

**REGISTERED CLUBS (FURTHER AMENDMENT) ACT, 1985,
No. 71**

New South Wales



ANNO TRICESIMO QUARTO

ELIZABETHÆ II REGINÆ

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Act No. 71, 1985.

An Act to amend the Registered Clubs Act, 1976, with respect to the amalgamation of registered clubs, the acquisition of additional premises by registered clubs and for other purposes. [Assented to, 15th May, 1985.]

See also Gaming and Betting (Poker Machines) Taxation Amendment Act, 1985.

Registered Clubs (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:—

Short title.

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

Commencement.

2. (1) Sections 1 and 2 shall commence on the date of assent to this Act.

(2) Except as provided by subsection (1), this Act shall commence on such day as may be appointed by the Governor in respect thereof and as may be notified by proclamation published in the Gazette.

Principal Act.

3. The Registered Clubs Act, 1976, is referred to in this Act as the Principal Act.

Amendment of Act No. 31, 1976.

4. The Principal Act is amended in the manner set forth in Schedule 1.

Registered Clubs (Further Amendment) 1985

SCHEDULE 1.

(Sec. 4.)

AMENDMENTS TO THE PRINCIPAL ACT.

- (1) Section 4 (1), definition of “amalgamated club”—
 After the definition of “address”, insert:—
 “amalgamated club” means a registered club which results from the amalgamation of 2 registered clubs as referred to in section 17A (1);
- (2) (a) Section 5 (1)—
 Omit “a conditional application under section 18, or an application under section 19, 20 or 21”, insert instead “17A (9), 18 (7), 19, 19A or 21 or where the Board grants an application under section 20”.
- (b) Section 5 (1)—
 After “Licensing Court” where secondly occurring, insert “or Board, as the case may be,”.
- (c) Section 5 (3)—
 After “Licensing Court”, insert “or Board, as the case may be”.
- (3) Section 5A—
 After section 5, insert:—
Club may have 2 sets of premises, etc.
 5A. (1) The premises of a registered club may comprise 2, but not more than 2, sets of premises that are not contiguous.
 (2) A registered club shall not be issued with a separate certificate of registration in respect of different premises of the club.
- (4) (a) Section 11 (3)—
 Omit “(a), (b) or (c), as the case may be”.
- (b) Section 11 (5)—
 After section 11 (4), insert:—
 (5) An application may be made under subsection (3) in respect of a proposed amalgamated club, but any determination of the Licensing Court shall not have effect unless it is confirmed in an order referred to in section 17A (9) relating to the amalgamation.

Registered Clubs (Further Amendment) 1985

SCHEDULE 1—*continued.*

AMENDMENTS TO THE PRINCIPAL ACT—*continued.*

(5) Section 14 (3)—

After section 14 (2), insert:—

(3) A fee is not payable under subsection (1) in respect of the issue of a certificate of registration to an amalgamated club.

(6) (a) Section 15 (1)—

After “subsection”, insert “and that succeeds the issue of the certificate, other than the period so prescribed during which the certificate is issued”.

(b) Section 15 (3) (a), (al)—

Omit section 15 (3) (a), insert instead:—

(a) where the fee is to be assessed for the first time after the issue of the certificate of registration;

(al) where the fee is to be assessed in respect of an amalgamated club for the first time after it becomes an amalgamated club; or

(c) Section 15 (8A)—(8C)—

After section 15 (8), insert:—

(8A) An amalgamated club shall be liable for the payment of—

(a) the amount of any fees that have not been paid under subsection (1) by a registered club that was a party to the amalgamation (together with any penalty in respect thereof);

(b) any amount that has not been paid under subsection (6) (b) by any such registered club; and

(c) when it falls due, any instalment of fees under subsection (1) that, but for the cancellation of the registration of any such registered club, would have been payable by the registered club.

Registered Clubs (Further Amendment) 1985

SCHEDULE 1—*continued.*

AMENDMENTS TO THE PRINCIPAL ACT—*continued.*

(8B) An amalgamated club shall be entitled to the amount of any refund to which a registered club that was a party to the amalgamation was entitled, but which was not paid before the cancellation of the certificate of registration of that registered club.

