



New South Wales

Registered Clubs Amendment (Accountability and Amalgamations) Bill 2018

Explanatory note

This explanatory note relates to this Bill as introduced into Parliament.

This Bill is cognate with the *Liquor and Gaming Legislation Amendment Bill 2018*.

Overview of Bill

The object of this Bill is to amend the *Registered Clubs Act 1976* (the **principal Act**) and the *Registered Clubs Regulation 2015* (the **principal Regulation**) as follows:

- (a) to require clubs to comply with the Registered Clubs Accountability Code (the **Code**) that is to be set out in the principal Regulation,
- (b) to transfer to the Code existing provisions of the principal Act and Regulation relating to the accountability of clubs (including requirements relating to the disclosure of financial and other interests, restrictions on contracts, loans and the use of club property, the provision of information to club members and reporting requirements),
- (c) to authorise the Independent Liquor and Gaming Authority (**ILGA**) to take disciplinary action against the secretary of a club or a member of the governing body of a club rather than only against the club itself,
- (d) to provide that the disciplinary action that ILGA may take against a secretary or member of a governing body of a club includes imposing a monetary penalty not exceeding 100 penalty units (currently \$11,000) or removing the person from that office,
- (e) to permit clubs to call for expressions of interest from, and amalgamate with, clubs outside their local area,

- (f) to make it clear that the limitation on the number of other clubs that a club is permitted to amalgamate with does not include any de-amalgamated club or club that has ceased to trade,
- (g) to make other miscellaneous amendments of a minor or consequential nature.

Outline of provisions

Clause 1 sets out the name (also called the short title) of the proposed Act.

Clause 2 provides for the commencement of the proposed Act on a day or days to be appointed by proclamation.

Schedule 1 Amendment of Registered Clubs Act 1976 No 31

Amendments relating to club accountability

Schedule 1 [14] repeals existing provisions of the principal Act relating to the accountability of clubs and inserts a new Part 4A containing the following provisions:

- (a) **Proposed section 41B** inserts definitions of terms used in the proposed Part (including defining *director* as a member of the governing body of a club).
- (b) **Proposed section 41C** authorises the regulations to prescribe a Registered Clubs Accountability Code that will contain provisions relating to club accountability (including disclosure requirements, restricting clubs from entering into certain contracts or requiring clubs to amend or terminate such contracts, restricting clubs from lending money to directors, top executives and employees, restricting the use and disposal of club property and reporting requirements).

The proposed section makes it an offence for a person to contravene any provision of the Code that is specified as an offence provision (with a maximum penalty of 50 penalty units, currently \$5,500). The proposed section also includes a provision (similar to existing section 41V of the principal Act) that makes the secretary or a director of a club, or a close associate of the club, liable for any contravention by the club of an offence provision of the Code.

- (c) **Proposed section 41D** (which is similar to existing section 41R of the principal Act) authorises the Secretary of the Department of Industry (the *departmental Secretary*) to terminate contracts (other than contracts for the disposal of real property owned or occupied by a registered club) entered into in contravention of the Code.
- (d) **Proposed section 41E** (which is similar to existing sections 41J and 41Q of the principal Act) restricts the disposal of core property of a club (which includes the club premises, facilities provided by the club for the use of its members and their guests and property declared by the members of the club to be core property of the club). The proposed section prohibits a club from disposing of any core property of the club unless the property has been valued by a qualified valuer, the disposal has been approved by a majority resolution of ordinary members of the club and any sale is by way of public auction or open tender conducted by an independent real estate agent or auctioneer. The proposed section also authorises the departmental Secretary to apply to the Supreme Court for an order if a club has disposed of core property in contravention of that requirement. The Supreme Court, if it is of the opinion that the disposal of the core property has not been generally to the benefit of the members of the club, may make orders in relation to the contract (including declaring the contract to be void).
- (e) **Proposed section 41F** (which is similar to existing section 41S of the principal Act) specifies the effect of the termination of contract under the proposed Part, including that the termination does not affect a right acquired, or a liability incurred, before that termination by a person who was a party to the contract, as a result of the performance before that termination of any obligation imposed by the contract. The proposed section makes it an offence for a party to a contract that is terminated under the proposed Part to give any

further effect to any part of the contract (with a maximum penalty of 20 penalty units, currently \$2,200).

- (f) **Proposed section 41G** authorises the regulations to provide for exemptions from the provisions of the proposed Part.

Schedule 1 [1] is a consequential amendment that inserts a definition of the *Code*.

Schedule 1 [3] makes it clear that the requirements under the principal Act that must be met by clubs will include the requirements imposed by the Registered Clubs Accountability Code.

