

Second print



New South Wales

Registered Clubs Legislation Amendment Bill 2004

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This PUBLIC BILL, originated in the LEGISLATIVE ASSEMBLY and, having this day passed, is now ready for presentation to the LEGISLATIVE COUNCIL for its concurrence.

*Clerk of the Legislative Assembly.
Legislative Assembly,*



New South Wales

Registered Clubs Legislation Amendment Bill 2004

Act No , 2004

An Act to amend the *Registered Clubs Act 1976* and other Acts with respect to complaints relating to registered clubs, disclosure of fees, inquiries and investigations and public disclosure of information; and for other purposes.

EXAMINED

Chairman of Committees

The Legislature of New South Wales enacts:	1
1 Name of Act	2
This Act is the <i>Registered Clubs Legislation Amendment Act 2004</i> .	3
2 Commencement	4
This Act commences on the date of assent to this Act.	5
3 Amendment of Registered Clubs Act 1976 No 31	6
The <i>Registered Clubs Act 1976</i> is amended as set out in Schedule 1.	7
4 Amendment of other Acts	8
The Acts specified in Schedule 2 are amended as set out in that Schedule.	9 10

Schedule 1 Amendment of Registered Clubs Act 1976 1
(Section 3) 2

[1] Section 17 Determination of complaints against registered clubs 3

Insert “or a person authorised by an employee organisation,” after
“Director,” in section 17 (1AA). 4
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[2] Section 17 (8) 6

Insert after section 17 (7): 7

(8) In this section: 8

employee organisation means: 9

(a) an industrial organisation of employees registered
under the *Industrial Relations Act 1996*, or 10
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(b) an association of employees registered as an
organisation under the *Workplace Relations Act 1996*
of the Commonwealth. 12
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**[3] Section 34E Responsibilities and liabilities of managers of
premises of registered clubs** 15
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Omit “35A” from section 34E (4). Insert instead “57E”. 17

[4] Section 35A Investigations by Director 18

Omit the section. 19

[5] Section 41E Disclosure of gifts or fees from affiliated bodies 20

Insert “or fee” after “gift” wherever occurring. 21

[6] Section 41E (5) 22

Insert after section 41E (4): 23

(5) In this section: 24

fee means remuneration, a fee for services or any similar
payment. 25
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[7] Section 41X Inquiry may be held	1
Omit “an allegation about any corrupt or other improper conduct in relation to a registered club” from section 41X (1).	2 3
Insert instead “an allegation or information about any corrupt or other improper conduct by a registered club or by any person in relation to a registered club”.	4 5 6
[8] Section 41X (1A)	7
Insert after section 41X (1):	8
(1A) An inquiry under this section may be held into an allegation made, or information provided, by any person.	9 10
[9] Section 41Z	11
Omit the section. Insert instead:	12
41Z Findings of inquiry and referral of certain matters	13
(1) The person presiding at an inquiry is required to report to the Director on the findings of the inquiry (including any information obtained in the course of the inquiry).	14 15 16
(2) A report to the Director on the findings of the inquiry may contain any one or more of the following:	17 18
(a) findings in relation to the subject-matter of the inquiry and to other matters arising in the course of the inquiry,	19 20
(b) a finding or opinion as to whether there has been corrupt or improper conduct by a registered club or by any person in relation to a registered club,	21 22 23
(c) a recommendation that the Director refer a matter to a law enforcement agency or other person or body under this section or that the Director take other action in relation to the subject-matter of the inquiry or to other matters arising in the course of the inquiry.	24 25 26 27 28
(3) A finding or opinion referred to in subsection (2) (b) may be included in a report only if the person presiding:	29 30
(a) has the powers and authorities conferred by section 41Y (1) (b), and	31 32
(b) is of the opinion that the conduct concerned may involve a criminal offence or a disciplinary offence.	33 34

