

REGISTERED CLUBS (AMENDMENT) BILL 1993*

NEW SOUTH WALES



EXPLANATORY NOTE

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

This Bill is cognate with the Liquor (Amendment) Bill 1993.

The object of this Bill is to amend the Registered Clubs Act 1976 in order to:

- (a) provide for stricter controls on the manufacture, supply, keeping, use, operation and servicing of poker machines; and
- (b) make further provision with respect to the investigation of an applicant for, or a holder of, office as secretary of a registered club and an applicant for, or a holder of, a gaming-related licence; and
- (c) impose restrictions on the employment of key officials (such as persons who are or were engaged in the administration of the Principal Act and persons who are or were members of the Police Service); and
- (d) impose restrictions on the holding by a key official or a former key official of office as a member of the governing body of a registered club; and
- (e) confer rights as a provisional member on an applicant for membership of a registered club pending admission as a member; and
- (f) make further provision with respect to the admission of honorary members and temporary members of a registered club and with respect to visitors to a registered club; and
- (g) remove certain restrictions on the kind of applications to which a local council may object; and
- (h) increase the maximum penalties for certain offences; and
- (i) provide for statute law revision and other matters.

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

Registered Clubs (Amendment) 1993 [Act 1993 No. 29]

Clause 1 specifies the short title of the proposed Act.

Clause 2 provides for the proposed Act to commence on a day or days to be appointed by proclamation, except:

- (a) section 4, which makes a consequential amendment to the Search Warrants Act 1985 and is to commence at the same time as the proposed amendment that gives rise to the consequential amendment; and
- (b) savings and transitional provisions, which are to commence on the date of assent.

Clause 3 amends the Registered Clubs Act 1976 as set out in Schedules 1-7.

Clause 4 amends the Search Warrants Act 1985 as a consequence of the proposed substitution by Schedule 1 (20) of section 129 of the Registered Clubs Act 1976.

SCHEDULE 1—AMENDMENTS RELATING TO POKER MACHINES

Schedule 1 (1) enables cessation of registration of a device as an established poker machine to be achieved by declaration of the Board instead of by regulation. It also revises:

- (a) the definitions of “approved poker machine” and “established poker machine” as a consequence of the insertion of proposed section 77B by Schedule 1 (5); and
- (b) the definition of “special inspector” as a consequence of a proposed amendment to the Liquor Act 1982 appointing the Director of Liquor and Gaming as a special inspector.

Schedule 1 (2) provides for certain allegations to be accepted as evidence in legal proceedings unless the contrary is proved.

Schedule 1 (3) amends and rearranges the power to make regulations relating to poker machines. (The Liquor (Amendment) Bill 1993, with which this Bill is cognate, makes a similar provision for regulations relating to approved amusement devices.) This Item also increases the maximum penalty for a breach of the regulations from \$1,000 (10 penalty units) to 50 penalty units.

Schedule 1 (4) specifically excludes from the operation of the Lotteries and Art Unions Act 1901, the Gaming and Betting Act 1912 and any other Act or law the payment of prizes and bonuses won by operating a poker machine.

Schedule 1 (5) inserts proposed sections 77A–77C.

Section 77A would enable the Liquor Administration Board (“the Board”) to investigate an application by the holder of a dealer’s licence for declaration of a device as an approved poker machine. The provision replaces the present section 115 (to be repealed) of which the subject-matter would be more appropriately placed to precede proposed section 77B.

Section 77B enables the Board to declare a device to be an approved poker machine and enables the Board to revoke such a declaration if it considers it to be necessary to do so in the public interest. Provision is also made:

- for the manner in which an approved poker machine may be modified so that it does not cease to be an approved poker machine; and

Registered Clubs (Amendment) 1993 [Act 1993 No. 29]

- for a poker machine to cease to be an established poker machine if the Board so declares.

Section 77C enables a poker machine dealer to make representations to the Board if the Board is considering whether or not:

- (a) to proceed with an application by the dealer for declaration of a device as an approved poker machine; or
- (b) to refuse such an application or revoke such a declaration.

It also enables a registered club to make representations if the Board is considering making a declaration that a poker machine in the club has ceased to be an established poker machine.

Schedule 1 (6) requires a registered club to comply with any conditions imposed by the Board in relation to the keeping by the club of an authorised poker machine.