Schedule 1 [4] ensures that any management contract for a person who is exercising functions relating to the management of the business or affairs of a club is entered into in accordance with the Registered Clubs Accountability Code.

Schedule 1 [10] updates a cross-reference to a provision in Part 4A of the principal Act that has been renumbered.

Schedule 1 [13] ensures that the departmental Secretary may carry out investigations and inquiries to ascertain whether the provisions of the Registered Clubs Accountability Code have been complied with.

Amendments relating to club amalgamations

Schedule 1 [6] provides that the limit on the number (currently 10) of other clubs with which a club is permitted to amalgamate with does not include any club that has de-amalgamated from it or has ceased to trade.

Schedule 1 [7] removes the restriction on clubs being permitted to amalgamate only if they are situated in the same area (currently defined as a radius of 50 kilometres from the main premises of the “parent” club). **Schedule 1 [5]** is a consequential amendment.

Schedule 1 [8] allows clubs that have been amalgamated to negotiate a longer period during which the parent club must not dispose of any of the major assets of the dissolved club than the 3-year period currently required.

Schedule 1 [9] provides that, when an amalgamated club is de-amalgamated, the members of the dissolved club (ie the club that was dissolved as a result of the amalgamation) who have continued to be members of the parent club up until the de-amalgamation are entitled to become members of the club that is formed as a result of the de-amalgamation. At present, the membership of the de-amalgamated club is taken to include the members of the former dissolved club.

Schedule 1 [32] provides that this amendment does not apply to de-amalgamations that have already taken effect.

Amendments relating to disciplinary action against club secretaries and directors

Schedule 1 [15] provides that complaints may be made to ILGA under Part 6A of the principal Act in relation to the secretary of a club or a member of the governing body of a club.

Schedule 1 [16]–[20] provide that the grounds on which ILGA may take disciplinary action under Part 6A of the principal Act in relation to a club will also apply to the secretary of a club or a member of the governing body of a club.

Schedule 1 [21]–[24] make consequential amendments to provisions relating to the procedure for taking disciplinary action against a club, the secretary of a club or a member of the governing body of a club.

Schedule 1 [26] and [27] provide that the disciplinary action that ILGA may take against the secretary of a club or a member of the governing body of a club includes the making of an order that the person pay a monetary penalty not exceeding 100 penalty units (currently \$11,000) and the removal of the person from office. **Schedule 1 [25] and [28]–[31]** are consequential amendments relating to the taking of disciplinary action against the secretary of a club or a member of the governing body of a club.

Miscellaneous amendments

Schedule 1 [11] omits a requirement that a person who ceases to be the secretary of a club must notify ILGA within 7 days.

Schedule 1 [12] restates the existing provision that makes it an offence for a person to act as the secretary of a club, or for a club to appoint a person as secretary, if the person has not been approved by ILGA to act as the secretary of the club. **Schedule 1 [2]** is a consequential amendment that describes when a person is acting as the secretary of a club.

Schedule 2 Amendment of Registered Clubs Regulation 2015

Amendments relating to club accountability

Schedule 2 [15] sets out the text of the Registered Clubs Accountability Code. The Code will be part of the principal Regulation and may only be amended by an Act or by further regulation under the principal Act. **Schedule 2 [10]** is a formal provision that gives effect to the Code.

Schedule 2 [5] omits Part 5 of the principal Regulation as a consequence of the amendment made by **Schedule 1 [14]** and the insertion of the Code in the Regulation. However, one existing provision of Part 5 (which establishes exceptions to the restrictions on the disposal of core property of a club) is transferred by **Schedule 2 [6]** to another part of the principal Regulation.

Schedule 2 [1], [7], [8] and [11] update cross-references as a consequence of the amendments made by **Schedule 1 [14]**.

Amendments relating to club amalgamations

Schedule 2 [3]:

- (a) ensures that a club that is seeking to amalgamate may approach any other club at any time (including by way of an expression of interest) about the possibility of amalgamating, and
- (b) requires a club, at each annual meeting of the club, to give notice of each expression of interest about an amalgamation (which includes unsolicited merger offers) received from another club within the previous 12 months, and
- (c) requires a club to give its members notice of each expression of interest or merger offer it has received from another club before proceeding with any amalgamation with that club.

Schedule 2 [4] imposes an additional requirement about the memorandum of understanding that clubs must enter into and must provide to members before any meeting is held to vote on any proposed amalgamation. The memorandum of understanding will be required to address the risks of not meeting any specified intentions regarding the preservation of the core property of the dissolved club and how those risks are to be addressed if realised.

Miscellaneous amendments

Schedule 2 [2] updates a reference to a Department.

Schedule 2 [9] and [12] are consequential on the amendment made by **Schedule 1 [11]** which removes the offence of failing to notify ILGA when a person ceases to be the secretary of a club.

