

**REGISTERED CLUBS (FURTHER AMENDMENT)
ACT 1994 No. 50**

NEW SOUTH WALES



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**REGISTERED CLUBS (FURTHER AMENDMENT)
ACT 1994 No. 50**

NEW SOUTH WALES



Act No. 50, 1994

An Act to amend the Registered Clubs Act 1976 to abolish registration fees on low alcohol liquor, to make provision with respect to breath analysis instruments and to make further provision with respect to administrative matters; and for other purposes. [Assented to 23 September 1994]

Registered Clubs (Further Amendment) Act 1994 No. 50

The Legislature of New South Wales enacts:

Short title

1. This Act may be cited as the Registered Clubs (Further 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.

SCHEDULE 1—AMENDMENTS

(Sec. 3)

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

Omit the definition of “low alcohol beer”, insert instead:

“low alcohol liquor” has the same meaning as in the Liquor Act 1982;

(2) Section 10 (**Requirements to be met by clubs**):

(a) From section 10 (1) (b) (i), omit “Companies (New South Wales) Code”, insert instead “Corporations Law”.

(b) From section 10 (1) (b) (ii), omit “society registered under the Co-operation Act 1923”, insert instead “co-operative under the Co-operatives Act 1992”.

(3) Section 15 (**Fees**):

From section 15 (2), omit “(other than low alcohol beer) plus 7 per cent of the amount so paid or payable for low alcohol beer”, insert instead “(other than low alcohol liquor)”.

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

(a) In section 17 (1AA) (a) (i), after “are not being met”, insert “, or have not been met,”.

SCHEDULE 1—AMENDMENTS—*continued*

- (b) From section 17 (2), omit “and shall do any one or more of the following”, insert instead “and, if it is satisfied that the ground upon which the complaint was made has been made out, may do any one or more of the following”.
- (c) Omit section 17 (2) (g) and insert at the end of section 17 (2):
 - or may take no action.
- (d) Omit section 17 (S), insert instead:
 - (5) The onus of establishing the ground of a complaint under this section lies on the complainant except where the ground is that the requirements specified in section 10 (1) are not being met, or have not been met, in relation to a club, in which case the onus of proving that those requirements are being met or have been met (as appropriate) lies on the club.
- (5) Section 17AA (**Quiet and good order of neighbourhood**):
 - Omit section 17AA (1A), insert instead:
 - (1A) A complaint under this section must be made or verified by statutory declaration.
- (6) Section 27B (**Keeping of records concerning low alcohol liquor**):
 - (a) In section 27B (1), omit “low alcohol beer”, insert instead “low alcohol liquor”.
 - (b) Omit section 27B (2).
- (7) Section 32 (**Registered club to have only one secretary**):
 - (a) From section 32 (1) and (3), omit “10 penalty units” wherever occurring, insert instead “100 penalty units”.
 - (b) From section 32 (2), omit “Section 236 (1) of the Companies (New South Wales) Code”, insert instead “Section 240 (1) of the Corporations Law”.
 - (c) From section 32 (2), omit “that Code”, insert instead “that Law”.

SCHEDULE 1—AMENDMENTS— *continued*

(8) Section 34 (**Unapproved person not to act as secretary of registered club**):

- (a) From section 34 (2), omit “5 penalty units” and “10 penalty units”, insert instead “50 penalty units” and “100 penalty units”, respectively.
- (b) After section 34 (3), insert:
 - (3A) For the purposes of this section, a person is considered to be acting as the secretary of a registered club whenever he or she holds or acts in a position in the management of the club whereby the person is responsible to the governing body of the club for the management of the business and affairs of the club or is otherwise responsible for the exercise of the functions of chief executive officer of the club.
- (c) From section 34 (4), omit “Section 236 (6) of the Companies (New South Wales) Code”, insert instead “Section 240 (Q) of the Corporations Law”.
- (d) From section 34 (4), omit “that Code” where firstly occurring, insert instead “that Law”.
- (e) From section 34 (4), omit “section 236 (6) of that Code”, insert instead “section 240 (6) of that Law”.

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

From section 35 (6), omit “10 penalty units”, insert instead “100 penalty units”.

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

- (a) After section 36 (7B), insert:
 - (7C) An application by or on behalf of a registered club for the purposes of subsection (7A) cannot be withdrawn except with the consent of the Electoral Commissioner.

