



Registered Clubs Amendment (Accountability) Regulation 2004

under the

Registered Clubs Act 1976

His Excellency the Lieutenant-Governor, with the advice of the Executive Council, has made the following Regulation under the *Registered Clubs Act 1976*.

GRANT McBRIDE, M.P.,
Minister for Gaming and Racing

Explanatory note

The object of this Regulation is to amend the *Registered Clubs Regulation 1996* as a consequence of the enactment of the *Registered Clubs Amendment Act 2003* which, among other things, inserted a new Part 4A into the *Registered Clubs Act 1976* dealing with the accountability of registered clubs.

The Regulation makes provision for the following:

- (a) the form of and time for lodging, and determination of the value of gifts to be included in, returns by members of governing bodies of registered clubs or employees of registered clubs under section 41F of the *Registered Clubs Act 1976*,
- (b) matters relating to the keeping of a register of disclosures, declarations and returns made under the new Part 4A of that Act,
- (c) the time within which information is required to be provided by a registered club each year to members under the new Part 4A and the form in which the information is to be provided,
- (d) exemptions from certain provisions of the new Part 4A dealing with disposal of land by a registered club and requirements relating to contracts with certain persons and bodies connected with a registered club,

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- (e) prescribing certain contracts as controlled contracts for the purposes of section 41O of that Act and prescribing certain terms and conditions that are taken to be included in such contracts,
- (f) savings and transitional matters.

This Regulation is made under the *Registered Clubs Act 1976*, including sections 41F, 41G, 41H, 41O, 41ZB, 41ZC and 73 (the general regulation-making power) and clause 1A of Schedule 2.

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1 Name of Regulation

This Regulation is the *Registered Clubs Amendment (Accountability) Regulation 2004*.

2 Commencement

This Regulation commences on 9 April 2004.

3 Amendment of Registered Clubs Regulation 1996

The *Registered Clubs Regulation 1996* is amended as set out in Schedule 1.

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Schedule 1 Amendments

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(Clause 3)

[1] Part 6B

Insert after clause 47E:

Part 6B Accountability of registered clubs

47F Returns under section 41F of the Act

- (1) A return submitted under section 41F of the Act by a member of the governing body of a registered club or an employee of a registered club:
 - (a) is to be submitted within 21 days after the end of each financial year of the registered club, and
 - (b) is to relate to gifts received during that financial year, and
 - (c) is to be in a form approved by the Director.
- (2) For the purposes of section 41ZC, the prescribed guidelines for determining what constitutes a gift to be disclosed in a return referred to in subclause (1) are as follows:
 - (a) a gift must be disclosed if its value exceeds \$500 or, when added to the value of all other gifts received from the same donor during the financial year to which the return relates, exceeds \$500,
 - (b) if the value of a gift (other than money) is unable to be determined in accordance with subclause (3), the gift must be disclosed.
- (3) The value of any gift (other than money) is to be determined as a reasonable estimate of the amount that the gift would have cost the recipient if the recipient had had to obtain it for himself or herself at the time at which it was given.

47G Register to be kept under section 41G of the Act

- (1) The register required to be kept under section 41G of the Act must be kept in accordance with this clause.
- (2) The register must:
 - (a) be kept in electronic format or hard copy, and

- (b) be kept in a form that separates entries into sections according to each financial year of the registered club concerned, and
 - (c) list separately each interest or gift included in a disclosure, declaration or return required to be recorded in the register, and
 - (d) be in a form approved by the Director.
- (3) A request under section 41G of the Act for inspection of the register is to include the name, membership number and postal address of the member making the request.

47H Annual reporting requirements under section 41H of the Act

The information to be sent by a registered club under section 41H of the Act:

- (a) must be sent within 4 months after the end of the financial year to which the information relates, and
- (b) may be sent in electronic form to a member of the club who has provided an e-mail address to the club for that purpose, and
- (c) if more than one member of the club reside at the same address and those members consent, may be sent as one copy addressed to all of those members, and
- (d) may accompany other material sent by the club or form part of another document, and
- (e) in relation to the information required to be sent under section 41H (1) (d) of the Act, must list the amount of each loan separately, but must not disclose the names of the employees to whom the loans were made, and
- (f) must be in a form approved by the Director.