Schedule 2 [13] and [14] update the list of offences the principal Act and Regulation prescribed as penalty notice offences as a consequence of the amendments made by **Schedule 1 [12] and [14]** and **Schedule 2 [5]**.

Schedule 3 Consequential amendment of Gaming and Liquor Administration Act 2007 No 91

Schedule 3 provides that directions given to a club by the departmental Secretary under the proposed Registered Clubs Accountability Code will be reviewable by ILGA.



New South Wales

Registered Clubs Amendment (Accountability and Amalgamations) Bill 2018

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New South Wales

Registered Clubs Amendment (Accountability and Amalgamations) Bill 2018

No. , 2018

A Bill for

An Act to amend the *Registered Clubs Act 1976* and the *Registered Clubs Regulation 2015* to make further provision with respect to club amalgamations and accountability; and for other purposes.

The Legislature of New South Wales enacts:

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1 Name of Act

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This Act is the *Registered Clubs Amendment (Accountability and Amalgamations) Act 2018*.

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2 Commencement

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

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Schedule 1	Amendment of Registered Clubs Act 1976 No 31	1
[1] Section 4 Definitions		2
	Insert in alphabetical order in section 4 (1):	3
	<i>Registered Clubs Accountability Code</i> (or the <i>Code</i>) means the Registered Clubs Accountability Code prescribed by the regulations under section 41C.	4 5
[2] Section 4 (3)		6
	Insert after section 4 (2):	7
	(3) A reference in this Act to a person acting as the secretary of a registered club includes a reference to a person who:	8 9
	(a) holds or acts in a position in the management of the club (other than as a member of the governing body of the club), and	10 11
	(b) 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.	12 13 14
[3] Section 10 Requirements to be met by clubs		15
	Insert “or under” after “by” in section 10 (1) (m).	16
[4] Section 10 (1) (n) (vi)		17
	Omit “within the meaning of section 41O”.	18
	Insert instead “entered into in accordance with the Registered Clubs Accountability Code”.	19
[5] Section 17AC Definitions		20
	Omit the definition of <i>same area</i> from section 17AC (1).	21
[6] Section 17AF		22
	Omit the section. Insert instead:	23
17AF Limit of 10 amalgamations per club		24
	(1) The total number of other clubs that a registered club (the <i>relevant club</i>) may amalgamate with is 10.	25 26
	(2) The total number of amalgamations for the relevant club does not include the following:	27 28
	(a) any club that is no longer amalgamated with the relevant club following a de-amalgamation under Division 1B,	29 30
	(b) any premises of the relevant club that have ceased to trade on a permanent basis.	31 32
[7] Section 17AH Clubs allowed to amalgamate if situated in same area only		33
	Omit the section.	34
[8] Section 17AI Major assets of dissolved club to be kept intact		35
	Insert “(or during such longer period as may be agreed on by the clubs concerned before the amalgamation)” after “registered clubs” in section 17AI (1).	36 37

[9] Section 17AN Membership of de-amalgamated club	1
Omit section 17AN (1). Insert instead:	2
(1) If an amalgamated club is de-amalgamated, the members of the dissolved club who have continued to be members of the parent club up until the time of the de-amalgamation are, subject to the regulations, entitled to become members of the de-amalgamated club.	3 4 5 6
[10] Section 17AO Transfer of relevant premises to de-amalgamated club	7
Omit “41J (3) (c)”. Insert instead “41E (1) (c)”.	8
[11] Section 32 Registered club to have only one secretary	9
Omit section 32 (3) (including the penalty).	10
[12] Section 34	11
Omit the section. Insert instead:	12
34 Prohibition on unapproved persons acting as secretary of club	13
(1) A person must not act as the secretary of a registered club unless the person is the approved secretary of the club. Maximum penalty: 50 penalty units.	14 15 16
(2) A registered club must not appoint a person to act as the secretary of the club unless the person is the approved secretary of the club. Maximum penalty: 100 penalty units.	17 18 19
(3) This section does not prevent a person who is not the approved secretary of a registered club from acting, or being appointed to act, as the secretary of a registered club for a period of not more than 2 months (or such longer period as the Authority may, on application by the person or club, approve) if the Authority is given notice of the person’s appointment as the secretary of the club within 7 days of the appointment.	20 21 22 23 24 25
(4) In this section, <i>approved secretary</i> of a registered club means the person approved by the Authority under section 33 to act as the secretary of the club.	26 27
[13] Section 35A Secretary may carry out inquiries and investigations	28
Insert “(including the provisions of the Registered Clubs Accountability Code)” after “Part 4A” in section 35A (1) (b).	29 30
[14] Part 4A	31
Omit the Part. Insert instead:	32
Part 4A Accountability, disposal of property and termination of contracts	33 34
41B Definitions	35
In this Part:	36
<i>contract</i> includes commercial arrangement.	37
<i>director</i> of a registered club means a member of the governing body of the club.	38 39

