

REGISTERED CLUBS (AMENDMENT) ACT 1994 No. 43

NEW SOUTH WALES



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REGISTERED CLUBS (AMENDMENT) ACT 1994 No. 43

NEW SOUTH WALES



Act No. 43, 1994

An Act to mend the Registered Clubs Act 1976 to make further provision with respect to registration fees, the grant of registration, penalties, the duties of registered clubs and their employees, and minors; and ~~for~~ other purposes. [Assented to 2 June 1994]

The Legislature of New South Wales enacts:**Short title**

1. This Act may be cited as the Registered Clubs (Amendment) Act 1994.

Commencement

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

Amendment of Registered Clubs Act 1976 No. 31

3. The Registered Clubs Act 1976 is amended as set out in Schedule 1.

Amendment of Justices Act 1902 No. 27

4. The Justices Act 1902 is amended by inserting in alphabetical order in paragraph (a) of the definition of “penalty notice” in section 100I (1) the words “Registered Clubs Act 1976, section 66;”.

Amendment of Registered Clubs Regulation 1983

5. The Registered Clubs Regulation 1983 is amended by omitting clause 13 (Evidence).

Explanatory notes

6. Matter appearing under the heading “Explanatory note” in Schedule 1 does not form part of this Act.

SCHEDULE 1—AMENDMENTS

(Sec. 3)

Amendment: freight charges to brewers’ regional depots

(1) Section 4AA:

After section 4A, insert:

Freight costs to brewers’ regional depots not included in price of beer

4AA. (1) Despite section 4 (4), a reference in this Act to the amount paid or payable by or on behalf of a registered club or the secretary of the club for any liquor does not, in

SCHEDULE 1—AMENDMENTS—*continued*

the case of liquor that is beer, include brewery regional depot freight charges for that beer.

(2) Brewery regional depot freight charges for beer are any amounts paid or payable as freight or other delivery charges to the holder of an off-licence for a brewer (under the Liquor Act 1982) in respect of the delivery of that beer from the licensed premises of the brewer to a regional depot of the brewer, being a depot that is approved by the Board for the purposes of this section by order in writing and being beer that is made by the holder of that off-licence or by a body corporate that is related (within the meaning of the Corporations Law) to that holder.

(3) If the Board is of the opinion that any amount paid or payable as freight or other delivery charges exceeds the value of the freight or other delivery, the Board may determine the value of the freight or delivery (having regard to the circumstances in which that liquor was delivered).

(4) An amount so determined by the Board is to be regarded for the purposes of this section as the amount actually paid or payable as the freight or other delivery charges concerned.

(5) A person who is a party to any arrangement for the payment of an amount for freight or other delivery charges which exceeds the true cost of the freight or other delivery, with the intention of causing or assisting in the avoidance or evasion of the payment of registration fee, is guilty of an offence.

Maximum penalty: 100 penalty units.

Explanatory note

Item (1) inserts a new section which provides that the cost of freight from a brewery to the country regional depots of brewers is not to be included in the amount paid for beer for the purpose of calculating the registration fee payable by a registered club. Currently freight charges are included in the cost of liquor as an anti-avoidance measure. This operates to disadvantage country clubs who have the cost of freight from the city included in the cost of beer on which they must pay registration fees.

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SCHEDULE 1—AMENDMENTS—*continued*

The new section will contain 3 anti-avoidance measures:

- The concession will apply only in respect of freight to depots approved by the Liquor Administration Board.
- The Board will have power to reassess the amount of freight paid if it appears to be excessive.
- It will be an offence to inflate freight costs with the intention of evading registration fee.

Amendments: names of registered clubs

(2) Section 9 (**Determination of application for certificate of registration**):

After section 9 (2), insert:

(2A) The Licensing Court must not grant an application made under section 7 if the Court is of the opinion that the proposed name for the registered club is objectionable, inappropriate or misleading or is a name that is a prohibited name for the registered club under section 48 (Name of registered club).