Schedule 1 (7) inserts proposed section 78A enabling the Board to authorise a registered club to keep, or dispose of, a poker machine and to vary such an authority.

Schedule 1 (8) requires an application for authority to keep, or dispose of, a poker machine, or to vary such an authority, to be in the approved form.

Schedule 1 (9) omits a spent provision relating to old poker machines.

Schedule 1 (10) makes amendments in relation to a poker machine that is not operating properly.

Schedule 1 (11) inserts proposed sections 82A–82F.

Section 82A penalises a registered club which fails to keep safely all keys and other devices relating to the security of poker machines in the club.

Section 82B penalises a person, other than an authorised person referred to in the section, who opens a poker machine, checks money inside the machine or, except in operating the machine, places money inside it. It also penalises a registered club which fails to keep certain records in relation to employees who have functions relating to poker machines.

Section 82C penalises a registered club which fails to keep a register of the exercise of certain functions requiring opening of a poker machine.

Section 82D enumerates certain actions relating to sensitive areas of a poker machine that, if taken by a person other than a specially authorised person, would constitute offences.

Section 82E deals with the modification of an approved poker machine.

Section 82F penalises the holder of a dealer's licence, a seller's licence or an adviser's licence who fails to notify the Director of the importation of a poker machine by the licensee or the movement of a poker machine to or from the place at which the licensee carries on business.

Schedule 1 (12) inserts substituted section 83 which penalises unlawful interference with a poker machine.

Schedule 1 (13) inserts new section 83A which penalises dishonesty and gross negligence in dealing with poker machines in order to gain an advantage.

Schedule 1 (14) makes an amendment consequential on an amendment proposed by the cognate Liquor (Amendment) Bill 1993.

Registered Clubs (Amendment) 1993 [Act 1993 No. 29]

Schedule 1 (15) inserts proposed section 102A enabling the Board to require the holder of a dealer's licence to make, at the expense of the dealer, a specified alteration to an approved poker machine supplied by the dealer to a registered club after the commencement of the section.

Schedule 1 (16) repeals section 115 as a consequence of the proposed insertion of section 77A by Schedule 1 (5).

Schedule 1 (17) omits a spent provision relating to the sale of fold poker machines.

Schedule 1 (18) replaces the present section 121 (which deals with the illegal possession of poker machines) with a provision similar to that proposed by the Liquor (Amendment) Bill 1993 in relation to the illegal possession of approved amusement devices.

Schedule 1 (19) repeals section 123 and replaces it with a new section which differs in effect only in that prior approval for the exhibition of a poker machine for promotional, educational or cultural purposes will not be required if the Board is given 3 days' written notice and any conditions imposed by the Board are complied with.

Schedule 1 (20) repeals sections 126–130 and, while retaining the substance of the repealed provisions, re-enacts them in a form as close as possible to the like provisions proposed by the Liquor (Amendment) Bill 1993 in relation to approved amusement devices. The proposed sections relate to the matters set out below.

Section 126—Identification of special inspectors

Section 127—Powers of entry, inspection etc. (poker machines)

Section 128—Club to comply with requirements of special inspector

Section 129—Search warrants (poker machines)

Section 130—Forfeiture or return of removed or seized poker machine

Section 130A—Other forfeitures of poker machines

SCHEDULE 2—AMENDMENTS RELATING TO KEY OFFICIALS

Schedule 2 (1) inserts a definition of “key official” which covers certain persons engaged in the administration of the Principal Act and certain members of the Police Service.

Schedule 2 (2) inserts new Part 7A comprising proposed sections 59A–59D.

Section 59A prohibits a key official from holding office as a member of the governing body of a registered club and from accepting employment with a registered club. It also controls other relationships of key officials with a registered club and close associates of a registered club.

Section 59B imposes certain controls in relation to a person who, during the preceding 3 years was, but no longer is, a key official. The controls relate to:

- (a) membership by the former key official of the governing body of a registered club; and
- (b) the employment of the former key official by a registered club or any of its close associates; and
- (c) the association of a registered club, or its close associates, with the former key official in business and financial matters.

Registered Clubs (Amendment) 1993 [Act 1993 No. 29]

Section 59C prohibits a key official from holding a gaming-related licence and from being an employee of the holder of such a licence or a person known to the key official to be a close associate of the holder of such a licence.