41C Registered Clubs Accountability Code	1
(1) The regulations may prescribe a Registered Clubs Accountability Code.	2
(2) The Code may make provision for or with respect to the following:	3
(a) requiring the directors and employees of a registered club to disclose interests in matters relating to the affairs of the club,	4 5
(b) requiring the directors and employees of a registered club to disclose any gifts or remuneration they receive from specified persons or bodies,	6 7
(c) restricting registered clubs from entering into specified contracts or classes of contracts or requiring clubs to amend or terminate such contracts,	8 9 10
(d) restricting the lending of money to the directors or employees of a registered club,	11 12
(e) restricting the use and disposal of the property of registered clubs,	13
(f) the remuneration payable to directors and employees of registered clubs,	14 15
(g) reporting requirements,	16
(h) any other matter relating to the accountability of registered clubs.	17
(3) A person who contravenes a provision of the Code that is identified by the Code as an offence provision is guilty of an offence.	18 19
Maximum penalty: 50 penalty units.	20
(4) If a registered club contravenes a provision of the Code that is identified as an offence provision, the club is not guilty of an offence under this section but each person who is the secretary of the club, a director of the club or a close associate of the club is guilty of an offence punishable by a maximum penalty of 100 penalty units unless the person satisfies the court that:	21 22 23 24 25
(a) the club contravened the provision without the actual, imputed or constructive knowledge of the person, or	26 27
(b) the person was not in a position to influence the conduct of the club in relation to the contravention, or	28 29
(c) the person, if in such a position, used all due diligence to prevent the contravention by the club.	30 31
(5) An individual is not liable to be convicted of an offence under both subsections (3) and (4) in respect of essentially the same act or omission.	32 33
41D Termination by Secretary of contracts entered into in contravention of Code	34
(1) This section applies in relation to a contract (other than a contract for the disposal of real property owned or occupied by a registered club) entered into by a registered club in contravention of the Registered Clubs Accountability Code.	35 36 37 38
(2) If the Secretary is of the opinion that a contract is a contract to which this section applies, the Secretary may serve on each party to the contract a notice in writing affording the party an opportunity to show cause within 14 days why the contract should not be terminated.	39 40 41 42
(3) The notice is to specify the provision of the Code that the Secretary considers has been contravened or the term or condition of the contract that the Secretary considers is not being, or has not been, complied with.	43 44 45

