.

This licence shall commence on the _____ day of
 renewal _____ 19____, and shall, unless sooner cancelled,
 continue until the _____ day of _____
 Given under my hand at _____, this _____
 day of _____ 19____.
 Licence-fee paid £ _____

Registrar.”;

- (g) by inserting in Form 3, after the word “Magistrate”,
 the words “(or Deputy Licensing Magistrate)”;
- (h) by omitting from that Form the words “who is the
 holder of a Residential Hotel Licence (*or* a Café
 Licence) in respect of certain premises known as”
 and the words “situated at”; and
- (i) by inserting in paragraph (a) of Form 4, before the
 word “twenty-fifth”, the words “morning of the”.

Dated this thirtieth day of January, 1948.

W. J. McKELL

Governor-General.

By His Excellency’s Command,

VICTOR JOHNSON

Minister of State for the Interior.