(8C) If an amalgamated club does not pay any amount for which it is liable under subsection (8A), the certificate of registration of that club shall be deemed not to be in force until that amount is paid.

(7) Section 17 (1) (b)—

After “Court”, insert “or Board, as the case may require,”.

(8) Section 17A—

Before section 18, insert:—

Amalgamation of registered clubs.

17A. (1) In this section, a reference to the amalgamation of 2 registered clubs is a reference to an amalgamation to be effected—

- (a) by the dissolution of those clubs and the formation of a new club; or
- (b) by the continuation of one of those clubs and the dissolution of the other club.

(2) Where 2 registered clubs propose to amalgamate, a conditional application for approval of the amalgamation may be made to the Licensing Court by or on behalf of those clubs by delivering the conditional application to the Principal Registrar.

(3) For the purposes of a conditional application under this section, the proposed premises of an amalgamated club may, subject to section 5A, comprise any combination of the following:—

- (a) the existing premises of the registered clubs that are parties to the amalgamation, including any such existing premises that are proposed to be added to or altered;
- (b) other existing premises, including other existing premises that are proposed to be added to or altered;

Registered Clubs (Further Amendment) 1985

SCHEDULE 1—*continued.*

AMENDMENTS TO THE PRINCIPAL ACT—*continued.*

(c) new premises that are proposed to be erected.

(4) The Licensing Court shall hear and determine an application made under subsection (2) and, except as provided by this section, shall grant the application either unconditionally or subject to such conditions as it thinks fit.

(5) The Licensing Court shall not grant the application—

(a) if it is satisfied that—

(i) an objection to the granting of the application, taken on a ground the onus of establishing which is placed by section 25 (9) on the objector, has been sustained; or

(ii) where an objection to the granting of the application is taken on a ground and the onus of establishing the matter of that ground is placed by section 25 (9) on the clubs, the clubs have failed to discharge that onus;

(b) if it is not satisfied that the proposed amalgamated club will meet the requirements specified in section 10 (1); or

(c) if it is not satisfied that—

(i) the proposed amalgamated club will be financially viable;

(ii) the proposed amalgamation is in the interests of the members of both of the clubs that are parties to the amalgamation; or

(iii) the application has been approved in principle at separate extraordinary general meetings of the ordinary members of each of the clubs that are parties to the amalgamation (being in each case an approval supported by a majority of the votes cast at the meeting).

(6) The Licensing Court shall not grant the application unless—

(a) at least 14 days before the day appointed for the commencement of the hearing of the application, there were delivered to the Principal Registrar—

(i) the application and a copy thereof, each being signed by the secretary of each club which is a party to the amalgamation;

Registered Clubs (Further Amendment) 1985

SCHEDULE 1—*continued.*

AMENDMENTS TO THE PRINCIPAL ACT—*continued.*

- (ii) a properly drawn plan of the proposed premises of the amalgamated club showing clearly the accommodation proposed to be provided in those premises;
 - (iii) 2 copies of the proposed rules of the amalgamated club (except the rules contained in section 30 (1) and (2)); and
 - (iv) such other particulars relating to the amalgamation as may be prescribed; and
- (b) at least 7 days before the day appointed for the commencement of the hearing of the application, a copy of the application was published as prescribed and, where the regulations so require, was exhibited as prescribed.
- (7) The provisions of subsection (5) (a) (i) and (b) do not prevent the Licensing Court from granting the application if it is satisfied that—
- (a) the grounds of the objections, if any, referred to in subsection (5) (a) (i) that have been sustained; and
 - (b) any failure of the proposed amalgamated club to meet the requirements referred to in subsection (5) (b),
- are or is of a trivial nature or do not or does not warrant refusal of the application.