- (4) A party to the contract may, within the period specified in the notice, arrange with the Secretary for the making of submissions as to why the contract should not be terminated. 1
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- (5) After considering any submissions so made, the Secretary may, by notice in writing served on each party to the contract, declare that the contract will be terminated on a day specified in the notice. 4
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- (6) A contract the subject of a notice under subsection (5) is terminated by force of this section on and from the date specified in the notice for the termination of the contract. 7
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- (7) The Secretary is not to issue a notice under subsection (5) if the Secretary considers that the registered club concerned may be affected adversely by the termination of the contract. 10
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- (8) The Secretary may take action under this section in relation to a contract whether or not proceedings have been instituted against any person with respect to the purported contravention of the Code that the Secretary believes is the ground for taking the action. 13
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- (9) This section extends to a contract entered into by a registered club before the commencement of this section (as inserted by the *Registered Clubs Amendment (Accountability and Amalgamations) Act 2018*) if the club would have contravened a provision of the Code by entering into the contract after that commencement and so extends as if the contract was entered into in contravention of the provision. 17
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- 41E Disposal of real property by registered clubs** 23
- (1) A registered club must not dispose of any core property of the club unless: 24
- (a) the property has been valued by a qualified valuer, and 25
- (b) the disposal 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, and 26
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- (c) any sale is by way of public auction or open tender conducted by an independent real estate agent or auctioneer. 29
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- (2) If core property is disposed of by a registered club in contravention of subsection (1), the Secretary may make an application to the Supreme Court for an order in relation to the disposition of the property. 31
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- (3) In determining an application under subsection (2), the Supreme Court may make such of the following orders as it thinks fit if it is of the opinion that the disposal of the core property has not been generally to the benefit of the members of the registered club: 34
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- (a) an order declaring a contract for the disposal of the property void, 38
- (b) where the property had been owned by the club when it was disposed of, an order directing that the property be transferred back to the registered club, 39
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- (c) an order directing the payment of an amount or a further amount in relation to the disposal of the property by the person to whom the club disposed of the property or any person who benefited from the disposal of the property, 42
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- (d) such other orders as the Supreme Court considers necessary or appropriate in the circumstances. 46
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(4)	The Supreme Court may not make an order under subsection (3) that, in the opinion of the Supreme Court:	1
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(a)	would unfairly and materially prejudice an interest or right of a person who acted in good faith and with no reasonable grounds to suspect that the disposal of the property concerned was in contravention of this Act, or	3
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(b)	would result in the extinguishment of an interest in the property (without proper compensation) held by a person who had no knowledge that the property had been disposed of in contravention of this Act or no means of preventing the disposal of the property.	7
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(5)	The annual report of a registered club must specify the core property and non-core property of the club as at the end of the financial year to which the report relates.	11
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(6)	In this section:	14
	core property of a registered club means any real property owned or occupied by the club that comprises:	15
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(a)	the premises of the club, or	17
(b)	any facility provided by the club for the use of its members and their guests, or	18
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(c)	any other property declared, by a resolution passed by a majority of the members present at a general meeting of the ordinary members of the club, to be core property of the club,	20
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	but does not include any property referred to in paragraphs (a)–(c) that is declared, by a resolution passed by a majority of the members present at a general meeting of the ordinary members of the club, not to be core property of the club.	23
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	dispose of property means to sell, lease or licence the property or to otherwise deal with the property in such manner as may be prescribed by the regulations.	27
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	non-core property of a registered club means any real property owned or occupied by the club that is not core property.	29
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	qualified valuer means a person who:	31
(a)	has membership of the Australian Valuers Institute (other than associate or student membership), or	32
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(b)	has membership of the Australian Property Institute (other than student or provisional membership) acquired in connection with his or her occupation as a valuer, or	34
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(c)	has membership of the Royal Institution of Chartered Surveyors as a chartered valuer, or	37
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(d)	is of a class of persons prescribed by the regulations.	39
41F	Effect of termination of contract	40
(1)	If a contract is terminated under this Part:	41
(a)	the termination does not affect a right acquired, or a liability incurred, before that termination by a person who was a party to the contract, as a result of the performance before that termination of any obligation imposed by the contract, and	42
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(b)	no liability for breach of contract is incurred by a person who was a party to the contract by reason only of that termination, and	46
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(c)	no liability is incurred by the Crown or the Secretary by reason of that termination.	1 2
(2)	Subject to subsection (1) (a), a party to a contract terminated under this Part must not give any further effect to any part of the contract. Maximum penalty: 20 penalty units.	3 4 5
(3)	This section extends to a contract that is declared void under this Part, and accordingly a reference in this section to the termination of a contract includes a reference to a contract that has been so declared.	6 7 8
41G	Exemptions	9
	The regulations may provide for exemptions from any of the provisions of this Part.	10 11
[15]	Section 57F Grounds for making complaint	12
	Insert “or a person who is the secretary or a member of the governing body of a registered club” after “registered club” in section 57F (1).	13 14
[16]	Section 57F (3)	15
	Insert “or a person who is the secretary or a member of the governing body of a registered club” after “against a registered club”.	16 17
[17]	Section 57F (3) (a)	18
	Omit “or in relation to the club”. Insert instead “the club or the person”.	19
[18]	Section 57F (3) (c)	20
	Omit “the secretary of the club”. Insert instead “the person”.	21
[19]	Section 57F (3) (d)	22
	Omit the paragraph. Insert instead:	23
	(d) that the club or the person has contravened a provision of this Act or the regulations, whether or not the club or the person (as the case requires) has been convicted of an offence in respect of that contravention,	24 25 26
[20]	Section 57F (3) (j)	27
	Insert “or the person” after “the club”.	28
[21]	Section 57G Procedure for taking disciplinary action	29
	Omit section 57G (1). Insert instead:	30
	(1) If a complaint in relation to a registered club or a person who is the secretary or a member of the governing body of a registered club is made under this Part, the Authority must, before taking any disciplinary action against the club or the person, notify the registered club or the person (as the case requires) in writing of the grounds on which the Authority is proposing to take disciplinary action.	31 32 33 34 35 36
[22]	Section 57G (2)	37
	Insert “or person concerned” after “registered club”.	38
[23]	Section 57G (2)	39
	Insert “or person” after “the club”.	40