47I Exemptions from disposal of land provisions in section 41J of the Act

- (1) The granting of a lease or licence by a registered club in the following circumstances is exempt from section 41J (1) of the Act:
- (a) where the lease or licence was granted to a person for the purpose of enabling the person to provide goods or services exclusively to members of the club and their

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guests and to other persons attending the club in accordance with a functions authority held by the club under section 23 of the Act,

- (b) where the lease or licence was granted to a person for the purpose of enabling the person to provide goods or services to members of the club and their guests and to other members of the public and the granting of the lease or licence for that purpose has been approved at a general meeting of the ordinary members of the club at which a majority of the votes cast supported the approval.
- (2) The granting by a registered club of an easement over land is exempt from section 41J (1) (b) of the Act.
- (3) The termination by a registered club of a lease or licence held over land by the club is exempt from section 41J (1) (b) of the Act.
- (4) The disposal of land to a government department, statutory body representing the Crown, State owned corporation or local council is exempt from the provisions of section 41J (1) of the Act.

47J Exemptions from section 41L of the Act in relation to contracts with secretary, manager, close relatives and others

A contract entered into by a registered club for the provision of goods or services by a person or body referred to in section 41L (1) of the Act is exempt from that section if:

- (a) the premises of the club for which the goods and services are to be provided are not situated in the metropolitan area (as defined in section 17AC (1) of the Act), and
- (b) the contract has been entered into as a result of an open tender process conducted by the club.

47K Controlled contracts under section 41O of the Act

- (1) For the purposes of section 41O of the Act, a contract with a registered club for the provision of professional advice to the club (other than legal advice or advice provided by a registered liquidator) relating to any of the following matters is prescribed as a controlled contract:

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- (a) significant changes to the management structure of the club or the governance of the club,
 - (b) significant changes to the financial management of the club,
 - (c) the disposal of real property owned by the club,
 - (d) the amalgamation of the club with another club.
- (2) The following are included as terms and conditions of a contract prescribed as a controlled contract by subclause (1):
- (a) that the contract is of no effect unless it has been approved by the governing body of the registered club concerned,
 - (b) that a person (other than the registered club) that is a party to the contract must not be employed or otherwise engaged by the registered club to carry out functions relating to the governance of the club or the financial management of the club,
 - (c) that a person (other than the registered club) that is a party to the contract must not buy or otherwise receive from the club any real property disposed of by the club as a result of the advice provided under the contract.

[2] Clause 56

Insert after clause 55A:

56 Transitional provisions relating to Registered Clubs Amendment Act 2003

- (1) Section 34A (1) of the Act has no operation until 9 October 2004.
- (2) Section 34D (1) and (2) of the Act do not apply to any appointment of a manager of a registered club that occurred before the commencement of that section.
- (3) If section 41C of the Act would (but for this subclause) operate so as to require a person to declare an interest that the person became aware of before the commencement of that section, the section is to be read as:
 - (a) requiring the person to declare the interest at a meeting of the governing body of the registered club concerned as soon as practicable after that commencement, and

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- (b) not requiring the person to declare an interest that has already been declared by the person under section 39 of the Act before the repeal of that section.
- (4) A return under section 41F of the Act for a financial year that began before the commencement of that section but ended after that commencement need only include gifts received during the part of the financial year that began on that commencement.
- (5) Section 41J of the Act does not apply to the disposal of land by a registered club in the following circumstances:
 - (a) if a contract of sale of the land, or some other binding agreement to sell the land, was entered into by the club before that commencement,
 - (b) if an option to buy the land was granted by the club before that commencement,
 - (c) if a lease in relation to the land was entered into before the commencement of that section that included an option to renew that would take effect after that commencement,
 - (d) if the club had given notice before that commencement that it intended to terminate a lease or licence held over the land by the club.

BY AUTHORITY