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- (4) The person presiding at the inquiry is not authorised to include in a report to the Director a statement as to a finding or opinion that a specified person is guilty of or has committed or is committing a criminal offence (whether or not a specified criminal offence). 1
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- (5) A finding or opinion in a report to the Director that there has been corrupt or improper conduct by a registered club or by any person in relation to a registered club is not a finding or opinion that any person is guilty of or has committed, is committing or is about to commit a criminal offence. 6
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- (6) If the Director is satisfied that any matter contained in the report: 11
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- (a) relates or may relate to a breach of a law of the State (including this Act) or of another State or Territory or of the Commonwealth, or 13
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- (b) constitutes or may constitute grounds for taking proceedings of any kind (including a complaint under this or any other Act) against a registered club or other person, 16
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- the Director may refer the matter to a law enforcement agency or to any other person or body who may have an interest in the matter. 20
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- (7) Without limiting subsection (6), the Director may refer a matter under that subsection that arises out of the employment, including termination of employment, of an employee of a registered club to the Industrial Relations Commission or the head of any Government Department involved in the administration of the *Industrial Relations Act 1996*. 23
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- (8) In this section: 30
- criminal offence*** means a criminal offence under the law of the State or under any other law relevant to the conduct in question. 31
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- disciplinary offence*** includes any misconduct, irregularity, neglect of duty, breach of discipline or other improper conduct that constitutes or may constitute grounds for disciplinary action, or proceedings (including a complaint under this or any other Act), under any law. 34
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law enforcement agency has the same meaning as in section 12A of the *Royal Commissions Act 1923*.

[10] Section 41ZAA

Insert after section 41ZA:

41ZAA Disclosure and publication of inquiry reports

- (1) The Director may, with the approval of the Minister, do any of the following:
 - (a) divulge the whole or part of the contents of a report of an inquiry to any person,
 - (b) publish the whole or part of the contents of any such report.
- (2) The Minister may give an approval under this section if of the opinion that it is in the public interest to do so.
- (3) This section has effect despite any other law.

[11] Section 41ZB Regulations for purposes of Part

Insert “or fee” after “gift” in paragraph (b).

[12] Sections 43B and 43C

Insert after section 43A:

43B Protection of employees and members of governing body who disclose information to Director

- (1) A person or a registered club that takes detrimental action against an employee of a registered club, or a member of the governing body of a registered club, that is substantially in reprisal for the employee or member disclosing information to the Director concerning conduct of the club or of a person that is or may be the subject of an investigation, inquiry or complaint under this Act is guilty of an offence.
Maximum penalty: 100 penalty units.
- (2) It is a defence to an offence under subsection (1) if the defendant proves that the disclosure was frivolous or vexatious.

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- (3) An employee or a member of a governing body is not subject to any liability for disclosing information referred to in subsection (1) to the Director and no action, claim or demand may be taken or made of or against the employee or member of the governing body for making the disclosure. 1
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- (4) This section has effect despite any duty of secrecy or confidentiality or any other restriction on disclosure (whether or not imposed by an Act) applicable to the employee or member concerned. 6
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- (5) In this section, *detrimental action* means action causing, comprising or involving any of the following: 10
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- (a) injury, damage or loss, 12
 - (b) intimidation or harassment, 13
 - (c) discrimination, disadvantage or adverse treatment in relation to employment, 14
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 - (d) dismissal from, or prejudice in, employment, 16
 - (e) loss of office as a member of the governing body of a registered club (other than at a general meeting of the club), 17
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 - (f) disciplinary proceedings. 20

43C False or misleading disclosures 21

An employee of a registered club, or a member of the governing body of a registered club, must not disclose information to the Director concerning conduct of the club or of a person that the employee or member knows is false or misleading in a material respect. 22
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Maximum penalty: 100 penalty units. 27

[13] Part 7, heading 28

Insert “**Director,**” before “**police**”. 29

[14] Sections 57E–57G	1
Insert before section 58:	2
57E Investigations and inquiries by Director	3
(1) The Director may at any time carry out all such investigations and inquiries as are considered by the Director to be necessary in order to ascertain any one or more of the following:	4 5 6
(a) whether a complaint should be made under section 17 in relation to a registered club,	7 8
(b) whether a complaint should be made under section 35 in relation to the secretary, or a member of the governing body, of a registered club,	9 10 11
(c) whether a registered club or member of the governing body or an employee of a registered club is complying with the provisions of Part 4A.	12 13 14
(2) The Commissioner of Police is to inquire into, and report to the Director on, such matters as the Director may request concerning a registered club or person the subject of an investigation or inquiry under this section.	15 16 17 18
(3) The Director may, by notice in writing, require a person who is the subject of an investigation or inquiry under this section, or is a member of a governing body or an employee of a registered club that is the subject of an investigation or inquiry under this section, to do one or more of the following things:	19 20 21 22 23
(a) provide, in accordance with directions in the notice, such information verified by statutory declaration as is relevant to the investigation or inquiry and is specified in the notice,	24 25 26 27
(b) produce, in accordance with directions in the notice, such records as are relevant to the investigation or inquiry and permit examination of the records, the taking of extracts from them and the making of copies of them,	28 29 30 31 32
(c) authorise a person described in the notice to comply with a requirement of the kind referred to in paragraph (a) or (b),	33 34 35
(d) furnish to the Director such authorities and consents as the Director requires for the purpose of enabling the Director to obtain information (including financial and	36 37 38

