

**LOCAL GOVERNMENT (BACKPACKERS HOSTELS)
AMENDMENT ACT 1990 No. 89**

NEW SOUTH WALES



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SCHEDULE 1—AMENDMENT OF LOCAL GOVERNMENT ACT 1919

**LOCAL GOVERNMENT (BACKPACKERS HOSTELS)
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NEW SOUTH WALES



Act No. 89,1990

An Act to amend the Local Government Act 1919 so as to provide for the elimination of fire hazards in backpackers hostels; and to make a consequential amendment to the Land and Environment Court Act 1979. [Assented to 7 December 1990]

Local Government (Backpackers Hostels) Amendment 1990

The Legislature of New South Wales enacts:

Short title

1. This Act may be cited as the Local Government (Backpackers Hostels) Amendment Act 1990.

Commencement

2. This Act commences on a day to be appointed by proclamation.

Amendment of Local Government Act 1919 No. 41

3. The Local Government Act 1919 is amended as set out in Schedule 1.

Consequential amendment of Land and Environment Court Act 1979 No. 204

4. The Land and Environment Court Act 1979 is amended by inserting in section 18 (a) after the matter “317F,” the matter “317JZ,”.

**SCHEDULE 1—AMENDMENT OF LOCAL GOVERNMENT
ACT 1919**

(Sec. 3)

(1) Part 11, Division 4BB:

After Division 4BA, insert:

Division 4BB—Backpackers hostels

Definitions

317JT. (1) In this Division:

“**backpackers hostel**” means any premises that are used for the purpose of accommodating members of the public (for fee or reward) for periods of less than a week, but does not include:

- (a) premises the subject of a licence under the Liquor Act 1982 or a certificate of registration under the Registered Clubs Act 1976; or
- (b) a motel; or
- (c) a boarding house; or
- (d) a house let in lodgings;

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“emergency closure order” means an order in force under section 317JV;

“rectification order” means an order in force under section 317JU.

(2) In this Division, a reference to premises that are used for a purpose is a reference to premises that are predominantly used for that purpose, whether or not they are also used for some other purpose.

Rectification orders

317JU. (1) If it appears to the council, on reasonable grounds, that any premises:

- (a) are being used for the purposes of a backpackers hostel; and
- (b) are being managed or used in such a manner as to give rise to a life-threatening fire hazard,

the council may, by order in writing served on the owner of the premises or on any person apparently engaged in the management of the premises, direct that specified measures to eliminate the hazard be taken within a specified time.

(2) The measures that may be specified in a rectification order include measures requiring:

- (a) the erection of notices; and
- (b) the provision of fire extinguishers and other fire-fighting equipment; and
- (c) the maintenance of fire doors; and
- (d) the removal of combustible material from fire exits,

but do not include measures requiring the carrying out of any structural work or the installation of any fixtures.

(3) The time allowed by a rectification order for the taking of any such measures must not be less than 24 hours.

(4) A rectification order must specify the grounds on which it is made and must also specify that an emergency closure order may be made in respect of the premises if the rectification order is not complied with within the time allowed by the rectification order.

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Emergency closure orders

3 17JV. (1) If the measures specified in a rectification order are not complied with within the time allowed by the order, the council may, by a further order served on the owner of the premises concerned or on any person apparently engaged in the management of the premises, direct that the premises not be used for the purposes of a backpackers hostel.

(2) An emergency closure order must specify that it has been made on the grounds that specified requirements of a rectification order have not been complied with within the time allowed by the rectification order and must also state that there is a right of appeal to the Land and Environment Court against the emergency closure order but that such an appeal does not operate to stay the emergency closure order.

(3) The council must ensure that a written notice containing the terms of the emergency closure order is affixed to the premises concerned in a conspicuous position at or near each entrance and exit of the premises.

(4) A person must not remove, deface, obliterate or conceal a notice that is duly affixed to premises the subject of an emergency closure order.

Maximum penalty: 10 penalty units (in the case of an individual) or 20 penalty units (in the case of a corporation).

(5) The council must ensure that an emergency closure order made by it is revoked as soon as it is satisfied that the requirements of the relevant rectification order have been complied with.

Premises not to be used in contravention of an emergency closure order

3 17JW. (1) Neither the owner of any premises the subject of an emergency closure order, nor any person engaged in the management of any such premises, is to cause or permit the premises to be used in contravention of the order.

Maximum penalty: 50 penalty units or imprisonment for 6 months, or both (in the case of an individual) or 100 penalty units (in the case of a corporation).

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(2) It is a sufficient defence to a prosecution under this section if the defendant satisfies the court that he or she was unaware of the fact that the premises were the subject of such an order.

Evacuation of premises

317JX. (1) The council may, if it is satisfied that it is necessary to do so in order to prevent premises from being used as a backpackers hostel in contravention of an emergency closure order, direct a person to do any or all of the following:

- (a) to leave the premises;
- (b) to remove from the premises any other persons who are in that person's care;
- (c) not to enter the premises.

(2) If the person does not comply with the direction, the council may do all such things as are reasonably necessary to ensure compliance with it.

(3) In exercising the powers conferred on the council by this section, a proper employee of the council:

- (a) may be accompanied and assisted by a police officer; and
- (b) may use such force as is reasonably necessary in the circumstances.

Powers of fire brigades

317JY. (1) An authorised fire officer may exercise such of the powers of a council under this Division as are specified in the fire officer's authorisation under this section.

(2) For the purpose of inspecting premises to determine whether or not there are grounds for exercising any such power, an authorised fire officer may exercise the powers conferred on a council by section 524 (Entry and other powers).

(3) In exercising a power under this Division, an authorised fire officer may be accompanied and assisted by a police officer.

(4) In this section, a reference to an authorised fire officer, in relation to the exercise of a power under this Division, is a reference to:

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- (a) a member of staff of New South Wales Fire Brigades;
or
- (b) an officer or member of a fire brigade,
who is for the time being authorised by the Minister
administering the Fire Brigades Act 1989 to exercise that
power.

Appeals

317JZ. (1) The owner of any premises the subject of an emergency closure order may appeal against the order to the Land and Environment Court.

(2) Subject to any order of the Land and Environment Court, an appeal under this section does not operate to stay the emergency closure order in respect of which the appeal is made.

Ordinances

317JZA. For the purposes of this Division, an ordinance may be made for or with respect to:

- (a) the management and use of backpackers hostels in relation to the avoidance and elimination of fire hazards; and
- (b) the exemption from any provision of this Division of any specified premises or specified class of premises; and
- (c) the exercise by councils of the powers conferred on them by this Division.

Division binds Crown

317JZB. This Division binds the Crown.

(2) Section 635 (Obstruction):

After section 635 (j), insert:

- (k) any member of staff of New South Wales Fire Brigades, or any officer or member of a fire brigade, exercising functions under Division 4B or 4BB of Part 11,