SCHEDULE 1—AMENDMENTS—*continued*

- (b) After section 36 (8), insert:
- (8A) The power to give directions under subsection (8) extends to authorising the giving of directions for the purpose of ensuring that elections are conducted in accordance with sound and democratic electoral practices and procedures and methods of voting.
- (c) From section 36 (10), omit “5 penalty units”, insert instead “20 penalty units”.
- (11) Section 38 (**Form of balance sheet and profit and loss account or income and expenditure account of registered clubs**):
- (a) From section 38 (1) (a), omit “Companies (New South Wales) Code”, insert instead “Corporations Law”.
- (b) From section 38 (1) (b), omit “society registered under the Co-operation Act 1923”, insert instead “co-operative under the Co-operatives Act 1992”.
- (c) From section 38 (1) (c), omit “society”, insert instead “co-operative”.
- (d) From section 38 (2), omit “Companies (New South Wales) Code”, insert instead “Corporations Law”.
- (e) From section 38 (2), omit “Co-operation Act 1923”, insert instead “Co-operatives Act 1992”.
- (f) From section 38 (2), omit “that Code” wherever occurring, insert instead “that Law”.
- (12) Section 39 (**Disclosure of interests of members of governing body of registered club**):
- From section 39 (a), omit “section 228 (1) of the Companies (New South Wales) Code or section 84AB (1) of the Co-operation Act 1923”, insert instead “section 231. (1) of the Corporations Law or section 234 (1) of the Co-operatives Act 1992”.
- (13) Section 47 (**Offences against rules**):
- (a) Omit “section 30 (1) or (2)”, insert instead “section 30 (1), (2) or (2A)”.
- (b) In section 47 (b), after “30 (2)”, insert “or (2A)”.

SCHEDULE 1—AMENDMENTS—*continued*

(14) Section 66 (**Penalty notices**), as inserted by the Registered Clubs (Amendment) Act 1994:

(a) Omit section 66 (1), insert instead:

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

(b) Omit section 66 (10).

(15) Section 68:

After section 67A, insert:

Breath analysis equipment

68. (1) Evidence of the results of a test indicating the presence or concentration of alcohol in the blood of a person by means of a breath analysing instrument installed on the premises of a registered club is not admissible:

- (a) in any civil proceedings against the club (subject to subsection (2)); or
- (b) in any criminal proceedings.

(2) This section does not prevent the admission into evidence in civil proceedings of the results of a test if it is established that at the time of the test:

- (a) the breath analysing instrument concerned had not been serviced and maintained in accordance with the relevant Australian Standard (as in force from time to time); or
- (b) the secretary of the club or any other person having responsibility for the management or supervision of the club was aware or should have been aware that the instrument was not operating correctly; or
- (c) subsection (4) was being contravened in respect of the breath analysing instrument concerned.

SCHEDULE 1—AMENDMENTS—*continued*

(3) A breath analysing instrument is an instrument that is designed to ascertain by analysis of a person's breath the concentration of alcohol present in the person's blood, being an instrument of a type specified in Australian Standard 3547—1993 (Breath Alcohol Testing Devices for Personal Use), published by the Standards Association of Australia. That standard is the relevant Australian Standard for the purposes of this section.

(4) At all times that a breath analysing instrument installed on the premises of a registered club is available for use by members or their guests on those premises there must be prominently displayed on or in close proximity to the instrument a sign that complies with the following requirements:

- (a) the sign must be clearly legible and in good condition and so positioned that its contents can be easily read by a person using the instrument;
- (b) the sign must display the following matter in print of a type size and character that will be clearly legible to a person using the equipment:

**IMPORTANT INFORMATION ABOUT
BREATH TESTING**

Readings given by this instrument are NOT
ACCEPTED by the Police or the Courts.

Your blood alcohol level can rise for 1 hour or
more after your last drink.

(5) If subsection (4) is contravened, the registered club and the secretary of the registered club are each guilty of an offence.

Maximum penalty: 20 penalty units.

(16) Section 71:

Omit the section, insert instead:

Service of summonses, notices etc.

71. (1) A summons issued under this Act may be served by post.

SCHEDULE 1—AMENDMENTS—*continued*

(2) Any summons, notice (including a penalty notice) or other instrument to be served on a club under this Act may be served by leaving it with the secretary of the club, a member of the governing body or of a committee of the club or a person who is apparently an employee of the club at the premises of the club or by affixing it to a conspicuous part of the premises of the club.

(3) A summons, notice (including a penalty notice) or other instrument required or permitted to be served under this Act by post is taken to have been properly addressed for the purpose of its service by post if addressed to the person to whom it is directed at any of the following addresses:

- (a) the address of the premises of the registered club (in the case of service on the club);
- (b) the address of the place at which the person resides, as last known to the Board;
- (c) the address of a place at which the person carries on business, as last known to the Board.

(4) Service of a summons by post may be proved by the oath of the person who served it, or by affidavit or otherwise. The deposition or affidavit of service must state the manner in which the deponent was informed of the address to which it was posted and the time and place of posting.

(5) The provisions of this section operate in addition to and do not derogate from the operation of a provision of any other law relating to service (such as section 220 of the Corporations Law in respect of a registered club that is a company within the meaning of that Law).