(8) An application for the variation of the grant of a conditional application previously granted under this section may be made to the Licensing Court by or on behalf of the clubs concerned by delivering the application to the Principal Registrar and the Licensing Court shall hear and determine an application made under this subsection and, upon such terms as to it seem proper, may vary the grant of that conditional application and the conditions to which it is subject.

Registered Clubs (Further Amendment) 1985

SCHEDULE 1—*continued.*

AMENDMENTS TO THE PRINCIPAL ACT—*continued.*

(9) After the grant under this section of a conditional application for approval of an amalgamation, an application—

- (a) for an order cancelling the certificate of registration of any registered club that is a party to the amalgamation and that is to be or has been dissolved;
- (b) where the amalgamation is effected by the formation of a new club—*for an order that a certificate of registration be issued to the new club; and*
- (c) where the amalgamation is effected by the continuation of one of the clubs that is a party to the amalgamation—*for an order that the certificate of registration of that club be endorsed or amended so that it indicates in accordance with the grant of that conditional application the premises of that club upon amalgamation,*

may be made to the Licensing Court by or on behalf of the amalgamated club by delivering the application to the Principal Registrar.

(10) The Licensing Court shall, upon an application being made under subsection (9), make the order applied for—

- (a) except where the Licensing Court is satisfied that the amalgamation has not been effected under the relevant law or will not have been effected under the relevant law by the time the order has effect;
- (b) except where an appeal against the granting of the conditional application has been made and that appeal—
 - (i) has not been heard and determined or otherwise disposed of; or
 - (ii) has been upheld;
- (c) except where the Licensing Court is satisfied that any objection taken to the making of the order has been sustained; or
- (d) except where any conditions subject to which the conditional application was granted have not been complied with.

Registered Clubs (Further Amendment) 1985

SCHEDULE 1—*continued.*

AMENDMENTS TO THE PRINCIPAL ACT—*continued.*

(11) Subsection (10) (c) does not prevent the Licensing Court from making an order referred to in subsection (9) if it is satisfied that the grounds of the objections, if any, that have been sustained are of a trivial nature or do not warrant refusal of the order.

(12) Subsection (10) (d) does not prevent the Licensing Court from making an order referred to in subsection (9) if it is satisfied that non-compliance with the conditions, if any, does not warrant refusal of the order.

(13) In determining for the purposes of subsections (5) and (10) (c) whether it is satisfied that an objection has been sustained or that the onus referred to in subsection (5) (a) (ii) has been discharged or whether it is not satisfied that a proposed amalgamated club meets or will meet, as the case may be, the requirements referred to in subsection (5) (b), the Licensing Court shall have regard to the relevant matters up to the date it makes its determination.

(14) A reference in any provision of this Act to the premises of a club shall, for the purpose of dealing with an application under this section, be construed as a reference to the premises of the club when erected, added to or altered as referred to in the conditional application or in the variation of the grant of the conditional application.

(15) The Licensing Court may, in an order referred to in subsection (9), give such directions as it considers appropriate in relation to the disposition of any complaint or objection under this Act that is pending against a club that is a party to the amalgamation.

(16) A separate conditional application under section 18 or a separate application under section 19 or 19A shall not be made in respect of the premises of a proposed amalgamated club, but the matter shall be dealt with in a conditional application under this section.

(9) (a) Section 18 (1) (a)—

Omit “or”.

Registered Clubs (Further Amendment) 1985

SCHEDULE 1—*continued.*

AMENDMENTS TO THE PRINCIPAL ACT—*continued.*

(b) Section 18 (1) (b)—

Omit “new premises,”, insert instead “new premises; or”.

(c) Section 18 (1) (b1)—

After section 18 (1) (b), insert:—

(b1) a registered club proposes to increase the area of its premises by the acquisition of additional new premises (being premises that are not contiguous to its existing premises),

(d) Section 18 (3) (a) (ii)—

Omit “or” where lastly occurring.

(e) Section 18 (3) (b), (c)—

At the end of section 18 (3) (b), insert:—

; or

(c) in the case of an application referred to in subsection (1) (b1)—if it is not satisfied that the application has been approved in principle at an extraordinary general meeting of the ordinary members of the club (being an approval supported by a majority of the votes cast at the meeting).