(3) Section 17A (**Amalgamation of registered clubs**):

At the end of section 17A (5) (a), insert:

; or

(a1) if it is of the opinion that the proposed name for the registered club to be formed by the amalgamation is objectionable, inappropriate or misleading or is a name that is a prohibited name for the registered club under section 48 (Name of registered club); or

(4) Sections 48, 48A:

Omit section 48, insert instead:

Name of registered club

48. (1) A registered club must not cause or permit the use on any sign displayed on the exterior of the premises of the club or in any advertising with respect to the club of a name that is a prohibited name for the club under this section.

(2) Subsection (1) does not apply to the use of a name in advertising if the advertising is not visible or audible from any public place outside the club concerned or is made available exclusively to members of the club.

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SCHEDULE 1—AMENDMENTS—*continued*

(3) A name is a prohibited name for a registered club under this section if:

- (a) it is a name or a name of a kind prescribed as prohibited by the regulations or a name that contains words or words of a kind that are prescribed as prohibited by the regulations; or
- (b) it is a name that the Board has notified the registered club in writing is prohibited as being objectionable, inappropriate or misleading.

(4) A registered club must not change its name unless:

- (a) the Board has approved in writing of the proposed new name; and
- (b) the registrar has endorsed the change of name on the certificate of registration of the club.

(5) The Board must not approve a change of name of a registered club if the proposed new name is a prohibited name for the club under this section.

(6) If a registered club contravenes this section, the club and the secretary of the club are each guilty of an offence and liable to a penalty not exceeding 5 penalty units.

Restrictions on use of “casino” etc, to advertise club

48A. (1) A registered club must not cause or permit the club or any part of the club to be described, promoted or referred to (whether on any sign or in any advertising with respect to the club or otherwise) as a casino or by use of any other description that is prescribed as a prohibited description for registered clubs.

(2) Subsection (1) does not apply to the contents of any sign or advertising or promotional material if the sign is not visible, and the material is not visible or audible, from any public place outside the club concerned or is made available exclusively to members of the club.

(3) If a registered club contravenes this section, the club and the secretary of the club are each guilty of an offence and liable to a penalty not exceeding 5 penalty units.

SCHEDULE 1—AMENDMENTS—*continued*

(4) The regulations may provide for the circumstances in which use of the word “casino” or any other specified word in a name or description of a registered club or a part of the club is not a contravention of this section.

Explanatory note

Items (2) and (3) provide that the Licensing Court is to refuse an application for registration of a club if of the opinion that the proposed name of the club is objectionable, inappropriate or misleading or is prohibited by the regulations provided for under item (4). This formalises an existing implied power of the court.

Item (4) alters an existing provision of the Act that requires a registered club to notify the Board of a change of name. As amended, the provision will prevent the name of a registered club being changed if the proposed new name is prohibited by the regulations or is a name that the Board has prohibited as being objectionable, inappropriate or misleading. Item (4) also adds new provisions which prevent the display of a name on the outside of a registered club’s premises or in advertising for the club if the name is similarly prohibited by the regulations or the Board and will prevent a registered club from being described or referred to (such as on signs or in advertising) as a casino or by use of any other description that is prohibited by the regulations.

Amendment: issue of registration certificate**(5) Section 14 (Issue of certificate of registration):**

After “the registrar” in section 14 (1), insert “or the Principal Registrar”.

Explanatory note

Item (5) enables certificates of registration for registered clubs that are granted in Sydney to be issued by the Sydney registry directly to licensees outside Sydney. At present certificates of registration are transmitted by the Sydney registry for formal issue by the district registry.

Amendment: complaints re quiet and good order of neighbourhood**(6) Section 17AA (Quiet and good order of neighbourhood):**

After section 17AA (1), insert:

(1A) The Board may require a complaint under this section to be made or verified by statutory declaration.

SCHEDULE 1—AMENDMENTS—*continued***Explanatory note**

Item (6) formalises the power of the Board to require that a complaint that a registered club is unduly disturbing the quiet and good order of the neighbourhood be made or verified by statutory declaration. This accords with the Board's current practice in respect of such complaints.