Section 59D imposes certain controls in relation to a person who, during the preceding 3 years was, but no longer is, a key official. The controls relate to:

- (a) the holding of a gaming-related licence by the former key official; and
- (b) the employment of a former key official by the holder, or by a close associate of the holder, of a gaming-related licence; and
- (c) the association of the former key official with the holder, or with a close associate of the holder, of a gaming-related licence.

SCHEDULE 3—AMENDMENTS RELATING TO GAMING-RELATED LICENCES

Schedule 3 (1) inserts a definition of “gaming-related licence” and related definitions. A gaming-related licence is a poker machine adviser’s licence (an “adviser’s licence”), a poker machine dealer’s licence (a “dealer’s licence”), a poker machine ‘seller’s licence (a “seller’s licence”) or a poker machine technician’s licence (a “technician’s licence”).

Schedule 3 (2) makes a consequential amendment.

Schedule 3 (3) enables the Licensing Court to refuse to grant a gaming-related licence if not satisfied with the qualifications of the applicant.

Schedule 3 (4) makes consequential amendments and enables the Board to impose a condition of a dealer’s licence prohibiting or regulating the carrying on by the licensee on the licensed premises of activities additional to those authorised by the licence.

Schedule 3 (5) changes references to a “licence” to references to a “gaming-related licence” and precludes certain persons (including minors) from applying for a gaming-related licence.

Schedule 3 (6) repeals section 95 of the Principal Act and replaces it with Division 2A of Part 11 comprising sections 95–95C as set out below, together with section 96 (Schedule 3 (7)).

Section 95 requires the Principal Registrar of the Licensing Court to refer to the Director each application to the Court for a gaming-related licence, including each application made to a registrar other than the Principal Registrar.

Section 95A enables the Director to make all investigations and inquiries that the Director considers to be necessary for proper consideration of an application for a gaming-related licence. For this purpose, the Director may require an applicant to consent to the taking of a photograph, finger prints and palm prints. The Commissioner of Police may, at the request of the Director, make inquiries about an applicant and make a report to the Director.

Section 95B enables the Director to require further information from an applicant for a gaming-related licence. This may involve the examination of records, the taking of extracts from them and the making of copies of them.

Registered Clubs (Amendment) 1993 [Act 1993 No. 29]

Section 95C requires the Director to have finger prints and palm prints destroyed if they are those of an applicant for a gaming-related licence whose application is refused or if they are those of a former licensee whose licence has been cancelled or surrendered.

Schedule 3 (7) replaces section 96 (which relates to the expenses of investigating an application for a gaming-related licence) to make its wording consistent with the corresponding provision of the Liquor Act 1982.

Schedule 3 (8) makes consequential amendments and adds to the grounds on which objection may be taken to an application for a gaming-related licence.

Schedule 3 (9) makes an amendment to achieve consistency of expression with the Liquor Act 1982 which refers to a “fit and proper” person and not to a “suitable” person.

Schedule 3 (10) rearranges the provision relating to fees for gaming-related licences and includes provision for fees for work permits.

Schedule 3 (11) replaces the present section 106 relating to periodic returns by licensees so that it achieves uniformity with the equivalent provision proposed by the Liquor (Amendment) Bill 1993 with which this Bill is cognate.

Schedule 3 (12) inserts new section 107A enabling the Director to investigate the holder of a gaming-related licence in order to ascertain whether a complaint against the licensee should be made to the Licensing Court.

Schedule 3 (13) makes a consequential amendment and adds to the grounds on which disciplinary proceedings may be taken against the holder of a gaming-related licence.

Schedule 3 (14) makes a consequential amendment.

Schedule 3 (15) replaces the present section 116 in order (with amendments to be made by Schedule 3 (16)) to achieve uniformity with the corresponding provision of the Liquor Act 1982. It relates to the manufacture, assembly and sale of poker machines by unlicensed persons.

Schedule 3 (16) inserts proposed sections 116A–116D.

Section 116A creates certain offences relating to the sale and supply of poker machines.

Section 116B creates certain offences relating to the servicing and repair of poker machines.

Section 116C creates offences relating to the giving of advice in connection with poker machines.

Section 116D penalises the holder of a dealer’s licence who allows a poker machine to leave the licensed premises without attachment of a compliance plate containing certain particulars.

Schedule 3 (17) changes references to a “licensee” to references to a “holder of a gaming-related licence” and makes an amendment penalising a holder of such a licence who fails to notify the Board of any change in financial arrangements previously approved by the Board.