(f) Section 18 (4) (a) (ii)—

After “club”, insert “, or the proposed additional premises of the club, as the case may be,”.

Registered Clubs (Further Amendment) 1985

SCHEDULE 1—*continued.*

AMENDMENTS TO THE PRINCIPAL ACT—*continued.*

(g) Section 18 (7) (d) (i)—

After “club”, insert “, or are part of the premises of the club, as the case may be”.

(h) Section 18 (7) (d) (ii)—

Omit “be”, insert instead “except in the case of additional premises, be”.

(10) Section 19A—

After section 19, insert:—

Acquisition of additional existing premises.

19A. (1) Where a registered club proposes to increase the area of its premises by the acquisition of additional existing premises that are not contiguous to the premises occupied by it, an application for an order for the endorsement of the certificate of its registration as referred to in subsection (7) may be made to the Licensing Court by or on behalf of the club by delivering the application to the registrar.

(2) The Licensing Court shall hear and determine an application made under subsection (1) and, except as provided by this section, shall grant the application.

(3) The Licensing Court shall not grant the application—

- (a) if it is satisfied that any objection to the granting of the application has been sustained; or
- (b) if it is not satisfied that the application has been approved in principle at an extraordinary general meeting of the ordinary members of the club (being an approval supported by a majority of the votes cast at the meeting).

Registered Clubs (Further Amendment) 1985

SCHEDULE 1—*continued.*

AMENDMENTS TO THE PRINCIPAL ACT—*continued.*

(4) The Licensing Court shall not grant the application unless—

(a) at least 14 days before the day appointed for the commencement of the hearing of the application, there were delivered to the registrar—

(i) the application and a copy thereof, each being signed by the secretary of the club;

(ii) a properly drawn plan of the proposed additional premises of the club showing clearly the accommodation proposed to be provided in those premises; and

(iii) such other particulars relating to those premises as may be prescribed; and

(b) at least 7 days before the day appointed for the commencement of the hearing of the application, a copy of the application was published as prescribed and, where the regulations so require, was exhibited as prescribed.

(5) The fact that an objection to the granting of the application has been sustained does not prevent the Licensing Court from granting the application if it is satisfied that the ground of objection is of a trivial nature or does not warrant refusal of the application.

(6) In determining for the purposes of subsection (3) whether it is satisfied that an objection has been sustained, the Licensing Court shall have regard to the relevant matters up to the date it makes its determination.

(7) Where the Licensing Court grants the application, it shall order that the certificate of registration of the club be endorsed so that it indicates that the proposed additional premises are part of the premises of the club.

(11) Section 20 (1) (b)—

After “club”, insert “(otherwise than by the acquisition of additional premises that are not contiguous to the premises occupied by it)”.

Registered Clubs (Further Amendment) 1985

SCHEDULE 1—*continued.*

AMENDMENTS TO THE PRINCIPAL ACT—*continued.*

(12) (a) Section 25 (1) (f1)—

After section 25 (1) (f), insert:—

- (f1) The premises of the club comprise 2 sets of premises that are not contiguous and those premises are not both capable of being adequately supervised and controlled by the governing body and the secretary of the club.

(b) Section 25 (2)—

After section 25 (1), insert:—

(2) Objection may be taken to the granting of a conditional application under section 17A (2) made by 2 registered clubs on any 1 or more of the following grounds:—

- (a) The requirements specified in section 10 (1) will not be met in relation to the proposed amalgamated club.
- (b) The application does not comply in all respects with the requirements of this Act and the regulations.
- (c) The proposed amalgamation will not preserve the principal existing facilities and social amenities made available by the clubs that are parties to the amalgamation.
- (d) The registration or conduct of the proposed amalgamated club will, if the application is granted, adversely affect other registered clubs in the area.
- (e) The premises of the proposed amalgamated club comprise 2 sets of premises that are not contiguous and those premises are not both capable of being adequately supervised and controlled by the governing body and the secretary of the club.