Amendments: functions for non-members(7) Section 4 (**Definitions**):

In section 4 (1), insert in alphabetical order:

“functions authority” means a functions authority referred to in section 23;

(8) Section 17 (**Determination of complaints against registered clubs**):

(a) In section 17 (2) (a), after “registration”, insert “or functions authority of the club”.

(b) After section 17 (2) (a), insert:

(b) suspend the functions authority of the club;

(c) In section 17 (2) (d), after “registration”, insert “or functions authority”.

(9) Section 17AA (**Quiet and good order of neighbourhood**):

(a) After section 17AA (3) (a), insert:

(a1) cancel or suspend the functions authority of the club, or impose, vary or revoke conditions to which the functions authority of the club is subject; or

(b) In section 17AA (4), after “registration”, insert “or functions authority”.

(10) Sections 23–23B:

Omit section 23, insert instead:

Functions on club premises

23. (1) The Licensing Court may grant an authority (a “functions authority”) to a registered club to permit persons who are not members or who are under the age of 18 years to attend in a specified part of the premises of the club a function or functions:

(a) associated with the celebration of Christmas; or

SCHEDULE 1—AMENDMENTS—*continued*

(b) of a cultural, educational, religious, patriotic, professional, charitable, political, literary, sporting, athletic, industrial or community nature.

(2) A functions authority is to designate function areas (that is, each part of the premises of the club on which the functions concerned are permitted to be held) and access areas (that is, each part of the premises through or by means of which persons attending those functions are to be permitted to obtain entry to or to depart from a function area).

(3) A registered club and the secretary of the registered club are each guilty of an offence if:

- (a) any conditions of a functions authority held by the club are contravened; or
- (b) a function is held pursuant to the functions authority otherwise than in accordance with the approval of the governing body of the club; or
- (c) a poker machine is located in any function area or access area specified in a functions authority held by the club while a function is being held pursuant to the authority; or
- (d) liquor is sold, supplied, disposed of or consumed in any function area or access area specified in a functions authority held by the club while a function associated with the celebration of Christmas is being held pursuant to the authority.

Maximum penalty: 20 penalty units in the case of the registered club and 10 penalty units in the case of the secretary.

(4) It is a condition of every functions authority that a record is to be kept at the registered club, in a form approved by the Board, of each function held at the club pursuant to the authority. The record is to specify details of the approval of the governing body of the club for the holding of the function, the date on which and the times during which it was held and the name of any person or body on whose behalf it was held.

SCHEDULE 1—AMENDMENTS—*continued*

(5) The following provisions of this Act do not apply to any part of the premises of a registered club to which a functions authority held by the club applies while a function is being held pursuant to the authority:

- (a) section 45 (Unauthorised person using defined premises of registered club);
- (b) section 52 (Prohibition on persons under 18 years being in bars);
- (c) section 30 (2) (d) (which concerns rules regarding the sale etc. of liquor to non-members), except when the function is associated with the celebration of Christmas.

(6) A functions authority remains in force for the period (if any) for which it was issued or until it is sooner cancelled or surrendered.

Procedure for grant of functions authority

23A. (1) Application for a functions authority may be made to the Licensing Court by or on behalf of a registered club.

(2) An application is made by delivering it to the registrar. Notice of the application is to be given by the registrar to the Commissioner of Police and the application is not to be dealt with until that notice has been given.

- (3) The application is to be dealt with as follows:
 - (a) the jurisdiction of the Licensing Court to grant the application may be exercised by the Principal Registrar if there is no objection to its grant;
 - (b) the application may be granted for a fixed period or for an indefinite period and may be granted subject to such conditions as the Court thinks appropriate (including conditions that limit the number of functions that may be held under the authority during any particular period);
 - (c) the grant of the application is to be notified 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.

SCHEDULE 1—AMENDMENTS—*continued*

(4) The fee prescribed by the regulations is payable for the issue of a functions authority and on or before 15 January in each calendar year following the calendar year of its issue while the authority is in force. The authority is cancelled if the fee is not paid within 2 months after the last day for payment.