Registered Clubs (Amendment) 1993 [Act 1993 No. 29]

Schedule 3 (18) makes a consequential amendment.

Schedule 3 (19) inserts proposed sections 122A and 122B.

Section 122A requires the holder of a gaming-related licence to notify the Director of certain changes in the state of affairs of the licensee.

Section 122B requires the holder of a dealer's licence or a technician's licence to wear a form of identification while exercising a function authorised by the licence.

SCHEDULE 4—AMENDMENTS INCREASING PENALTIES

This Schedule sets out the increases proposed for penalties other than the increases indicated in conjunction with amendments made by the other Schedules.

[The expression "penalty unit" has its basis in section 56 of the Interpretation Act 1987. At present, 1 penalty unit is equivalent to \$100.]

SCHEDULE 5—OTHER AMENDMENTS

Schedule 5 (1) inserts definitions of "employ", "guest" and "provisional member" and makes a consequential amendment. It also inserts a definition of "close associate" by reference to proposed section 4A (Schedule 5 (2)).

Schedule 5 (2) inserts proposed section 4A which explains the meaning of the expression "close associate", when used in connection with a registered club and when used in connection with a person who holds, or is an applicant for, a gaming-related licence.

Schedule 5 (3) imposes, as a condition of the certificate of registration of the club, a prohibition of a cash advance by the club on the club premises unless it is a prize from the operation of a poker machine.

Schedule 5 (4) amends the requirements for registration of a club as set out below.

Paragraph (a) corrects a cross-reference.

Paragraph (b) adds a requirement that only the club and its members are to receive any profit, benefit or advantage from registration of the club unless it arises from dealings with the club in the ordinary course of the lawful business of the club.

Paragraph (c) makes a consequential amendment.

Paragraph (d) adds further exceptions to the equal sharing by all members of a club of profits, benefits and advantages arising from registration of the club.

Paragraph (e) enables a club to provide different benefits for different classes of members if authorised by a general meeting to do so.

Schedule 5 (5) enables the certificate of registration of a club to be in a form approved by the Board instead of a form prescribed by the regulations.

Schedule 5 (6) keeps a surrendered certificate of registration of a club in force until the surrender is accepted by the Liquor Administration Board.

Schedule 5 (7) makes a consequential amendment and corrects a cross-reference.

Schedule 5 (8) keeps in force for at least 6 months a decision of the Liquor Administration Board that restricts the trading hours of a registered club as a result of a complaint of undue disturbance of the quiet and good order of the neighbourhood of the club.

Registered Clubs (Amendment) 1993 [Act 1993 No. 29]

Schedule 5 (9) enables the Principal Registrar to give the final approval to an application for registration of a club, or for additions or alterations to club premises, for which conditional approval has been given by the Licensing Court.

Schedule 5 (10) removes restrictions on the kind of applications under the Registered Clubs Act 1976 to which a local council may object.

Schedule 5 (11) provides for a registered club's statement of liquor purchases to be set out in a form approved by the Board instead of a form prescribed by the regulations.

Schedule 5 (12) provides for the keeping of records of a registered club in a form approved by the Board instead of a form prescribed by the regulations. It also omits a reference to a repealed provision.

Schedule 5 (13) amends the requirements relating to the rules of registered clubs as set out below.

Paragraph (a) adds "provisional member" to the permitted classes of members of a registered club.

Paragraphs (b) and (d) make consequential amendments.

Paragraph (c) enables the rules of a club to provide for the payment of subscriptions for more than 1 year in advance,

Paragraph (e) makes it clear that the athletic clubs that may admit members under 18 years of age include golf clubs and bowling clubs.

Paragraph (f) makes an amendment as a consequence of that made by paragraph (g) but continues in the rules of a registered club a requirement to keep a register of honorary members.

Paragraph (g) includes in the rules of a registered club a requirement to keep a register of temporary members other than those referred to below in relation to paragraph (1). It also includes in the rules a requirement for all promotional matter relating to the club to include a statement that it is for the information of members and their guests.

Paragraph (h) includes in the rules of a registered club that admits honorary members or temporary members a requirement to display at each entrance to the club certain information in relation to those members.

Paragraph (i) makes a consequential amendment.

Paragraph (j) limits the qualifications for honorary membership and temporary membership of a registered club.

