

REGISTERED CLUBS (AMENDMENT) ACT 1990 No. 29

NEW SOUTH WALES



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REGISTERED CLUBS (AMENDMENT) ACT 1990 No. 29

NEW SOUTH WALES



Act No. 29,1990

An Act to amend the Registered Clubs Act 1976 to confer and impose certain functions on the Commissioner of Police instead of licensing inspectors; to eliminate the duplication of certain functions under that Act and the Local Government Act 1919; and for other purposes.
[Assented to 14 June 1990]

The Legislature of New South Wales enacts:

Short title

1. This Act may be cited as the Registered Clubs (Amendment) Act 1990.

Commencement

2. (1) This Act commences on a day or days to be appointed by proclamation, except as provided by this section.

(2) Schedule 1, and section 3 in its application to that Schedule, commence on the date of assent.

(3) Sections 4 and 5, and Schedules 5 and 6, commence on the date of assent.

Amendment of Registered Clubs Act 1976 No. 31

3. The Registered Clubs Act 1976 is amended as set out in Schedules 1-4.

Amendment of Registered Clubs (Amendment) Act 1988 No. 93

4. The Registered Clubs (Amendment) Act 1988 is amended as set out in Schedule 5.

Transitional provisions

5. Schedule 6 has effect.

SCHEDULE 1 - AMENDMENTS RELATING TO DELEGATIONS

(Sec. 3)

(1) After the definition of "certificate of registration" in section 4 (1), insert:

“Director” means the Director of Liquor and Gaming appointed as provided by the Liquor Act 1982;

SCHEDULE 1 - AMENDMENTS RELATING TO
DELEGATIONS - *continued*

(2) Section 6 A

After section 6, insert:

Delegations

6A. (1) The Minister may delegate to a person any function conferred or imposed on the Minister by this Act, other than this power of delegation.

(2) The Commissioner of Police may delegate to a person any function conferred or imposed on the Commissioner by this Act, other than this power of delegation.

(3) A person to whom a function has been delegated by the Minister or the Commissioner of Police may delegate the function to another person, subject to any conditions to which the delegation by the Minister or the Commissioner is subject.

(4) The Director may delegate to a person any function conferred or imposed on the Director by this Act, other than this power of delegation.

**SCHEDULE 2 - AMENDMENTS RELATING TO THE FUNCTIONS
OF THE POLICE FORCE AND OTHERS**

(Sec. 3)

(1) Section 4 (**Definitions**):

- (a) From section 4 (1), omit the definition of "licensing inspector".
- (b) From section 4 (2) (c), omit "or the licensing inspector".
- (c) From section 4 (2) (c), omit "or, as the case may be, the licensinginspector,".

(2) Section 9A (**Conditions relating to certificate of registration**):

- (a) From section 9A (1), omit "licensing inspector" wherever occurring, insert instead "Director or the Commissioner of Police".

SCHEDULE 2 - AMENDMENTS RELATING TO THE
FUNCTIONS OF THE POLICE FORCE AND OTHERS - *continued*

- (b) From section 9A (3) (b) and (4) omit “a licensing inspector” wherever occurring, insert instead “the Director or the Commissioner of Police”.
- (3) Section 17 (**Summons to show cause against taking of disciplinary action**):
- (a) Omit section 17 (1) except paragraphs (a)–(e), insert instead:
- (1) Upon a complaint made as provided by subsection (1 AA), (1AB) or (1 AC), a licensing or stipendiary magistrate, or the Principal Registrar, may issue a summons calling on a registered club to show cause why its certificate of registration should not be cancelled or why the club should not be disqualified for a period from holding a certificate of registration.
- (1AA) Except in the case of a club referred to in section 72, a complaint for the purposes of subsection (1) may be made by the Commissioner of Police or the Director, or by a council or person specified in section 26 (2) (a), (b) or (c) and may be so made on any one or more of the following grounds:
- (b) From section 17 (1) (a), omit “on any one or more of the following grounds”, insert instead “on the ground that any one or more of the following subparagraphs is applicable”.
- (c) From section 17 (1) (a) (xiii) omit “or” where lastly occurring.
- (d) From section 17 (1) (d), omit “or”.
- (e) Before section 17 (1 A), insert:
- (1AB) In the case of a club referred to in section 72, a complaint for the purposes of subsection (1) may be made by the Commissioner of Police or the Director on a ground referred to in subsection (1 AA).
- (1AC) The council of the area (within the meaning of the Local Government Act 1919) within which the premises of any registered club are situated may make a

SCHEDULE 2 - AMENDMENTS RELATING TO THE
FUNCTIONS OF THE POLICE FORCE AND OTHERS - *continued*

complaint for the purposes of subsection (1) on the ground that the club premises are being opened for business even though the club has failed to comply with a direction or order of the council requiring specified work to be carried out in relation to the club premises.