(5) Section 9A (Conditions of certificate of registration) applies in respect of a functions authority in the same way as it applies in respect of a certificate of registration, except that an application under section 9A (2) for the variation or revocation of a condition of a functions authority may in addition be made by a person authorised by the council of the area under the Local Government Act 1993 (including the City of Sydney) within the boundaries of which the premises of the club are situated.

Cancellation etc. of functions authority

23B. (1) A complaint may be made against a registered club by the Commissioner of Police, the Director or a person authorised by the council of the area under the Local Government Act 1993 (including the City of Sydney) within the boundaries of which the premises of the club are situated, on any one or more of the following grounds:

- (a) the quiet and good order of the neighbourhood in which the premises of the club are situated will be unduly disturbed if a functions authority held by the club continues in force;
- (b) the club has been convicted of an offence under section 23;
- (c) any condition of a functions authority held by the club has been contravened, whether or not the club has been convicted of an offence in respect of that contravention.

(2) A licensing magistrate or the Principal Registrar may on a complaint made under this section issue a summons calling on the registered club to show cause why its functions authority should not be cancelled.

SCHEDULE 1—AMENDMENTS—*continued*

(3) The Licensing Court constituted as provided by section 9 (1) (a) or (b) of the Liquor Act 1982 is to hear and determine the matter of the complaint and do any one or more of the following:

- (a) cancel the club's functions authority;
- (b) order the club to pay a penalty not exceeding 50 penalty units within such time as may be specified in the order;
- (c) subject the club's functions authority to a specified condition;
- (d) dismiss the complaint.

(4) The Licensing Court is not to hear and determine the matter earlier than 10 days after the summons issued on the complaint is served on the club.

(5) Section 12 (2) of the Liquor Act 1982 does not apply to or in respect of proceedings before the Licensing Court in relation to the matter of a complaint under this section.

(6) A registered club may surrender its functions authority by giving notice of surrender to the Board.

(7) So long as any amount ordered to be paid by a registered club under this section remains unpaid, after the time ordered for payment, the club's functions authority is taken not to be in force.

Explanatory note

Items (7)–(10) replace existing provisions of the Act under which a registered club could apply to the Licensing Court for an authority to hold functions at the club to be attended by persons who are not members of the club (including persons under 18). The existing provision necessitates a fresh application for an authority for each function. The new provisions will provide for a once-only application and grant of an authority to cover all such functions held at the club. Conditions of the authority will be able to impose limits on the number of functions that may be held under an authority in any particular period. Existing restrictions on the availability of liquor and poker machines in function areas will remain. Consequential amendments are made to various provisions to enable the cancellation, suspension or variation of functions authorities in appropriate circumstances.

SCHEDULE 1—AMENDMENTS—*continued***Amendment: constitution of the Licensing Court**(11) Section 42 (**Appeal to Supreme Court on question of law**):

After section 42 (3), insert:

(4) If a matter is remitted to the Licensing Court under subsection (2) (a), the Chairman may replace with another magistrate referred to in section 9 or 10 of the Liquor Act 1982 the magistrate so referred to who constituted, or a magistrate so referred to who was a member of, the Court to whose adjudication the matter remitted relates if:

- (a) the magistrate being replaced has ceased to hold office as a magistrate; or
- (b) the magistrate being replaced is absent, ill or otherwise unavailable for duty.

(5) A magistrate who, pursuant to subsection (4), replaces another magistrate for the purpose of determining a matter remitted to the Licensing Court under subsection (2) (a) may do any act or thing in connection with the remitted matter that could have been done by the replaced magistrate if the replaced magistrate had constituted, or been a member of, the Court determining the remitted matter and, for that purpose:

- (a) may read as evidence for any party the depositions of all witnesses in the proceedings; and
- (b) may decide, or join in deciding, to grant leave for further evidence to be called by a party to the proceedings.

Explanatory note

Item (11) provides that when a matter is remitted to the Licensing Court following an appeal to the Supreme Court, a magistrate who originally constituted or was a member of the Licensing Court and who is absent, ill or otherwise unavailable for duty may be replaced by another magistrate. This parallels existing provisions of the Liquor Act 1982.

