

Act 1994 No. 50

REGISTERED CLUBS (FURTHER AMENDMENT) BILL 1994

NEW SOUTH WALES



EXPLANATORY NOTE

(This Explanatory Note relates to this Bill as introduced into Parliament)

This Bill is cognate with the Liquor (Further Amendment) Bill 1994.

The object of this Bill is to amend the Registered Clubs Act 1976 to make the following miscellaneous amendments:

Abolition of registration fee on low alcohol, liquor

The registration fee payable on low alcohol liquor will be abolished. Low alcohol liquor is defined to mean wine of the grape with an alcohol content of up to 6.5% and other liquor with an alcohol content of up to 3.5%. Currently there is a reduced registration fee of 7% payable on low alcohol beer and the full registration fee of 13% is payable on all other low alcohol liquor. The amendments take effect for the purposes of the 1995 registration period and so apply to liquor sales during the period 1/7/93 to 30/6/94. As a transitional arrangement for the first year, because records have not been required to be kept for low alcohol liquor (except beer), it is to be presumed that no low alcohol liquor (except beer) has been sold by a registered club during the relevant period unless the club can satisfy the Liquor Administration Board otherwise. (See items (1), (3) and (6) of Schedule 1 and proposed clause 51 to be inserted by item (24) of Schedule 1)

Breath analysis instruments

A provision will be inserted dealing with the use of breath analysis instruments installed on the premises of registered clubs. The provision makes evidence of the taking of a test on such an instrument and of the test result inadmissible in civil proceedings against the club and in any criminal proceedings. The provision includes safeguards to ensure that breath analysis instruments on club premises are correctly serviced and maintained and also requires that a notice be displayed with the instrument warning that its readings are not accepted by the Police or the Courts, and drawing attention to circumstances that may affect its accuracy. (See item (15) of Schedule 1)

Registered Clubs (Further Amendment) 1994 [Act 1994 No. 50]

Complaints against registered clubs

The provision dealing with complaints against registered clubs will be amended so that action can be taken on a complaint that a club has not been conducted in accordance with the requirements of the Act, even if at the time the complaint is dealt with the breach has been rectified. (See item (4) (a) and (d) of Schedule 1) The provision will also be amended to make it clear that the Licensing Court has the option of taking no action even when it finds a complaint established, for consistency with the parallel provision of the Liquor Act 1982. (See item (4) (b) and (c) of Schedule 1)

Complaints against gaming-related licensees

The provision dealing with complaints against gaming-related licensees will be amended to make it clear that the Licensing Court has the option of taking no action even when it finds a complaint established, for consistency with the parallel provision of the Liquor Act 1982. (See item (21) of Schedule 1)

Secrecy

The section dealing with secrecy of information obtained under the Act will be amended to permit disclosure to a person who is engaged in the administration of the Act and is authorised by the Minister to receive information under the section. (See item (17) of Schedule 1)

Complaints about disturbance

A complaint against a registered club about disturbance of the quiet and good order of the neighbourhood will be required to be made or verified by statutory declaration. Currently the Board has a discretion whether to require a statutory declaration. (See item (5) of Schedule 1)

Persons acting as secretary of registered club

An offence provision that prohibits unauthorised persons acting as the secretary of a registered club will be amended to provide that a person is considered to be acting as secretary of a registered club when holding a management position in which he or she 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. (See item (8) (b) of Schedule 1)

Penalties for offences concerning unauthorised persons acting as the secretary of a registered club will be increased. (See items (7) (a), (8) (a) and (9) of Schedule 1)

Conduct of club elections by Electoral Commissioner

An application by a registered club for the Electoral Commissioner to conduct an election of the governing body of the club will not be able to be withdrawn by the club except with the approval of the Electoral Commissioner. (See item (10) (a) of Schedule 1) The existing power of the Electoral Commissioner and authorised officers to give directions as to the conduct of club elections will be amended to make it clear that it extends to empower 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. (See item (10) (b) of Schedule 1) The penalty for an existing offence dealing with obstruction and failure to comply with official directions in the context of elections conducted by the Electoral Commissioner will be increased from 5 penalty units to 20 penalty units. (See item (10) (c) of Schedule 1)

Registered Clubs (Further Amendment) 1994 [Act 1994 No. 50]

Contravention of club rules

The existing provision that makes it an offence for certain provisions of a club's rules to be contravened will be extended to include the rules concerned with matter to be displayed at the entrance of a club for the information of temporary and honorary members. (See item (13) of Schedule 1)

Service of penalty notices

The section dealing with penalty notices (inserted by the Registered Clubs (Amendment) Act 1994 and not yet commenced) will be amended by providing that only police officers can issue penalty notices. The amendment is for consistency with the Liquor Act 1982. (See item (14) of Schedule 1)

Special inspectors

The section dealing with the form of identification carried by special inspectors will be amended consequentially on the proposed amendment to the Liquor Act 1982 by the Liquor (Further Amendment) Bill 1994 which will transfer to the Minister the power to appoint special inspectors. (See item (23) of Schedule 1)

Service of summonses by post

A provision will be inserted to authorise summonses issued under the Act to be served by post and to provide for the address to which summonses, notices and other instruments that are served by post under the Act can be posted. (See item (16) of Schedule 1) Consequential amendments will also be made. (See item (20) of Schedule 1)

Regulation making power

A regulation making power in the Act will be amended to make it clear that the power need not be utilised (so that the non-utilisation of the power will not limit or negate the operation of the provision concerned). (See item (19) of Schedule 1)

Savings and transitional provisions

Consequential savings and transitional provisions will be inserted. (See item (24) of Schedule 1)

Statute law revision

Amendments by way of statute law revision will be made to update obsolete references to the Companies (New South Wales) Code and the Co-operation Act 1923. (See items (2), (7) (b) and (c), (8) (c)–(e), (11), (12), (18) and (22) of Schedule 1)

Clause 1 specifies 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.

Clause 3 is a formal provision that gives effect to the Schedule of amendments to the Registered Clubs Act 1976.

Schedule 1 makes the amendments to the Registered Clubs Act 1976 described above.