- (f) From section 17 (1A) omit "licensing inspector", insert instead "Commissioner of Police".
- (4) Sections 18 (8), 20A (5), 22 (5), 33 (4), (5), 41 (5):
Omit "the licensing inspector" wherever occurring, insert instead "the Director or the Commissioner of Police".
- (5) Section 23 (**Functions on club premises**):
 - (a) Omit section 23 (2), insert instead:
 - (2) Unless an objection has been lodged or the registrar refers the application to the Licensing Court, the registrar is to grant the application and notify the grant to the member of the police force who is prescribed by the regulations as the appropriate member of the police force for the purposes of this section.
 - (b) Omit section 23 (3), insert instead:
 - (3) Unless an application is granted under subsection (2) by the registrar, the Licensing Court is to hear the application and
 - (a) except as provided by paragraph (b) - is to grant the application; or
 - (b) if an objection to the application is sustained - is to refuse the application unless it is satisfied that the ground of objection is of a trivial nature and does not warrant refusal of the application.
 - (c) Omit section 23 (7) and (9).
 - (d) From section 23 (10), omit "licensing inspector", insert instead "Commissioner of Police".

SCHEDULE 2 - AMENDMENTS RELATING TO THE
FUNCTIONS OF THE POLICE FORCE AND OTHERS - *continued*

(6) Section 26 (**Objectors**):

From section 26 (2), omit "licensing inspector", insert instead "Commissioner of Police or the Director,".

(7) Section 27A (**Records to be kept**):

(a) From section 27A (4), omit "a licensing or", insert instead "the Commissioner of Police or a".

(b) From section 27A (4), omit "the inspector's".

(c) From section 27A (4) (a) and (b), omit "inspector" wherever occurring, insert instead "person who gave the notice".

(d) From section 27A (4) (b) (ii), omit "keep it in the inspector's custody or under the inspector's control", insert instead "retain custody or control of it".

(e) Omit section 27A (6), insert instead:

(6) Subsection (2) is not contravened if a record is in the custody, or under the control, of a person in accordance with subsection (4) (b) (ii), but the person:

(a) must ensure that the record is returned, as soon as practicable, to the secretary of the club, or of the amalgamated club, required to keep the record; and

(b) until paragraph (a) is complied with - must, at all reasonable times, permit inspection of the record, or the making of additions to it, by any person who, apart from this paragraph, has authority to do so.

(8) Section 35 (**Complaint against secretary or member of governing body**):

From section 35 (1), omit "licensing inspector or Principal Registrar made upon oath, a justice", insert instead "Commissioner of Police or of the Director, a licensing or other Magistrate or the Principal Registrar".

SCHEDULE 2 - AMENDMENTS RELATING TO THE
FUNCTIONS OF THE POLICE FORCE AND OTHERS - *continued*

- (9) Section 36 (**Conduct of club elections by Electoral Commissioner**):
From section 36 (2) (b), omit "licensing inspector", insert instead "person".
- (10) Section 41A (3), 101 (1) (a), (b), (4) (a):
Omit "Principal Registrar or a licensing inspector" wherever occurring, insert instead "Director or the Commissioner of Police".
- (11) Section 48 (**Change of name of club**):
From section 48 (1), omit "and the licensing inspector".
- (12) Section 49 (**Amendment of rules of club**):
Omit "and the licensing inspector a copy", insert instead "2 copies".
- (13) Part 7:
From the heading, omit "INSPECTORS", insert instead "POLICE AND OF SPECIAL INSPECTORS".
- (14) Section 58 (**Entry and inspection by police or special inspector**):
- (a) Omit section 58 (1) and (2), insert instead
- (1) If the Commissioner of Police believes on reasonable grounds:
- (a) that unlawful or disorderly conduct is taking place on the premises of a registered club; or
- (b) that a breach of this Act has been, or is being, committed on the premises of a registered club,
- the Commissioner may, at any time of the day or night, enter the club premises with or without a constable or constables.
- (2) A person exercising the power conferred by subsection (1), or a constable accompanying such a person, may, with or without assistance, break into the premises if