Amendment: stay of decision on appeal(12) Section 42B (**Appeal to Licensing Court**):

After section 42B (2), insert:

(3) The lodging of an appeal under this section operates to ~~stay~~ the decision appealed against.

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SCHEDULE 1—AMENDMENTS— *continued*

Explanatory note

Item (12) provides that an appeal to the full Licensing Court operates to stay the decision appealed against.

Amendment: sale or supply of liquor to minors

- (13) Section 50 (**Certain sales etc. of liquor by registered clubs prohibited etc.**):

After section 50 (2A), insert:

(3) It is a defence to a prosecution for an offence under subsection (1) (a) of permitting liquor to be supplied or disposed of to a person under the age of 18 years if it is proved that the liquor was supplied or disposed of to the person by his or her parent or guardian.

Explanatory note

Item (13) inserts a new provision that gives a defence to a prosecution of a registered club or its secretary for permitting liquor to be supplied or disposed of to a minor if it is proved that the liquor was supplied or disposed of to the minor by his or her parent or guardian. However, the parent or guardian concerned will still be guilty of an offence in those circumstances and club staff will still be required to remove minors from bar areas of clubs.

Amendment: gaming or club premises

- (14) Section 54B:

After section 54A, insert:

Gaming on club premises prohibited

54B. (1) If the premises of a registered club are used for gaming for stakes or for the playing of an unlawful game or are opened, kept or used in contravention of the Gaming and Betting Act 1912:

- (a) the registered club; and
- (b) the secretary of the registered club,

are each guilty of an offence and liable to a penalty, in the case of the registered club, not exceeding 20 penalty units and, in the case of the secretary, not exceeding 10 penalty units.

SCHEDULE 1—AMENDMENTS—*continued*

(2) A person, being an employee of a registered club or a person in charge of a registered club, other than the secretary of the registered club, must not permit the playing of an unlawful game on the premises of the club.

Maximum penalty: 10 penalty units.

(3) The conduct on the premises of a registered club of a lottery or game of chance pursuant to and in accordance with section 4 or 4A of the Lotteries and Art Unions Act 1901 does not render a person liable to a penalty under subsection (1) or (2).

Explanatory note

Item (14) inserts a new provision which creates offences concerning unlawful gaming in a registered club. Both the club and the secretary are guilty of an offence if unlawful gaming occurs in the club and a club employee who permits unlawful gaming in the club is also guilty of an offence. The new provision parallels an existing provision of the Liquor Act 1982.

Amendments: penalty notices

(15) Section 57A (**Infringement notices for minors**):

Omit the section.

(16) Section 57B (**Minors not to be detained**):

After “penalty under this Act”, insert “or an amount ordered to be paid under section 100L (Orders to enforce penalty notices) of the Justices Act 1902 in respect of a penalty notice issued under this Act”.

(17) Section 66:

After section 65, insert:

Penalty notices

66. (1) A person who is an authorised officer in relation to an offence against this Act or the regulations may serve a penalty notice on a person (including a registered club) if it appears to the officer that the person has committed that offence and the offence is one that is stated by the regulations to be an offence to which this section applies.

SCHEDULE 1—AMENDMENTS— *continued*

(2) A penalty notice is a notice to the effect that, if the person served does not wish to have the matter determined by a court, the person may pay within a time and to a person specified in the notice the amount of penalty prescribed by the regulations for the offence if dealt with under this section.

(3) A penalty notice may be served personally or by post.

(4) If the amount of penalty prescribed for the purposes of this section for an alleged offence is paid under this section, no person is liable to any further proceedings for the alleged offence except proceedings under section 17 or 17AAA.

(5) Payment under this section is not to be regarded as an admission of liability for the purpose of, nor in any way affect or prejudice, any civil proceeding arising out of the same occurrence.

(6) However, when a penalty is paid under this section in respect of a penalty notice served on a person, the person is for the purposes of sections 17 and 17AAA taken to have been convicted of the offence to which the penalty notice related.

