

**REGISTERED CLUBS (MANAGEMENT) AMENDMENT ACT
1993 No. 57**

NEW SOUTH WALES



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**REGISTERED CLUBS (MANAGEMENT) AMENDMENT ACT
1993 No. 57**

NEW SOUTH WALES



Act No. 57, 1993

An Act to amend the Registered Clubs Act 1976 in relation to the powers of the Licensing Court in respect of complaints about registered clubs; and for other purposes. [Assented to 24 September 1993]

The Legislature of New South Wales enacts:

Short title

1. This Act may be cited as the Registered Clubs (Management) Amendment Act 1993.

Commencement

2. This Act commences 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 Schedule 1.

SCHEDULE 1—AMENDMENTS

(Sec. 3)

- (1) Section 16 (**Duration of certificate of registration**):
- (a) At the end of section 16 (2) (a), insert “or”.
 - (b) Omit section 16 (2) (b).
- (2) Section 17 (**Determination of complaints against registered clubs**):
- (a) Section 17 (1):
Omit “or why the club should not be disqualified for a period from holding a certificate of registration”.
 - (b) Omit section 17 (1AA) (a) (vii), insert instead:
(vii) the secretary of the club or one or more members of the governing body of the club are not fit and proper persons to act as such;
 - (c) Omit section 17 (2) (b).
 - (d) Section 17 (2) (c):
Omit “500 penalty units”, insert instead “2,500 penalty units”.

SCHEDULE 1—AMENDMENTS—*continued*

(e) Renumber section 17 (2) (f) as paragraph (g), and after section 17 (2) (e), insert:

(f) declare (subject to section 17AAA) that each person specified in the declaration is, or such period as is specified. in the declaration, ineligible to stand for election or to be appointed to, or to hold office in, the position of secretary or member of the governing body (or both of those positions) of

(i) the club; and

(ii) if the Licensing Court so declares—all other registered clubs or such other registered clubs as are specified or as are of a class specified in the declaration;

(f) Omit section 17 (6).

(3) After section 17, insert:

Declarations concerning ineligibility of persons to be secretary or member of governing body

17AAA. (1) This section applies to the power of the Licensing Court to make a declaration under section 17 (2) (f) in connection with a complaint about a registered club.

(2) The Licensing Court must not make a declaration in relation to a person unless:

(a) it is satisfied that the person was the secretary of the club or a member of the governing body of the club at a relevant time or was materially involved in the management of the affairs of the registered club at a relevant time; and

(b) the person has been given an opportunity to show cause why the declaration should not be made.

(3) The Licensing Court may make a declaration in relation to a person regardless of whether the grounds on which the complaint under section 17 was made included the ground that the person was not a fit and proper person to act as secretary or member of the governing body of the registered club.

SCHEDULE 1—AMENDMENTS—*continued*

(4) The Licensing Court may make a declaration in relation to a person regardless of whether a complaint has been made under section 35 in relation to the person.

(5) If the Licensing Court makes a declaration in relation to a person, the position of the person as secretary or member of the governing body of any registered club to which the declaration relates immediately becomes vacant.

(6) A person must not, during the period for which the person is declared ineligible for a position, stand for election or accept appointment to, or hold office in, that position.

Maximum penalty: 10 penalty units.

(7) Despite any other law, if the Licensing Court makes a declaration in relation to a person, the person is not, in consequence of the declaration or of anything done to give effect to the declaration, entitled to compensation or damages from the club of which he or she was the secretary or a member of the governing body, unless the Licensing Court specifies in the declaration that the declaration does not affect the rights, if any, of the person to compensation or damages from the club.

(8) A vacancy in the position of a member of the governing body of a registered club resulting from a declaration may be filled as a casual vacancy.

(4) Section 36 (**Conduct of club elections by Electoral Commissioner**):

From section 36 (11), omit “is disqualified from holding a certificate of registration or”.

(5) Schedule 2 (**Transitional Provisions**):

At the end of Schedule 2, insert:

Part 5—Provisions relating to enactment of Registered Clubs (Management) Amendment Act 1993

Existing disqualifications remitted to Licensing Court for redetermination

39. (1) On the commencement of the Registered Clubs (Management) Amendment Act 1993, any matter determined under section 17 that resulted in the disqualification of a registered club under section 17 (2) (b) (being a

SCHEDULE 1—AMENDMENTS—*continued*

disqualification in force immediately before that commencement or that is not operative because the decision of the Licensing Court is subject to an appeal) is by this clause remitted to the Licensing Court for redetermination.

(2) Until that redetermination takes place, the decision of the Licensing Court on the matter is for the purposes of section 16 (Duration of certificate of registration) taken to be subject to an appeal that has not been finally disposed of.

Certain amendments apply to existing matters and matters remitted for redetermination

40. The following amendments made by the Registered Clubs (Management) Amendment Act 1993 extend to any matter pending before the Licensing Court at the commencement of that Act and also extend to any matter heard and determined by the Licensing Court before that commencement that as a result of any appeal or the operation of clause 39 is remitted to the Licensing Court for redetermination:

- (a) the amendments with respect to the disqualification of a registered club from holding a certificate of registration (namely the amendments made by Schedule 1 (1), (2) (a), (c) and (f) and (4) to that Act);
- (b) the amendments with respect to the power of the Licensing Court to make a declaration that a person is ineligible to stand for election or to be appointed to, or to hold office in, the position of secretary or member of the governing body of a registered club or registered clubs (namely the amendments made by Schedule 1 (2) (b) and (e) and (3) to that Act).

Penalty increase does not apply to existing matters and matters remitted for redetermination

41. The increased maximum penalty effected by Schedule 1 (2) (d) to the Registered Clubs (Management) Amendment Act 1993 does not apply in relation to anything done or omitted to be done before the commencement of the amendment or in relation to complaints made before the commencement of the amendment. This clause does not affect the generality of section 55 of the Interpretation Act 1987.

SCHEDULE 1—AMENDMENTS—*continued*

1989 amendment extends to pending and remitted matters

42. (1) The amendment made to section 17 (2) by Schedule 1 to the Statute Law (Miscellaneous Provisions) Act (No. 3) 1989 extends to any matter pending before the Licensing Court at the commencement of this clause and also extends to any matter heard and determined by the Licensing Court before that commencement that as a result of any appeal or the operation of clause 39 is remitted to the Licensing Court for redetermination, even if the matter relates to a complaint made before the commencement of that amendment.

(2) The amendment referred to in this clause enabled the Licensing Court to take any one or more of the actions specified in section 17 (2) when hearing and determining a complaint about a registered club (prior to the amendment it was limited to any one of those actions).

(3) This clause applies despite the transitional provision enacted by the Statute Law (Miscellaneous Provisions) Act (No. 3) 1989 in respect of the amendment.

*[Minister's second reading speech made in—
Legislative Assembly on 15 September 1993
Legislative Council on 16 September 1993]*