Paragraph (k) removes an exemption under which certain registered clubs are not required to maintain registers of honorary members and temporary members.

Paragraph (l) provides for temporary membership of a registered club for 1 day in order to take part in "an organised sport or competition"* instead of "a game or competition of a sporting or athletic nature".*

Schedule 5 (14) enables the name of an honorary or temporary member of a registered club to be entered in the club's register either in full or as initials and surname. Provision is also made requiring a temporary member (other than a visiting member of another registered club engaged in an organised sport or competition) to sign a register on each day on which the member enters the club.

Registered Clubs (Amendment) 1993 [Act 1993 No. 29]

Schedule 5 (15) deals with the appointment of a person as secretary of a registered club and includes provision for an application for appointment as secretary of a registered club to be investigated in the same way as an application for a gaming-related licence. It also adds to the grounds on which objection may be taken to an application for appointment as secretary of a registered club and enables the Licensing Court to refuse such an application even if an objection has not been taken or made out.

Schedule 5 (16) enables the Principal Registrar, instead of the Licensing Court, to allow the term of office of an acting secretary of a registered club to be extended beyond 2 months.

Schedule 5 (17) enables the Licensing Court to make a person ineligible to hold office as secretary, or as a member of the governing body, of any registered club if the person has been summoned to show cause why he or she should not be removed from such a position but vacates the office before the hearing of the summons.

Schedule 5 (18) enables the Director to carry out investigations and make inquiries in order to decide whether proceedings should be instituted for the taking of disciplinary action against the secretary, or a member of the governing body, of a registered club.

Schedule 5 (19) controls the offering of inducements as or as part of, the consideration for the provision to a registered club of goods or services.

Schedule 5 (20) deals with intoxication and misconduct on the premises of a registered club.

Schedule 5 (21) limits to full members, provisional members and honorary members the authority to have a guest on the club premises and penalises a temporary member who is required to sign the relevant register and fails to do so. It also increases from 2 penalty units to 10 penalty units the penalty for unauthorised presence on the premises of a registered club.

Schedule 5 (22) amends section 50 which at present penalises the sale or supply of liquor in a registered club to a person under 18 or an intoxicated person. The amendment removes the references to an intoxicated person as intoxication is dealt with as referred to in relation to Schedule 5 (20) above. The amendment also increases a penalty from 10 penalty units to 20 penalty units and removes a defence to the effect that the liquor was supplied in a case of sickness or accident.

Schedule 5 (23) provides for a secretary of a registered club a defence to a charge of failing to display certain notices in the club.

Schedule 5 (24) clarifies a provision relating to an offence by a minor and increases from 2 penalty units to 10 penalty units the maximum penalty for the offence.

Schedule 5 (25) creates offences relating to false evidence of the age of a minor.

Schedule 5 (26) adds the Director to those authorised to enter a registered club and exercise consequential powers. It also increases from 10 penalty units to 50 penalty units the maximum penalty for obstructing the exercise of the authority.

Schedule 5 (27) makes a consequential amendment.

Schedule 5 (28) enables certain returns by suppliers of liquor to registered clubs to be made to the Board in accordance with a form approved by the Board instead of a form prescribed by the regulations.

Registered Clubs (Amendment) 1993 [Act 1993 No. 29]

Schedule 5 (29) makes a similar amendment in relation to the records of a club that relate to the sale and disposal of liquor by the club.

Schedule 5 (30) controls the divulging of information obtained in administering the Registered Clubs Act 1976.

Schedule 5 (31) reduces from 5 years to 3 years the period for which a registered club is to retain certain records.

Schedule 5 (32) omits a provision relating to the secrecy of certain matters relating to poker machines. Its effect is included in the amendment proposed by Schedule 5 (30) above.

Schedule 5 (33) modernises a provision relating to the exclusion of liability for any acts done in good faith in the course of the administration of the Principal Act.

Schedule 5 (34) inserts savings and transitional provisions.

SCHEDULE 6—FORMAL AMENDMENTS TO CERTAIN EXPRESSIONS

Schedule 6 makes formal amendments consequential on the adoption of the expression “gaming-related licence” instead of merely “licence”.

SCHEDULE 7—CONVERSIONS TO PENALTY UNITS

The amendments proposed by this Schedule express certain existing penalties in terms of penalty units instead of monetary units.