(7) The regulations may:

- (a) prescribe an offence for the purposes of this section by specifying the offence or by referring to the provision creating the offence; and
- (b) prescribe the amount of penalty payable for the offence if dealt with under this section; and
- (e) prescribe different amounts of penalties for different offences or classes of offences.

(8) The amount of a penalty prescribed under this section for an offence must not exceed the maximum amount of penalty which could be imposed for the offence by a court.

(9) This section does not limit the operation of any other provision of, or made under, this or any other Act relating to proceedings that may be taken in respect of offences.

SCHEDULE 1—AMENDMENTS— *continued*

(10) In this section:

“authorised officer”, in relation to an offence against this Act or the regulations, means a person prescribed by the regulations as an authorised officer for the purposes of this section in relation to that offence or in relation to the class of offences of which that offence forms part.

Explanatory note

Items (15)–(17) provide for the issue of penalty notices by authorised officers for alleged contraventions of the Act or the regulations. The issue of a penalty notice gives the alleged offender the option of paying a penalty that is less than the maximum penalty provided for the offence if dealt with by a court if he or she does not wish to have the matter dealt with by a court. If the penalty is paid, no further action is taken in respect of the offence. However, payment of the penalty is regarded as a conviction for the offence for the purposes of the disciplinary provisions of the Act.

The proposed new provision replaces an existing provision that deals only with offences committed by minors on licensed premises. Under that provision, the maximum penalty which a penalty notice could require was \$50 and only police officers could issue them.

Under the proposed new provision, the offences for which penalty notices can be issued, the penalties payable under them and the persons who may issue them will be provided for in the regulations.

Clause 4 of this Bill makes a consequential amendment to the Justices Act 1902 to extend the reminder (“courtesy letter”) and penalty notice enforcement provisions of that Act to the penalty notices provided for under the proposed amendments.

An existing provision of the Registered Clubs Act 1976 that prevents the imprisonment of minors for failure to pay a penalty under that Act will apply to amounts payable under Justices Act enforcement orders.

Amendments: evidence by affidavit etc.

(I8) Section 63A:

After section 63, insert:

Evidence by affidavit etc.

63A. (1) Subject to subsection (2) and except to the extent (if any) that the Licensing Court otherwise directs, evidence in any proceedings before the Court under this Act (other than proceedings for an offence) is to be given by affidavit.

SCHEDULE 1—AMENDMENTS—*continued*

(2) Except to the extent (if any) that the parties otherwise agree or the Licensing Court otherwise directs, an affidavit may not, in the absence of the deponent, be admitted in evidence under subsection (1).

(3) Where proceedings for or in respect of an offence against this Act are taken before the Licensing Court, a witness present in the Court at the hearing of the proceedings is, unless the Court otherwise directs in a particular case or class of cases, to give evidence by means of a written statement a copy of which has been given both to the Court and the parties and which, at the hearing, is verified orally on oath by the witness.

(4) A witness who, pursuant to this section, gives evidence by affidavit or written statement may be cross-examined and re-examined as if he or she had given oral evidence on oath of the matter of the statement,

Explanatory note

Item (18) inserts a provision in the Act that is currently in the regulations concerning the giving of evidence in the Licensing Court by affidavit or written statement.

Amendment: investigation of applicants to be completed within 6 months**(19) Section 95A (Investigations by Director):**

(a) In section 95A (1), after “the application”, insert “and is to complete those investigations and inquiries within Q months after the application was lodged”.

(b) After section 95A (3), insert:

(4) An application is to proceed to be dealt with even if any investigation, inquiry or report under this section in relation to the applicant has not been completed within 6 months after the application was lodged.

Explanatory note

Item (19) provides that the investigation of a gaming-related licence applicant that the Director of Liquor and Gaming is required to undertake must be completed within 6 months after the application was lodged and that the application is to proceed if the inquiry has not been completed within that time.

