

Act No. 89 of 1990

**LOCAL GOVERNMENT (BACKPACKERS HOTELS)
AMENDMENT BILL 1990***

NEW SOUTH WALES



EXPLANATORY NOTE

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

The object of this Bill is to amend the Local Government Act 1919 so as to make provision with respect to the prevention and elimination of life-threatening fire hazards in backpackers hostels.

The Bill also amends the Land and Environment Court Act 1979 as a consequence of a right of appeal to the Land and Environment Court to be created by the amendments to the Local Government Act 1919.

References in this Bill to monetary penalties are expressed in penalty units. Under section 56 of the Interpretation Act 1987, 1 penalty unit is currently equivalent to \$100.

Clause 1 specifies the short title of the proposed Act.

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

Clause 3 is a formal provision that gives effect to the Schedule of amendments to the Local Government Act 1919.

Clause 4 amends the Land and Environment Court Act 1979 as a consequence of the right of appeal to the Land and Environment court to be created by the amendments to the Local Government Act 1919.

SCHEDULE 1 - AMENDMENT OF LOCAL GOVERNMENT ACT 1919

Schedule 1 (1) inserts a proposed Division 4BB (Backpackers hostels) into Part 11 of the Act. The proposed Division contains proposed sections 317JT-317JZB.

Proposed section 317JT defines the expressions "backpackers hostel", "emergency closure order" and "rectification order" for the purposes of the proposed Division.

* Amended in committee — see table at end of volume.

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Proposed section 317JU authorises a council to issue a rectification order in respect of any premises that are being used as a backpackers hostel if the council is of the opinion that a life-threatening fire hazard exists as a consequence of the way in which the premises are being managed or used. Such an order will specify what measures must be taken to eliminate the hazard and will specify a time (being not less than 24 hours) within which such action must be taken.

Proposed section 317JV authorises a council to issue an emergency closure order against premises in respect of which a rectification order has been issued but not complied with. Notice of the making of the order will be affixed to the premises at or near each entrance and exit. It will be an offence, punishable by a fine of 10 penalty units (in the case of an individual) or 20 penalty units (in the case of a corporation), to remove, deface, obliterate or conceal such a notice.

Proposed section 317JW makes it an offence, punishable by a fine of 50 penalty units or imprisonment for 6 months, or both (in the case of an individual) or 100 penalty units (in the case of a corporation), for the owner of premises the subject of an emergency closure order, or any person engaged in the management of any such premises, to cause or permit the premises to be used in contravention of the order. It will be a sufficient defence to proceedings for such an offence if the defendant establishes that he or she was unaware of the fact that the premises were the subject of such an order.

Proposed section 317JX enables a council to evacuate premises the subject of an emergency closure order. The clause also enables a council employee to be accompanied and assisted by a police officer when exercising the employee's powers under the proposed section.

Proposed section 317JY enables New South Wales Fire Brigades (by means of an authorised fire officer) to exercise the powers of a council under the proposed Division and, for that purpose, to exercise also the powers of a council under section 524 (Entry and other powers). The clause also enables an authorised fire officer to be accompanied and assisted by a police officer when exercising powers under the proposed Division.

Proposed section 317JZ enables the owner of any premises the subject of an emergency closure order to appeal to the Land and Environment Court against the order. The clause also provides that (subject to any order of the Land and Environment Court) an appeal does not operate as a stay of the emergency closure order to which it relates.

Proposed section 317JZA provides for the making of ordinances for the purposes of the proposed Division.

Proposed section 317JZB provides that the proposed Division binds the Crown.

Schedule 1 (2) amends section 635 (Obstruction) so as to apply that section to the obstruction of fire officers exercising powers under the existing Division 4B of Part 11 and under the proposed Division 4BB to be inserted by Schedule 1