SCHEDULE 2 - AMENDMENTS RELATING TO THE
FUNCTIONS OF THE POLICE FORCE AND OTHERS - *continued*

entry is refused or is unreasonably delayed (whether or not by the absence of a person able to permit entry to the premises).

(2A) A member of the police force or a special inspector may, at any reasonable time, enter and examine any part of the premises of a registered club and may:

- (a) take an account of all liquor on the premises; or
- (b) make such examination and inquiry as may be necessary to ascertain whether the provisions of this Act have been, and are being, complied with; or
- (c) having required the secretary of the club (or any other person having them in his or her custody) to produce any registers, books, records or documents relating to the club - inspect, make copies of or take extracts from, entries in the registers, books, records or other documents.

(b) From section 58 (3), omit "subsection (1) or (2)", insert instead "this section".

(15) **Section 59 (Entry on premises of registered club OR which unlawful conduct etc, is taking place):**

Omit the section.

(16) **Section 63 (Evidentiary provisions):**

(a) After section 63 (1) (e), insert:

(e1) an allegation that a specified person is, or at any time specified in the allegation was, the Director;

(b) From section 63 (1) (f), omit "any person", insert instead "a specified person".

(c) From section 63 (1) (f), omit "the licensing inspector so specified", insert instead "a delegate of the Director, or of the Commissioner of Police, to whom a specified function has been delegated under section 6A".

SCHEDULE 2 - AMENDMENTS RELATING TO THE
FUNCTIONS OF THE POLICE FORCE AND OTHERS - *continued*

- (17) Section 65 (**Proceedings for offences arising under this Act**):
In section 65 (1), after "taken", insert "within 12 months after the act or omission on which they are based and may be so taken".
- (18) Section 68 (**Inspector to be given copies of applications and objections**):
Omit the section.
- (19) Section 70 (Records of sale and disposal of liquor):
- (a) From section 70 (4), omit "licensing inspector", insert instead "Commissioner of Police".
 - (b) From section 70 (4), omit "that inspector", insert instead "the person who gave the notice".
- (20) Section 72 (**Sydney Cricket Ground Club and Newcastle International Sports Centre Club**):
Omit section 72 (4).
- (21) Section 73 (**Regulations**):
From section 73 (1) (c), omit "licensing inspectors", insert instead "the Commissioner of Police".
- (22) Section 96 (**Expenses of investigation of application**):
- (a) Omit "Superintendent of Licences" wherever occurring, insert instead "Commissioner of Police".
 - (b) From section 96 (1), omit "a licensing inspector", insert instead "the Commissioner".

SCHEDULE 2 - AMENDMENTS RELATING TO THE
FUNCTIONS OF THE POLICE FORCE AND OTHERS - *continued*

- (23) **Section 97 (Who may object):**
Omit section 97 (1) (a) and (b), insert instead
(a) by the Commissioner of Police; or
(b) by the Director; or
- (24) **Section 108 (Summons to show cause against taking of disciplinary action):**
(a) Omit section 108 (1) (a) and (b), insert instead:
(a) the Commissioner of Police; or
(b) the Director, or
(b) After "Magistrate" in section 108 (3), insert " , or the Principal Registrar,".
- (25) **Section 109 (Disciplinary powers of Court):**
From section 109 (2), omit "Principal Registrar or a licensing inspector", insert instead "Commissioner of Police or the Director".
- (26) **Section 115 (Investigation of certain devices):**
From section 115 (2) (b), omit "Superintendent of Licences", insert instead "Commissioner of Police".
- (27) **Section 127 (Powers of special inspectors and others):**
Omit paragraphs (b) and (c) of the definition of "authorised person" in section 127 (9), insert instead:
(b) the Commissioner of Police; or
- (28) **Section 128 (Licensing Court may require production of records and giving of evidence):**
(a) From section 128 (1) and (2) omit "a licensing inspector or the Principal Registrar" wherever occurring, insert instead "the Commissioner of Police or the Director".
(b) In section 128 (1) and (2), after "Magistrate" wherever occurring, insert "or the Principal Registrar".