SCHEDULE 1—AMENDMENTS—*continued***Amendment: access by members to poker machines**

(20) Section 82B (**Access to poker machines**)—as inserted by the Registered Clubs (Amendment) Act 1993:

(a) After section 82B (2) (c), insert:

(cl) subject to subsection (2A), a member of the registered club if a record is kept under subsection (3) in relation to the member;

(b) After section 82B (2), insert:

(2A) A member of the registered club is not authorised under subsection (2) (cl) in respect of any particular act except at a time when no person authorised under subsection (2) (a), (b) or (c) is available to perform that act.

(2B) A registered club must not authorise more than 5 members of the club at any one time for the purposes of subsection (2) (cl).

Maximum penalty: 50 penalty units.

(c) In section 82B (3), after “employed by the club”, insert “or who is a member of the club”.

Explanatory note

Item (20) allows a registered club to authorise a member of the club to access poker machines. Up to 5 members may be authorised at any one time but an authorised member may only access poker machines when the secretary and authorised members of the governing body and authorised employees are unavailable to act.

Amendments: refund of registration fees and licence fees on surrender

(21) Section 15AA:

After section 15A, insert:

Refund of registration fee on surrender of registration

15AA. (1) If the surrender in writing of the certificate of registration of a club is accepted by the Board, application may be made to the Board for a refund of part of any registration fee already paid for the registration period during which the surrender was accepted.

SCHEDULE 1—AMENDMENTS—*continued*

(2) The Board may, if the Board thinks fit, refund part of the registration fee.

(3) The amount of any such refund is at the discretion of the Board but is not to exceed such amount as is proportionate to the unexpired portion of the registration period in respect of which the registration fee was paid.

(4) The Board is entitled to deduct from the refund a surrender fee fixed by the Board for the registration concerned.

(5) Any refund payable under this section is to be paid to the club or other person who, in the opinion of the Board, is entitled to the refund.

(22) Section 105D:

After section 105C, insert:

Refund of licence fee on surrender of licence

105D. (1) If the surrender in writing of a gaming-related licence is accepted by the Board, application may be made to the Board for a refund of part of any licence fee already paid for the licensing period during which the surrender was accepted.

(2) The Board may, if the Board thinks fit, refund part of the licence fee.

(3) The amount of any such refund is at the discretion of the Board but is not to exceed such amount as is proportionate to the unexpired portion of the licensing period in respect of which the licence fee was paid.

(4) The Board is entitled to deduct from the refund a surrender fee fixed by the Board for the licence concerned.

(5) Any refund payable under this section is to be paid to the person who, in the opinion of the Board, is entitled to the refund.

Explanatory note

Items (21) and (22) insert new sections that provide for a refund of a club registration fee or gaming-related licence fee when the registration or licence is surrendered. The refund will be of part of the fee payable for the period during

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which the surrender occurs. The decision whether to pay a refund will be at the discretion of the Board and the amount of the refund will be at the discretion of the Board with an upper limit based on the proportion remaining of the period for which the fee was paid.

Amendment: penalty increase**(23) Section 27 (Statement of liquor purchases):**

Omit “10 penalty units”, insert instead “20 penalty units”.

Explanatory note

Item (23) increases the penalty for failing to lodge certain information with the Board. The penalty will now be consistent with the equivalent offence under the Liquor Act 1982.

Amendments: statute law revision**(24) Section 17AG (Partial refund of instalment when reinstatement refused):**

From section 17AG (2), omit “licensing period”, insert instead “registration period”.

(25) Section 41:

- (a) In section 41 (1), after “capacity of”, insert “the administrator, the controller of property,”.
- (b) From section 41 (1), omit “Companies (New South Wales) Code or a society registered under the Co-operation Act 1923”, insert instead “Corporations Law or a co-operative registered under the Co-operatives Act 1992”.

(26) Sections 45, 51, 52:

- (a) From section 45 (3), 51 (3) and 52 (3), omit “within the meaning of the Apprentices Act 1969, or a probationer, within the meaning of that Act”, insert instead “within the meaning of the Industrial and Commercial Training Act 1989”.
- (b) From section 45 (3), 51 (3) and 52 (3), omit “apprentice or probationer”, insert instead “apprentice”.