	other confidential information) from other persons concerning the person under investigation and his or her associates.	1 2 3
(4)	A person who complies with a requirement of a notice under this section does not on that account incur a liability to another person.	4 5 6
(5)	A person must not fail to comply with a requirement of the Director contained in a notice under subsection (3).	7 8
	Maximum penalty (subsection (5)): 20 penalty units.	9
57F	Referral of matters to other agencies, persons and bodies	10
(1)	The Director may refer a matter to a law enforcement agency or any other person or body who may have an interest in the matter, if satisfied after carrying out an investigation or inquiry under section 57E that a matter that is the subject of the investigation or inquiry or arises out of it:	11 12 13 14 15
	(a) relates or may relate to a breach of a law of the State (including this Act) or of another State or Territory or of the Commonwealth, or	16 17 18
	(b) constitutes or may constitute grounds for taking proceedings of any kind (including a complaint under this or any other Act) against a registered club or other person.	19 20 21 22
(2)	Without limiting subsection (1), the Director may refer a matter under that subsection that arises out of the employment, including termination of employment, of an employee of a registered club to the Industrial Relations Commission or the head of any Government Department involved in the administration of the <i>Industrial Relations Act 1996</i> .	23 24 25 26 27 28 29
(3)	In this section:	30
	<i>law enforcement agency</i> has the same meaning as in section 12A of the <i>Royal Commissions Act 1923</i> .	31 32
57G	Recovery of costs of investigation or inquiry	33
(1)	This section applies if, as a result of an investigation or inquiry conducted by or on behalf of the Director under this Act:	34 35 36

(a)	a complaint is made under this Act against a registered club or the secretary or a member of the governing body of a registered club, and	1 2 3
(b)	the Licensing Court, in the case of a complaint in relation to a registered club, determines that the ground on which the complaint is made is made out or, in the case of a complaint in relation to the secretary or a member of the governing body of a registered club, makes a declaration under section 35, and	4 5 6 7 8 9
(c)	the Licensing Court orders that costs be awarded to the Director in the proceedings in which the complaint is heard and determined.	10 11 12
(2)	The Licensing Court may, in addition to any such order as to costs, order that the person liable for those costs pay to the Director a specified amount in respect of all or any of the reasonable costs incurred by the Director in connection with the investigation or inquiry.	13 14 15 16 17
(3)	The Director may recover any unpaid amounts specified in an order made under this section as a debt in a court of competent jurisdiction.	18 19 20
[15]	Schedule 2 Savings, transitional and other provisions	21
	Insert at the end of clause 1A (1):	22
	<i>Registered Clubs Legislation Amendment Act 2004</i>	23
[16]	Schedule 2, Part 19	24
	Insert after Part 18:	25
	Part 19 Registered Clubs Legislation Amendment Act 2004	26 27
91	Existing inquiries under section 41X	28
(1)	Section 41X, as amended by the <i>Registered Clubs Legislation Amendment Act 2004</i> , and sections 41Z and 41ZAA, as inserted by that Act, apply to or in respect of an inquiry under section 41X commenced before the commencement of this clause and for which a final report was not provided to the Director before that commencement (an <i>existing inquiry</i>).	29 30 31 32 33 34

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- (2) A person presiding at an existing inquiry may, if the person thinks it appropriate, allow any person represented at the inquiry to make additional submissions to the inquiry as a result of subclause (1).

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92 Recovery of costs of investigations and inquiries by Director

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Section 57G, as inserted by the *Registered Clubs Legislation Amendment Act 2004*, applies in respect of investigations or inquiries commenced on or after the commencement of that section.