**SCHEDULE 2 - AMENDMENTS RELATING TO THE
FUNCTIONS OF THE POLICE FORCE AND OTHERS - *continued***

- (29) **Section 129 (Search warrants):**
From section 129 (4), omit “; a licensing inspector”.
- (30) **Section 131 (Secrecy):**
From the definition of "officer" in section 131 (1), omit "licensing inspector,”.
- (31) **Section 132 (Exclusion of liability):**
From section 132 (a), omit "licensing inspector", insert instead "member of the police force".

**SCHEDULE 3 - AMENDMENTS RELATING TO CLUB
PREMISES**

(Sec. 3)

- (1) **Section 4 (Definitions):**
After the definition of “amalgamated club”, insert:
"approved plan", in relation to proposed club premises or a proposed addition to or alteration of club premises, means a plan of the proposed premises, or of the proposed addition or alteration, that is accompanied by
- (a) each approval that, by the Local Government Act 1919 or any other Act, is required for the carrying out of any work represented by the plan; and
 - (b) any consent required under the Environmental Planning and Assessment Act 1979 for the carrying out of that work;
- (2) Sections 9 (3). (a) (ii), 17A (6) (a) (ii), 19 (3) (a) (ii), 19A (4) (a) (ii), 20 (3) (b), 21 (3) (a) (ii), 22 (4) (b):
Omit "a properly drawn plan" wherever occurring, insert instead "an approved plan".

SCHEDULE 3 - AMENDMENTS RELATING TO CLUB PREMISES - *continued*

- (3) Section 10 (**Requirements to be met by clubs**):
Omit section 10 (1) (g), insert instead:
(g) The premises of the club shall contain accommodation appropriate for the purposes of the club.
- (4) Section 17 (**Summons to show cause against taking of disciplinary action**):
Omit section 17 (1) (c).
- (5) Section 18 (**Conditional application in relation to new premises or premises to be added to or altered**):
- (a) From section 18 (4) (a) (ii), omit “a properly drawn plan”, insert instead “an approved plan”.
- (b) From section 18 (6) (a), omit “a plan”, insert instead “an approved plan”.
- (c) Omit section 18 (7), insert instead:
(7) If, on application, the Licensing Court is satisfied:
(a) that the approval and consent by which a plan became an approved plan in relation to a conditional application have not ceased to have effect; and
(b) that the work to which the application relates has been completed substantially in accordance with the approved plan on the basis of which the conditional application was granted,
the Court is to make an order under subsection (7A), unless subsection (8) applies.
- (d) After section 18 (7), insert:
(7A) The order to be made under this subsection is:
(a) if the applicant club is not a registered club - an order that a certificate of registration be issued to the club in respect of the new premises, or the premises as added to or altered; or

SCHEDULE 3 - AMENDMENTS RELATING TO CLUB PREMISES - *continued*

- (b) if the applicant club is a registered club - an order that the certificate of registration for the club, in so far as it relates to the club premises, be altered (by endorsement or otherwise) to reflect the fact that the club premises are the new premises, or are the existing premises as added to or altered.
 - (e) Omit section 18 (8), insert instead:
 - (8) The Licensing Court is not to make an order under subsection (7A) if:
 - (a) an appeal made against the conditional grant:
 - (i) has not been heard and determined and has not lapsed or been withdrawn; or
 - (ii) has been upheld; or
 - (b) the order applied for is an order under subsection (7A) (a) and the Court is satisfied that an objection to the making of the order has been sustained; or
 - (c) the conditions subject to which the conditional grant was made have not been complied with.
 - (f) From section 18 (9), omit "(7) (c)", insert instead "(7A) (a)".
 - (g) From section 18 (9A), omit "(7) (c) or (d)", insert instead "(7A) (a) or (b)".
- (6) Section 20:
Omit the section, insert instead:
Alteration of area of club premises
20. (1) If a registered club proposes:
 - (a) to increase the area of the club premises otherwise than by the acquisition of additional premises that are not contiguous to its existing premises; or
 - (b) to decrease the area of the club premises,the club must apply to the Board for authority to do so.
(2) The Board is to hear and determine an application made under this section and, unless it is satisfied that an

SCHEDULE 3 - AMENDMENTS RELATING TO CLUB PREMISES - *continued*

objection made under section 25 (3) has been sustained, must grant the application.