SCHEDULE 1—AMENDMENTS— *continued*(27) Section 63 (**Evidentiary provisions**):

Omit section 63 (1) (e1), insert instead:

- (e1) an allegation that a specified person is, or at any time specified in the allegation was, the Director is taken to be proved unless the contrary is proved;

(28) Section 70A (**Functions of the Board**):

- (a) In section 70A (b), after “Act”, insert “(including the keeping or operation of poker machines)”.
- (b) In section 70A (d), after “Act”, insert “(including the manufacture, assembly, supply, sale, acquisition, servicing, disposal, keeping or operation of poker machines)”.

(29) Section 104A:

Before section 105, insert:

Definitions

104A. In this Division:

“**licensing fee**” means the fee payable for a licence under this Division in respect of a licensing period;

“**licensing period**” means a period prescribed for the purposes of section 105 (1).

(30) Section 110 (**Functions of the Board**):

Omit the section.

Explanatory note

Items (25)–(30) make minor amendments by way of statute law revision.

Item (24) corrects an error in terminology.

Item (25) updates terminology in connection with the Corporations Law and the Co-operatives Act 1992.

Item (26) updates a reference to the Apprentices Act 1969 (which has been repealed and replaced by the Industrial and Commercial Training Act 1989).

Item (27) rewrites an existing evidentiary provision to clarify its operation.

Items (28) and (30) combine 2 existing sections dealing with some general functions of the Board. One of the existing sections is amended so that it covers the functions currently covered in the 2 sections, and the other is repealed.

Item (29) inserts some definitions to clarify the meaning of expressions used in provisions concerning gaming-related licences.

SCHEDULE 1—AMENDMENTS—*continued***Amendment: savings and transitional provisions**(31) Schedule 2 (**Savings and transitional provisions**):

At the end of the Schedule, insert:

Part 6—Registered Clubs (Amendment) Act 1994**Definitions**

43. In this Part:

“**1994 Amendment**” means the Registered Clubs (Amendment) Act 1994.

Regulations

44. (1) The regulations may ‘include provisions of a savings or transitional nature consequent on the enactment of the 1994 Amendment.

(2) A provision referred to in subclause (1) may, if the regulations so provide, take effect from the date of assent to the 1994 Amendment Act or from a later date.

(3) To the extent that a provision referred to in subclause (1) takes effect from a date that is earlier than the date of its publication in the Gazette, the provision does not operate:

- (a) to affect, in a manner prejudicial to any person (other than the State or an authority of the State), the rights of the person existing before the date of publication; or
- (b) to impose liabilities on any person (other than the State or an authority of the State) in respect of anything done or omitted to be done before the date of publication.

Freight charges to brewers’ regional depots

45. Section 4AA applies for the purposes of the licensing period commencing on 16 January 1995 and subsequent licensing periods and for that purpose extends to apply in respect of sales of liquor occurring before the commencement of that section,

Function authorities

46. Section 23 (as in force immediately before its substitution by the 1994 Amendment) continues to apply to an authority issued and in force under that section before its substitution.

SCHEDULE 1—AMENDMENTS—*continued***Stay of decision on appeal**

47. Section 42B (3) does not apply to an appeal lodged before the commencement of that subsection.

Penalty notices

48. Section 57A (Infringement notices for minors) continues to apply despite its repeal in respect of a penalty notice issued under that section before its repeal.

3 year amnesty for existing advertising

49. The amendments made by Schedule 1 (4) to the Registered Clubs (Amendment) Act 1994 do not apply to any visible promotional or advertising matter first displayed before the commencement of that section, until the promotional or advertising matter is replaced or its form or contents are changed or until the day that is 3 years after the commencement of the amendments (whichever is the earlier).

Explanatory note

Item (31) inserts savings and transitional provisions consequent on the proposed amendments to be made by this Bill.

*[Minister's second reading speech made in—
Legislative Assembly on 3 May 1994
Legislative Council on 13 May 1994]*