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Schedule 2 Amendment of other Acts	1
(Section 4)	2
2.1 Defamation Act 1974 No 18	3
Section 17V	4
Insert after section 17U:	5
17V Inquiries under the Registered Clubs Act 1976	6
There is a defence of absolute privilege for a publication to or by the Minister administering the <i>Registered Clubs Act 1976</i> , or the Director of Liquor and Gaming, of a report of an inquiry under Division 6 of Part 4A of that Act.	7
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2.2 Gaming Machines Act 2001 No 127	10
[1] Section 58 Cancellation of authorisations	11
Insert after section 58 (1):	12
(1AA) Without limiting subsection (1), the Board may suspend or cancel a hotelier's or registered club's authorisation to keep an approved gaming machine if the hotelier or registered club:	13
(a) fails to pay a monitoring fee or tax, within the meaning of the <i>Gaming Machine Tax Act 2001</i> , or an instalment of any such tax, within the time allowed by or under that Act, or	14
(b) fails to pay a penalty or interest due for non-payment or late payment of any such tax or instalment.	15
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[2] Section 206B	22
Insert after section 206A:	23
206B Disclosure of information	24
(1) The Minister or the Treasurer, or the Director-General, may publish information arising out of, or relating to, the administration or execution of this Act or the <i>Gaming Machine Tax Act 2001</i> if, in the opinion of the Minister or the Treasurer, it is in the public interest to do so.	25
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(2)	Without limiting the information that may be published, CMS information (within the meaning of section 139) and other information relating to particular clubs may be published under this section.	1 2 3 4
(3)	This section has effect despite any other law.	5
[3]	Schedule 1 Savings, transitional and other provisions	6
	Insert at the end of clause 1 (1):	7
	<i>Registered Clubs Legislation Amendment Act 2004</i> , but only to the extent that it amends this Act	8 9
2.3	Liquor Act 1982 No 147	10
[1]	Sections 66B and 66C	11
	Insert after section 66A:	12
66B	Findings of inquiry and referral of certain matters	13
(1)	The Director may refer a matter to a law enforcement agency or any other person or body who may have an interest in the matter, if satisfied after carrying out an investigation or inquiry under section 66A that a matter that is the subject of the investigation or inquiry or arises out of it:	14 15 16 17 18
(a)	relates or may relate to a breach of a law of the State (including this Act) or of another State or Territory or of the Commonwealth, or	19 20 21
(b)	constitutes or may constitute grounds for taking proceedings of any kind (including a complaint under this or any other Act) against a licensee, manager, close associate of a licensee or non-proprietary association.	22 23 24 25
(2)	In this section:	26
	<i>law enforcement agency</i> has the same meaning as in section 12A of the <i>Royal Commissions Act 1923</i> .	27 28
66C	Recovery of costs of investigation or inquiry	29
(1)	This section applies if, as a result of an investigation or inquiry conducted by the Director under this Act:	30 31

- (a) a complaint is made under this Act against a licensee, manager, close associate or non-proprietary association, and 1
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 - (b) the Licensing Court determines that the ground on which the complaint is made is made out, and 4
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 - (c) the Licensing Court orders that costs be awarded to the Director in the proceedings in which the complaint is heard and determined. 6
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 - (2) The Licensing Court may, in addition to any such order as to costs, order that the person liable for those costs pay to the Director a specified amount in respect of all or any of the reasonable costs incurred by the Director in connection with the investigation or inquiry. 9
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 - (3) The Director may recover any unpaid amounts specified in an order made under this section as a debt in a court of competent jurisdiction. 14
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- [2] Section 67 Summons to show cause against taking of disciplinary action** 17
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- Omit section 67 (1) (e) (ii). Insert instead: 19
- (ii) an association of employees registered under the *Workplace Relations Act 1996* of the Commonwealth, or 20
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- [3] Schedule 1 Savings and transitional provisions** 23
- Insert at the end of clause 1 (1): 24
- Registered Clubs Legislation Amendment Act 2004*, but only to the extent that it amends this Act 25
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[4] Schedule 1, Part 22	1
Insert after Part 21:	2
Part 22 Registered Clubs Legislation Amendment Act 2004	3 4
95 Recovery of costs of investigations and inquiries by Director	5
Section 66C, as inserted by the <i>Registered Clubs Legislation Amendment Act 2004</i> , applies in respect of investigations or inquiries commenced on or after the commencement of that section.	6 7 8 9