[24] Section 57G (4)	1
Insert “or person” after “club”.	2
[25] Section 57H Disciplinary powers of Authority	3
Omit “a person who is the secretary or a member of the governing body of the club” from section 57H (2).	4
Insert instead “the person who is the secretary or member of the governing body of a registered club”.	5
Insert instead “the person who is the secretary or member of the governing body of a registered club”.	6
[26] Section 57H (2) (a1)	7
Insert after section 57H (2) (a):	8
(a1) order the person to pay a monetary penalty not exceeding 100 penalty units within such time as is specified in the order,	9
[27] Section 57H (2) (f)	10
Omit the paragraph. Insert instead:	11
(f) remove the person from office as the secretary of the club or as a member of the governing body of the club,	12
[28] Section 57H (2) (g)	13
Omit “a specified person”. Insert instead “the person or any other specified person”.	14
[29] Section 57H (2) (i)	15
Insert “or person” after “the registered club”.	16
[30] Section 57H (2) (i) (i)	17
Insert “or person” after “club”.	18
[31] Section 57H (2) (i) (ii)	19
Omit “any other”.	20
[32] Schedule 2 Savings, transitional and other provisions	21
Insert at the end of the Schedule, with appropriate Part and clause numbering:	22
Part Provisions consequent on enactment of Registered Clubs Amendment (Accountability and Amalgamations) Act 2018	23
Definition	24
In this Part:	25
<i>amending Act</i> means the <i>Registered Clubs Amendment (Accountability and Amalgamations) Act 2018</i> .	26
Limit on club amalgamations	27
Section 17AF, as substituted by the amending Act, extends to amalgamations that had effect before that substitution.	28

Entitlement to membership of de-amalgamated club

Section 17AN (1), as substituted by the amending Act, does not apply in relation to the de-amalgamation of an amalgamated club that had effect before that substitution.

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Schedule 2	Amendment of Registered Clubs Regulation 2015	1
[1] Clause 3 Definitions		2
	Omit “section 41J” from the definition of <i>core property</i> . Insert instead “section 41E”.	3
[2] Clause 3, definition of “Department”		4
	Omit “Justice”. Insert instead “Industry”.	5
[3] Clause 4 Calling for expressions of interest		6
	Insert after clause 4 (2):	7
	(3) Subclause (1) does not prevent a registered club that is seeking to amalgamate from approaching any other registered club at any time (including by way of an expression of interest) about the possibility of amalgamating.	8 9 10
	(4) A registered club must, at each annual meeting of the club, give notice of each expression of interest in an amalgamation, along with each unsolicited merger offer, the club has received from another club within the previous 12 months.	11 12 13
	(5) Without limiting any requirement under subclause (1), if a registered club that has received an expression of interest in an amalgamation or an unsolicited merger offer decides to proceed with the proposed amalgamation, the club must, before it enters into a memorandum of understanding with the other club under clause 7, notify the ordinary members of the club of any other expressions of interest or merger offers it has received in the previous 12 months.	14 15 16 17 18 19 20
[4] Clause 7 Memorandum of understanding between clubs		21
	Insert after clause 7 (2) (e):	22
	(e1) the risks of not meeting any specified intentions regarding the preservation of the core property of the dissolved club and how those risks are to be addressed if realised,	23 24 25
	(e2) any agreement under section 17AI (1) of the Act relating to the period during which the major assets of the dissolved club must not be disposed of,	26 27 28
[5] Part 5 Accountability		29
	Omit the Part (other than clause 23).	30
[6] Clause 23 Exceptions relating to disposal of core property		31
	Renumber the clause as clause 29B and transfer to Part 7.	32
[7] Clause 29B (as renumbered and transferred by this Schedule)		33
	Omit “41J (3)” wherever occurring. Insert instead “41E (1)”.	34
[8] Clause 29B (1) (a) (as renumbered and transferred by this Schedule)		35
	Omit “(within the meaning of section 41J of the Act)”.	36
	Insert instead “within the meaning of section 41E of the Act”.	37
[9] Clause 32 Notification of cessation as secretary		38
	Omit the clause.	39

