

[Act 2001 No 73]



New South Wales

# Liquor and Registered Clubs Legislation Amendment Bill 2001

## Explanatory note

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

### Overview of Bill

The objects of this Bill are:

- (a) to amend the *Liquor Act 1982*:
  - (i) to make further provision with respect to the supply of liquor by a hotelier at a function held off the hotel premises, and
  - (ii) to enable the granting of Governor's licences in respect of premises occupied by a horse racing club, and
  - (iii) to make further provision with respect to the appointment of managers of licensed premises occupied by corporate licensees, and
  - (iv) to dispense with certain requirements relating to applications pertaining to special event licences, and

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

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- (v) to regulate sales of liquor over the telephone, by facsimile, by mail order or through the internet, and
- (b) to amend the *Registered Clubs Act 1976* with respect to:
  - (i) appeals from findings of the Licensing Court as to the fitness of persons to be office-bearers in a registered club, and
  - (ii) payment of club membership fees.

## 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. With certain exceptions, its provisions commence on the date of assent to the proposed Act.

**Clause 3** is a formal provision giving effect to the amendments to the *Liquor Act 1982* set out in Schedule 1.

**Clause 4** is a formal provision giving effect to the amendments to the *Registered Clubs Act 1976* set out in Schedule 2.

## Schedule 1 Amendment of Liquor Act 1982

### Liquor sales by hotelier at functions held at other premises

Under section 18 of the Act, a hotelier may be authorised by the Licensing Court to sell liquor at a function held away from the hotel premises. In such a case, the hotelier's licence operates as a function licence. **Schedule 1 [1]** and **[2]** amend the section to allow the regulations to prescribe circumstances in which such an authorisation cannot be granted, and to impose conditions on the licence in addition to those already imposed by the Act in relation to functions.

### Governor's licences for racing clubs

Under section 19 of the Act, a Governor's licence authorising the sale of liquor may be held in relation to premises on Crown land or premises vested in a public authority (including some racing club premises), in railway stations or in a canteen at a public construction camp. **Schedule 1 [3]** amends the section to permit a Governor's licence to be granted in relation to the premises of any horse racing club, whether or not situated on land vested in the Crown.

### **Managers of premises licensed to corporate licensees**

Division 8A of Part 3 of the Act provides for the appointment of individuals as managers of premises licensed to a body corporate. Such managers must be approved by the Licensing Court, which must be satisfied that they are fit and proper persons to be managers of licensed premises. **Schedule 1 [7]–[11]** amend the provisions of the Division to make it clearer that the court's function in relation to the appointment of a manager is one of approval of the person's fitness and aptitude to manage licensed premises, not of approval of a particular appointment, and to make it a requirement for the court's approval that the court be satisfied that the candidate for approval understands the responsibilities of the manager in implementing liquor-related harm minimisation practices and is capable of implementing them. Section 69E of the Act is also amended to require a manager appointed to manage particular premises to furnish a declaration to the Liquor Administration Board concerning his or her knowledge of and capacity to implement such practices in place at the premises concerned.

### **Remote sales of liquor**

**Schedule 1 [12]** inserts a new section 128 into the Act, dealing with sales of liquor by telephone or facsimile or by mail order or from an internet site. The section will require any publicity associated with telephone, facsimile or mail order sales to include a reference to the licensee's licence number, and will require the licence number to be displayed on any internet site from which liquor is sold. Other requirements are prescribed in connection with recording the date of birth of a prospective purchaser. The new section also provides that, except in circumstances where a defence is available, an offence is committed under section 114 of the Act by any licensee whose liquor is delivered to a minor, by the person who delivered it and by the minor who takes delivery of the liquor.

### **Other amendments**

**Schedule 1 [4]** amends section 38 of the Act to exempt applications for special event licences from the operation of the section. The object is to put special event licences on the same footing as Governor's licences so far as the section is concerned. (The section requires applications to be supported by an affidavit relating to financial interests in the licence, and currently does not apply to Governor's licences.)

**Schedule 1 [5]** amends section 40 of the Act, which permits the Licensing Court to grant a licence conditionally where the premises to which the licence will relate are under construction, or being structurally altered, in accordance with a plan submitted with the application. The court must be satisfied, in connection with the

plan, that any necessary development consent has been obtained or that such consent is not required by law in the instant case. The amendment provides that the court is only obliged to hear an objection concerning the status of the plan as a duly approved plan if the objection is made by the Director of Liquor and Gaming, the Commissioner of Police or the development consent authority (typically the local council).

**Schedule 1 [6]** makes a minor amendment to section 55 of the Act by way of statute law revision.

**Schedule 1 [13]–[16]** make minor amendments to section 158A of the Act (as inserted by the *Gambling Legislation Amendment (Responsible Gambling) Act 1999*), dealing with regulation of card-operated gaming machines. The amendments are necessary in response to newer technology that allows access to financial resources of the player otherwise than by storage of information on the card.

**Schedule 1 [17]** and **[18]** contain savings and transitional provisions ancillary to the amendments contained in the proposed Act, and allow provisions of a similar kind to be made by regulation.

## **Schedule 2 Amendment of Registered Clubs Act 1976**

### **Appeals from findings concerning fitness of persons to hold office in registered clubs**

Under various provisions of the Act the Licensing Court is able to make findings to the effect that a person is not suitable to hold office as secretary or member of the governing board of a registered club. Section 42B of the Act provides for an appeal from decisions of the court and, under subsection (3) of that section, the lodgment of an appeal stays the decision until the appeal is determined. **Schedule 2 [3]** amends the section so as to reverse the operation of subsection (3) in relation to such findings against persons who are or would be office-bearers of a club, unless the court otherwise orders—that is, the finding is not stayed by lodgment of an appeal unless the court by order declares that it is.

### **Other amendments**

**Schedule 2 [1]** amends section 18 of the Act, which permits the Licensing Court to issue or amend a certificate of registration of a club conditionally where the premises to which the certificate or amendment relate are under construction, or being structurally altered, in accordance with a plan submitted with the application.

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The court must be satisfied, in connection with the plan, that any necessary development consent has been obtained or that such consent is not required by law in the instant case. The amendment provides that the court is only obliged to hear an objection concerning the status of the plan as a duly approved plan if the objection is made by the Director of Liquor and Gaming, the Commissioner of Police or the development consent authority (typically the local council).

**Schedule 2 [2]** amends section 30 (1) (j) of the Act to allow club membership fees to be payable, if the rules so provide, by monthly instalments.

**Schedule 2 [4]–[7]** make minor amendments to section 77BA of the Act (as inserted by the *Gambling Legislation Amendment (Responsible Gambling) Act 1999*), dealing with regulation of card-operated gaming machines. The amendments are necessary in response to newer technology that allows access to financial resources of the player otherwise than by storage of information on the card.

**Schedule 2 [8]** and **[9]** contain savings and transitional provisions ancillary to the amendments contained in the proposed Act, and allow provisions of a similar kind to be made by regulation.