



New South Wales

Summary Offences Amendment (Minors in Sex Clubs) and Theatres and Public Halls Repeal Act 2001 No 71

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Summary Offences Amendment (Minors in Sex Clubs) and Theatres and Public Halls Repeal Act 2001 No 71

Act No 71, 2001

An Act to amend the *Summary Offences Act 1988* with respect to the presence of minors in sex clubs; to repeal the *Theatres and Public Halls Act 1908*; and for other purposes. [Assented to 25 October 2001]

The Legislature of New South Wales enacts:

1 Name of Act

This Act is the *Summary Offences Amendment (Minors in Sex Clubs) and Theatres and Public Halls Repeal Act 2001*.

2 Commencement

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

3 Amendment of Summary Offences Act 1988 No 25

The *Summary Offences Act 1988* is amended as set out in Schedule 1.

4 Repeal of Theatres and Public Halls Act 1908 No 13

The *Theatres and Public Halls Act 1908* is repealed.

5 Amendment of Act and regulation

The Act and the regulation specified in Schedule 2 is amended as set out in that Schedule.

Schedule 1 Amendment of Summary Offences Act 1988

(Section 3)

[1] Part 3A

Insert after Part 3:

Part 3A Minors in sex clubs

21A Definitions

In this Part:

declared sex club means premises for the time being declared under this Part to be a sex club.

live sex entertainment means live public entertainment of a sexually explicit nature, such as striptease or actual or simulated sexual intercourse (whether or not involving audience participation).

manager of a declared sex club means a person having the management or control, or otherwise in charge, of the club.

minor means a person who has not attained the age of 18 years.

public entertainment means entertainment to which admission may ordinarily be gained by members of the public (whether or not the public to whom it is open consists only of a limited class of persons) on payment of money, or other consideration, as the price or condition of admission. Entertainment does not cease to be public entertainment merely because:

- (a) some (but not all) persons may be admitted to the entertainment otherwise than on payment of money, or other consideration, as the price or condition of admission, or
- (b) payment of money or other consideration, is demanded as the charge for a meal or other refreshment, or for any other service or thing, before admission to the

entertainment is granted or as the charge for the entertainment after admission to the entertainment has been granted.

senior police officer means a police officer of or above the rank of senior sergeant.

21B Minister may declare premises to be sex club on application of senior police officer

- (1) A senior police officer may apply to the Minister for premises to be declared a sex club under this Part.
- (2) The Minister may declare the premises to be a sex club under this Part if satisfied that:
 - (a) the premises are used solely or substantially for live sex entertainment, and
 - (b) there is no effective prohibition under the *Liquor Act 1982* or any other law on minors entering the premises.
- (3) The premises declared to be a sex club may include any area that is associated with any part of the premises used for live sex entertainment.
- (4) The Minister may rely on information supplied in the application for the declaration or any other information available to the Minister for the purposes of making the declaration.
- (5) The following provisions apply to the declaration of a sex club:
 - (a) the declaration must set out a description of the premises to which it relates,
 - (b) the declaration may be limited to circumstances specified in the declaration,
 - (c) the declaration may be revoked by the Minister at any time.
- (6) The Minister may delegate the powers conferred on the Minister by this section (other than this power of delegation).

21C Notification of declaration of premises

- (1) The declaration of any premises as a sex club is to be notified by any one or more of the following means:
 - (a) by publication of the declaration in the Gazette,
 - (b) by publication of the declaration in any newspaper circulating in the area in which the premises are located,
 - (c) by the service of notice of the declaration on the manager of the premises or a person who:
 - (i) is entitled to any of the proceeds of the operation of the premises, or
 - (ii) is otherwise concerned in the management of the premises,
 - (d) by affixing a notice of the declaration in a conspicuous place at the main entry point to the premises.
- (2) A declaration does not take effect until it has been notified by any one of those means.

21D Minors not permitted in declared sex clubs

- (1) A person engaged in the operation of a declared sex club must not permit a minor to enter or remain in the club.
Maximum penalty: 20 penalty units.
- (2) A person is engaged in the operation of a declared sex club if:
 - (a) the person is the manager of the club, or
 - (b) the person is employed to carry out duties in the club, or
 - (c) the person is entitled to any of the proceeds of the operation of the club or is otherwise concerned in the management of the club.
- (3) It is a defence to a prosecution for an offence under subsection (1) if it is proved that:
 - (a) the person charged believed on reasonable grounds that the minor was of or above the age of 18 years, or

- (b) the person charged had no knowledge that the minor was in the club and could not, by the exercise of due diligence, have prevented the minor from being in the club.

21E Notices to be displayed

- (1) The manager of a declared sex club must ensure that there is continually displayed at each entry point to the club a notice that:
 - (a) states that a minor is not permitted to enter the club, and
 - (b) is displayed in such a manner that it would be reasonable to expect that a person entering the club would be alerted to its contents.

Maximum penalty: 20 penalty units.

- (2) The regulations may make provision for or with respect to the size and content of such notices.

21F Police powers of entry

- (1) If a police officer believes on reasonable grounds that a minor is in a declared sex club, the officer may, at any time of the day or night, enter the premises to ascertain whether an offence under this Part has been or is being committed.
- (2) A police officer exercising the power conferred by subsection (1) may, with or without assistance, break into the premises if entry is refused or is unreasonably delayed.
- (3) If a police officer is satisfied, on reasonable grounds, that a minor is in a declared sex club, the officer may remove the minor, or cause the minor to be removed, from the premises.
- (4) A person who wilfully delays or obstructs a police officer in the exercise of a power under this section is guilty of an offence.

Maximum penalty: 50 penalty units.

- (5) In the exercise of a power conferred under this section, a police officer may request any person to answer any question relating to any suspected offence under this Part.

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Amendment of Summary Offences Act 1988

Schedule 1

[2] Schedule 2 Savings and transitional provisions

Insert at the end of clause 1 (1) in Schedule 2:

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Schedule 2 Amendment of Act and regulation

Schedule 2 Amendment of Act and regulation

(Section 5)

2.1 Boxing and Wrestling Control Act 1986 No 11

Section 62C Application for and granting of permits

Omit section 62C (5).

2.2 Dangerous Goods (General) Regulation 1999

Dictionary

Omit the definitions of *public hall* and *theatre*.

Insert instead of the latter definition:

theatre or public hall means any building or part of a building
that is used or intended to be used for the purpose of providing
public entertainment or conducting public meetings.

[Minister's second reading speech made in—
Legislative Assembly on 5 April 2001
Legislative Council on 16 October 2001]

BY AUTHORITY