<i>departmental Secretary</i> means the Secretary of the Department of Industry.	1
<i>director</i> of a registered club means a member of the board of the club.	2
<i>manager</i> of a club means any person appointed under section 66 of the <i>Liquor Act 2007</i> to manage the premises of the club.	3 4
<i>the Act</i> means the <i>Registered Clubs Act 1976</i> .	5
<i>top executive</i> of a registered club means any of the following:	6
(a) the secretary of the club,	7
(b) a manager of the club,	8
(c) any employee of the club who is nominated by the club as a top executive,	9 10
(d) any employee of the club (other than a person referred to in paragraphs (a)–(c)):	11 12
(i) who is one of the 5 highest paid employees of the club, and	13
(ii) whose remuneration package exceeds the high income threshold set by the Fair Work Commission under the <i>Fair Work Act 2009</i> of the Commonwealth, and	14 15 16
(iii) who is involved in the general administration of the club or with its liquor and gaming operations.	17 18
(2) For the purposes of this Code:	19
(a) a person has a <i>controlling interest</i> in a company or body if the person has the capacity to determine the outcome of decisions about the financial and operating policies of the company or body, and	20 21 22
(b) a person has a <i>pecuniary interest</i> in a company if:	23
(i) in the case of a company that supplies liquor or gaming machines to a registered club—the person has any shareholding interest in the company, or	24 25 26
(ii) in the case of any other company—the person has a shareholding of more than 5% in the company.	27 28
(3) Terms and expressions used in this Code that are defined in the Act (including in Part 4A of the Act) have the meanings set out in the Act or that Part.	29 30
(4) A reference in this Code to a matter being approved by the board of a registered club is a reference to the matter being approved at a meeting of the board at which a majority of the votes cast supported the approval.	31 32 33
3 Contracts of employment with top executives	34
(1) A registered club must ensure that each top executive of the club enters into a contract of employment in writing with the club that deals with the following:	35 36
(a) terms of employment,	37
(b) the role and responsibilities of the top executive,	38
(c) remuneration (including fees for service),	39
(d) termination of employment.	40
(2) A contract of employment with a top executive does not have effect unless it is first approved by the board of the club.	41 42
(3) A contract of employment must be reviewed by an independent and qualified adviser before it may be approved by the board.	43 44

4	Restrictions on entering into contracts generally	1
(1)	Offence provision	2
	A registered club must not enter into:	3
(a)	a contract with a company in which a director or top executive of the club has a pecuniary interest, or	4
		5
(b)	a contract with a director or top executive of the club, unless the proposed contract is first approved by the board of the club.	6
		7
(2)	Offence provision	8
	Despite subclause (1) (b), a registered club must not enter into a contract with the secretary or a manager of the club.	9
		10
(3)	Offence provision	11
	A registered club must not enter into:	12
(a)	a contract with a close relative of the secretary or a manager of the club, or	13
		14
(b)	a contract with a company or body in which the secretary or a manager of the club, or a close relative of the secretary or a manager of the club, has a controlling interest.	15
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(4)	A registered club must, before entering into a contract as referred to in this clause, make all reasonable inquiries to ensure that the provisions of this clause are not contravened. Those inquiries may include requiring a party to the proposed contract to provide a statutory declaration verifying the party's status for the purposes of this clause.	18
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(5)	This clause does not apply in relation to contracts of employment.	23
(6)	Subclauses (2) and (3) do not apply in relation to contracts that result from an open tender process.	24
		25
(7)	A contract entered into in contravention of this clause is not void or illegal merely because of the contravention.	26
		27
5	Management contracts	28
(1)	In this clause:	29
	management contract means a contract under which a person who is not a director of a registered club, the secretary or a manager of a registered club or an employee of a registered club exercises functions in relation to the management of the business or affairs of the club.	30
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(2)	A registered club must not enter into a management contract with a person unless:	34
		35
(a)	the members of the club have been given at least 1 month's notice of the proposed contract, and	36
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(b)	the club has provided a report on the proposed contract to the departmental Secretary at least 1 month before entering into the contract.	38
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(3)	A management contract entered into in contravention of subclause (2) is void and of no effect.	41
		42
(4)	A registered club must comply with any direction given by the departmental Secretary with respect to any management contract that the club is proposing to enter into.	43
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(5)	Without limiting the directions that may be given under subclause (4), the departmental Secretary may direct the club to amend or not enter into the proposed contract if the Secretary is of the opinion that the proposed contract does not comply with the requirements of the Act or is not in the interests of the club or its members.	1 2 3 4 5
6	Loans to directors and employees	6
(1)	Offence provision	7
	A registered club must not lend money to a director of the club.	8
(2)	Offence provision	9
	A registered club must not lend money to an employee of the club unless:	10
(a)	the amount of the proposed loan is \$10,000 or less, and	11
(b)	the proposed loan has first been approved by the board of the club.	12
(3)	Subclause (2) (a) does not apply to any amount of money lent to the employee in accordance with the terms and conditions of the employee's contract of employment with the registered club.	13 14 15
7	Restrictions on employment of close relatives of directors or top executives	16
(1)	A registered club must, before it employs any person, make all reasonable inquiries to ascertain whether the person is a close relative of a director or top executive of the club.	17 18 19
(2)	If a person who is being considered for employment by the club is a close relative of a director of the club, the director must not take part in any decision relating to the person's employment.	20 21 22
(3)	A person who is a close relative of a director or top executive of the club must not be employed by the club unless the employment is approved by the board of the club.	23 24 25
8	Disclosures by directors and employees of clubs	26
(1)	Offence provision	27
	A director, top executive or employee of a registered club must disclose any of the following matters to the club to the extent that they relate to the director, top executive or employee:	28 29 30
(a)	any material personal interest that the director has in a matter relating to the affairs of the club,	31 32
(b)	any personal or financial interest of the director or top executive in a contract relating to the procurement of goods or services or any major capital works of the club,	33 34 35
(c)	any financial interest of the director or top executive in a hotel situated within 40 kilometres of the club's premises,	36 37
(d)	any gift valued at \$1,000 or more, or any remuneration of an amount of \$1,000 or more, received by the director, top executive or employee from an affiliated body of the club or from a person or body that has entered into a contract with the club.	38 39 40 41
(2)	A registered club must have in place procedures to ensure that:	42
(a)	each matter referred to in subclause (1) is disclosed to the club within 21 days after the director, top executive or employee becomes aware of the matter, and	43 44 45