- (7) **Section 20A (Compulsory alterations etc. to club premises):**
Omit the section.
- (8) **Section 26 (Objectors):**
From section 26 (1) (e), omit "1 8 (7) (c)", insert instead "1 8 (7A) (a)".
- (9) **Section 73 (Regulations):**
From section 73 (1) (i), omit "and sanitary and other conveniences".

SCHEDULE 4 - AMENDMENT RELATING TO CASH CREDIT

(Sec. 3)

Section 9A (Conditions relating to certificate of registration):

After section 9A (5), insert:

(5A) It is a condition of the certificate of registration of a club that the secretary of the club must not permit or suffer a cash advance to be made available on the club premises by or on behalf of the club otherwise than as a prize recorded by a poker machine.

(5B) It is a condition of the certificate of registration of a club that the secretary of the club must not permit or suffer the operation of a poker machine on the club premises if the poker machine is capable of being operated to provide cash or credit otherwise than as a prize.

SCHEDULE 5 - AMENDMENTS TO REGISTERED CLUBS (AMENDMENT) ACT 1988

(Sec. 4)

Schedule 3 (Amendments relating to poker machines linked between clubs):

- (a) Omit so much of Schedule 3 (1) as inserts in the Registered Clubs Act 1976 paragraph (b) of the definition of "authorised person" in section 106A.

SCHEDULE 5 - AMENDMENTS TO REGISTERED
CLUBS (AMENDMENT) ACT 1988 - *continued*

- (b) Omit so much of Schedule 3 (1) as inserts section 106G in the Registered Clubs Act 1976, insert instead:

Delegation by Corporation

106G. The Corporation may delegate to a person any function conferred or imposed on the Corporation by this Act, other than this power of delegation.

SCHEDULE 6 - TRANSITIONAL PROVISIONS

(Sec. 5)

Principal Act

1. A reference in this Schedule to the Principal Act is a reference to the Registered Clubs Act 1976.

Functions commenced may be continued

2. If, immediately before the commencement of Schedule 2, a member of the Police Force:

- (a) holds office under the Liquor Act 1982 as superintendent of licences or as a licensing inspector, and
(b) has commenced to exercise a function conferred or imposed by the Principal Act on a holder of the office,

the member of the Police Force may, after that commencement, complete the exercise of the function as if it had been delegated to the member under section 6A of the Principal Act, as amended by this Act.

Functions of Principal Registrar

3. If anything done by the Principal Registrar of the Licensing Court:
(a) still has effect immediately before the commencement of a provision of this Act; and
(b) could be done by the Director of Liquor and Gaming after that commencement,

it has effect on and after that commencement as if it had been done by the Director of Liquor and Gaming.

SCHEDULE 6 - TRANSITIONAL PROVISIONS - *continued*

Conditions of licence

4. If a condition to which a certificate of registration under the Principal Act is subject immediately before the commencement of Schedule 2 includes a reference to the superintendent of licences, or to a licensing inspector, the reference is to be read on and after that commencement as a reference to a member of the Police Force who is a delegate of the Commissioner of Police for the purposes of the reference.

Compulsory alterations etc. to licensed premises

5. If, immediately before the repeal of section 20A of the Principal Act by this Act:

- (a) an application that had been made for an order under that section in relation to club premises had not been disposed of; or
- (b) the Liquor Administration Board was considering whether or not to make such an order of its own motion; or
- (c) an order in force under that section had not been complied with,

that section continues to have effect in relation to the club premises as if it had not been repealed.

Delegations

6. Section 6A of the Principal Act, as amended by this Act, applies in relation to a function that may be exercised for the purposes of this Schedule in the same way as it may be exercised in relation to a function conferred or imposed by the Principal Act, as so amended.

*[Minister's second reading speech made in -
Legislative Assembly on 3 April 1990
Legislative Council on 24 May 1990 a.m.]*