(17) Section 72C (**Secrecy**):

At the end of section 72C (2) (c), insert:

; or

- (d) to a person who is engaged in the administration of this Act and is authorised in writing by the Minister to receive information under this section.

SCHEDULE 1—AMENDMENTS—*continued*

- (18) Section 73A (**Age of members of governing body of club**):
Omit “Companies (New South Wales) Code”, insert instead “Corporations Law”.
- (19) Section 106 (**Periodic returns by gaming-related licensees**):
From section 106 (1) (b), omit “the prescribed documents”, insert instead “such documents as may be prescribed”.
- (20) Section 108 (**Summons to show cause against taking of disciplinary action**):
- (a) In section 108 (4) (c), after “personally”, insert “or by post”.
 - (b) From section 108 (5), omit “at the address of the person to be served last known to the Board”.
- (21) Section 109 (**Disciplinary powers of Court**):
Omit section 109 (1) (f), insert instead:
- (f) disqualify the licensee from holding a gaming-related licence for such period, not exceeding 3 years, as the Licensing Court thinks fit,
or may take no action.
- (22) Section 111 (**Keeping of records**):
From section 111 (1), omit “section 216,507 or 513 of the Companies (New South Wales) Code”, insert instead “section 217 or 359 of the Corporations Law”.
- (23) Section 126 (**Identification of special inspectors**):
- (a) From section 126 (1), omit “Board” where firstly occurring, insert instead “Minister administering section 109 of the Liquor Act 1982”.
 - (b) From section 126 (1), omit “Board” where secondly occurring, insert instead “Minister”.
 - (c) From section 126 (1), omit “Liquor Administration Board”, insert instead “Minister administering the Liquor Act 1982”.

SCHEDULE 1—AMENDMENTS—*continued*

(24) Schedule 2 (**Savings and transitional provisions**):

After Part 6, insert:

**Part 7—Registered Clubs (Further Amendment)
Act 1994**

Definition

50. In this Part:

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

Abolition of registration fee on low alcohol liquor

51. (1) The amendments made by Schedule 1 (1), (3) and (6) to the 1994 Further Amendment apply for the purposes of the determination and payment of any registration fee payable in respect of the 1995 registration period and subsequent registration periods, and do not apply to any registration fee payable in respect of a registration period prior to the 1995 registration period.

(2) For the purposes of the operation of this Act in relation to the registration fee payable by a registered club in respect of the 1995 registration period:

- (a) it is to be presumed that none of the amount paid or payable for liquor on which the calculation of that registration fee is based comprised an amount paid or payable for low alcohol liquor, except as provided by paragraph (b); and
- (b) if the club satisfies the Secretary of the Board or the Board, in relation to an assessment or reassessment of that registration fee, that a particular amount was paid or payable for low alcohol liquor, the fee to be paid by the club is to be determined having regard to the amount paid OF payable for low alcohol liquor.

(3) In this clause:

“low alcohol liquor” does not include low alcohol liquor that is beer;

SCHEDULE 1—AMENDMENTS—*continued*

“1995 registration period” means the registration period commencing on 16 January 1995.

Complaints against clubs

52. (1) The amendment made by the 1994 Further Amendment to section 17 (1AA) does not apply to a complaint against a registered club made before the commencement of the amendment.

(2) The amendment made by the 1994 Further Amendment to section 17 (2) extends to apply to a Complaint against a registered club made but not finally determined before the commencement of the amendment.

(3) The amendment made by the 1994 Further Amendment to section 17AA does not apply to a complaint against a registered club made before the commencement of the amendment.

Breath analysis equipment

53. Section 68 (Breath analysis equipment) does not apply to a test by means of a breath analysing instrument that was taken before the commencement of that section, or to the results of such a test.

Secrecy

54. The amendment made to section 72C (Secrecy) by the 1994 Further Amendment extends to apply to information acquired before the commencement of the amendment.

Complaints against gaming-related licensees

55. The amendment made by the 1994 Further Amendment to section 109 extends to apply to a complaint against a licensee made but not finally determined before the commencement of the amendment.

Service of summonses

56. The amendments made by Schedule 1 (16) and (20) to the 1994 Further Amendment do not apply to a summons issued before the commencement of those amendments.

SCHEDULE 1—AMENDMENTS—*continued*

Records for low alcohol liquor

57. Section 27B (Keeping of records concerning low alcohol liquor) does not apply to the keeping of records of amounts paid or payable in respect of low alcohol liquor (other than beer) before the commencement of the amendments made to that section by the 1994 Further Amendment.

*[Minister's second reading speech made in—
Legislative Assembly on 14 September 1994
Legislative Council on 20 September 1994]*