(b)	the matter is managed in an appropriate manner.	1
(3)	Offence provision	2
	A registered club must keep a register, in the form approved by the departmental Secretary, containing details of the disclosures made to the club under this clause.	3 4 5
(4)	A reference in subclause (1) (d) to a gift or remuneration received from an affiliated body of a registered club is a reference to a gift or remuneration received from a related body corporate within the meaning of the <i>Corporations Act 2001</i> of the Commonwealth, or any other body, that within the period of 12 months immediately preceding the receipt of the gift or remuneration obtained a grant or subsidy from the club.	6 7 8 9 10 11
(5)	In this clause: <i>gift</i> includes money, hospitality or discounts. <i>remuneration</i> includes any fee for service.	12 13 14
9	Provision of information to members	15
(1)	Offence provision	16
	A registered club must:	17
(a)	make the information referred to in subclause (2) available to the members of the club within 4 months after the end of each reporting period to which the information relates, and	18 19 20
(b)	indicate, by displaying a notice on the club's premises and on the club's website (if any), how the members of the club can access the information.	21 22 23
(2)	The information to be made available is as follows:	24
(a)	disclosures made to the club under clause 8 during the reporting period,	25
(b)	details of any overseas travel during the reporting period by a director of the club or an employee of the club in the person's capacity as a director or employee, including any costs wholly or partly met by the club in relation to that travel,	26 27 28 29
(c)	details of any loan over \$1,000 to an employee of the club made during the reporting period, including the amount of the loan and the interest rate (if any),	30 31 32
(d)	details of any contract of employment with a top executive of the club approved during the reporting period,	33 34
(e)	details of any consultancy during the reporting period costing more than \$30,000, including the name of the consultant, the consultancy fee and the nature of the services provided by the consultant,	35 36 37
(f)	the total amount paid to consultants during the reporting period (excluding those amounts required to be included under paragraph (e)),	38 39
(g)	details of any legal settlement paid to a director or employee of the club during the reporting period and any associated legal fees paid by the club, unless the disclosure would breach any confidentiality agreement reached by the club,	40 41 42 43
(h)	details of any legal fees (not referred to in paragraph (g)) paid by the club during the reporting period on behalf of a director or employee of the club,	44 45 46

- (i) the amount allocated by the club during the reporting period to community development and support under the ClubGRANTS scheme, 1
2
 - (j) the total amount of gaming machine profits from the operation of gaming machines during the gaming machine tax period relating to the reporting period. 3
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- (3) In this clause: 6
- gaming machine tax period* means the period of 12 months beginning on 1 September in the financial year concerned and ending on 31 August in the following year. 7
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- reporting period* means the relevant financial year of the registered club in relation to which the information is provided. 10
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- 10 Financial statements** 12
- A registered club must ensure that: 13
- (a) financial statements that incorporate a balance sheet and the club's profit and loss accounts and trading accounts are provided to the board of the club on a quarterly basis, and 14
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 - (b) those financial statements are made available to the members of the club within 7 days of the statements being adopted by the board, and 17
18
 - (c) a notice is displayed on the club premises and on the club's website (if any) advising the members how the financial statements can be accessed. 19
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- 11 Referral of complaints** 22
- Any complaint arising under this Code must be referred: 23
- (a) to Clubs NSW if the complaint relates to a registered club that is a member of Clubs NSW, or 24
25
 - (b) to the departmental Secretary if the complaint relates to a registered club that is not a member of Clubs NSW. 26
27

Schedule 3 Consequential amendment of Gaming and Liquor Administration Act 2007 No 91

Section 36A Review by Authority of certain decisions

Omit paragraph (c) of the definition of *reviewable decision* in section 36A (1).

Insert instead:

- (c) a decision of the Secretary to give a direction to a registered club under the Registered Clubs Accountability Code within the meaning of the *Registered Clubs Act 1976*, or