Registered Clubs (Further Amendment) 1985

SCHEDULE 1—*continued.*

AMENDMENTS TO THE PRINCIPAL ACT—*continued.*

(f) In respect of proposed premises of the amalgamated club that are not the existing premises of a club that is a party to the amalgamation, any of the grounds referred to in subsection (3) (a)—(d).

(c) Section 25 (3)—

After “section 19 (1)” where firstly occurring, insert “or 19A (1)”.

(d) Section 25 (3) (a)—

After “19 (1)”, insert “, 19A (1)”.

(e) Section 25 (3) (c)—

Omit “or 19 (1)”, insert instead “, 19 (1) or 19A (1)”.

(f) Section 25 (3) (c1)—

After section 25 (3) (c), insert:—

(c1) In the case of such an application made under section 18 (1) (being an application referred to in section 18 (1) (b1)) or made under section 19A (1), the existing premises of the club and the additional proposed premises of the club are not both capable of being adequately supervised and controlled by the governing body and the secretary of the club.

(g) Section 25 (3A)—

After section 25 (3), insert:—

(3A) Objection may be taken to the granting of an application under section 17A (9) made by an amalgamated club (being a new club as referred to in section 17A (1) (a)) for an order referred to in section 17A (9) (b) on any ground referred to in

*Registered Clubs (Further Amendment) 1985*SCHEDULE 1—*continued.*AMENDMENTS TO THE PRINCIPAL ACT—*continued.*

subsection (2) (a) that has arisen at any time since the conditional application made under section 17A (2) in relation to the amalgamation was granted, except the ground that the requirements specified in section 10 (1) (f), (g) or (h) have not been or are not met.

(h) Section 25 (9) (b)—

Omit the paragraph, insert instead:—

- (b) being an objection taken under subsection (1), (2) or (3), is taken on the ground referred to in subsection (1) (c), (2) (f) (as it relates to subsection (3) (c)) or (3) (c), the onus of proving that the club is required to meet a genuine and substantial need lies upon the club; or

(13) (a) Section 26 (1) (b), (b1)—

After section 26 (1) (a), insert:—

- (b) a conditional application for an approval under section 17A (2);
- (b1) an application for an order referred to in section 17A (9) (b);

(b) Section 26 (1) (f)—

After “19 (1)”, insert “or 19A (1)”.

(c) Section 26 (2)—

Omit “(1) (e)”, insert instead “(1) (b1) or (e)”.

(14) (a) Section 28 (1)—

Omit “or under section 19 or a conditional application made under section 18”, insert instead “, 19 or 19A or a conditional application made under section 17A or 18”.

(b) Section 28 (1)—

After “same club” wherever occurring, insert “or same clubs”.

(15) Section 36 (11)—

After “(8).”, insert “(8C).”.

Registered Clubs (Further Amendment) 1985

SCHEDULE 1—*continued.*

AMENDMENTS TO THE PRINCIPAL ACT—*continued.*

(16) Schedule 2, clause 17—

After clause 16, insert:—

17. (1) A registered club that has more than 1 certificate of registration under this Act shall, within 12 months after the commencement of the Registered Clubs (Further Amendment) Act, 1985, surrender those certificates to the Board.

(2) A certificate of registration of a club which is not surrendered in accordance with subclause (1) shall be deemed to be cancelled.

(3) Where any certificates of registration are surrendered by a registered club under subclause (1) or are deemed to be cancelled under subclause (2), the Board shall, subject to section 5A, issue to the club 1 certificate of registration in respect of all the premises to which the surrendered or cancelled certificates related.

(4) A certificate of registration issued by the Board under subclause (3) is subject to such conditions as the Board imposes and any such condition imposed by the Board shall, for the purposes of this Act, be deemed to be a condition imposed by the Licensing Court under section 9A.

(5) A certificate of registration issued by the Board under subclause (3) shall be deemed to be a certificate of registration issued under Part II.
