



New South Wales

# **Summary Offences Amendment (Minors in Sex Clubs) and Theatres and Public Halls Repeal 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 *Summary Offences Act 1988* to make provision with respect to sex clubs, including the creation of certain offences in relation to a minor being in such a club, and
- (b) to repeal the *Theatres and Public Halls Act 1908*.

## 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.

**Clause 3** is a formal provision giving effect to the amendments to the *Summary Offences Act 1988* set out in Schedule 1.

**Clause 4** repeals the *Theatres and Public Halls Act 1908*.

**Clause 5** is a formal provision giving effect to the amendments of the Act and regulation set out in Schedule 2.

## Schedule 1 Amendment of Summary Offences Act 1988

**Schedule 1 [1]** amends the *Summary Offences Act 1988* by inserting proposed Part 3A (proposed sections 21A–21F) in that Act.

Proposed section 21A defines certain terms used in proposed Part 3A. In particular, **declared sex club** is defined as premises for the time being declared under the Part as a sex club, and a **manager** of such a club is defined as the person having the management or control, or otherwise being in charge, of such a club.

Proposed section 21B enables the Minister, on the application of a senior police officer, to declare premises to be a sex club under proposed Part 3A. Before doing so, the Minister is to be satisfied that the premises are used solely or substantially for live sex entertainment and that there is no effective prohibition on minors entering such premises.

Proposed section 21C provides the means by which such a declaration is to be notified, including publication in the Gazette and personal service on the manager, or a person entitled to the proceeds, of the premises.

Proposed section 21D makes it an offence for a person who is engaged in the operation of a declared sex club to permit a minor to enter or remain in the club. The maximum penalty for the offence will be 20 penalty units. A person is engaged in the operation of a declared sex club if the person is the manager of the club, is employed to carry out duties in the club or is entitled to the proceeds of the club or is otherwise concerned in the management of the club. However, it will be a

defence to a prosecution under section 21D if the person had no knowledge of the minor being in the club and could not, with the exercise of due diligence, have prevented the minor being in the club or that the person believed on reasonable grounds that the minor was 18 years or older.

Proposed section 21E provides that the manager of a declared sex club is guilty of an offence unless notices are continually displayed at each entry point to the club stating that minors are not permitted to enter the club. The regulations may make provision for the size and content of such notices.

Proposed section 21F enables a police officer to enter a declared sex club at any time if the officer believes on reasonable grounds that an offence under the proposed Part has been or is being committed. A police officer may break into the club (with or without assistance) if access is denied or unreasonably delayed. A person who wilfully obstructs or delays a police officer is guilty of an offence. The maximum penalty for such an offence will be 50 penalty units.

**Schedule 1 [2]** enables savings and transitional regulations to be made as a consequence of amendments made to the *Summary Offences Act 1988* by the proposed Act.

## **Schedule 2 Amendment of Act and Regulation**

Schedule 2 makes consequential amendments to the *Dangerous Goods Regulation 1999* and the *Boxing and Wrestling Control Act 1986*.



New South Wales

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## Contents

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	Page
1 Name of Act	2
2 Commencement	2
3 Amendment of Summary Offences Act 1988 No 25	2
4 Repeal of Theatres and Public Halls Act 1908 No 13	2
5 Amendment of Act and regulation	2
Schedules	
1 Amendment of Summary Offences Act 1988	3
2 Amendment of Act and regulation	8



New South Wales

# Summary Offences Amendment (Minors in Sex Clubs) and Theatres and Public Halls Repeal Bill 2001

No. , 2001

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## A Bill for

An Act to amend the *Summary Offences Act 1988* with respect to the presence of minors in sex clubs; to repeal the *Theatres and Public Halls Act 1908*; and for other purposes.

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<b>The Legislature of New South Wales enacts:</b>	1
<b>1 Name of Act</b>	2
This Act is the <i>Summary Offences Amendment (Minors in Sex Clubs) and Theatres and Public Halls Repeal Act 2001</i> .	3 4
<b>2 Commencement</b>	5
This Act commences on a day or days to be appointed by proclamation.	6 7
<b>3 Amendment of Summary Offences Act 1988 No 25</b>	8
The <i>Summary Offences Act 1988</i> is amended as set out in Schedule 1.	9
<b>4 Repeal of Theatres and Public Halls Act 1908 No 13</b>	10
The <i>Theatres and Public Halls Act 1908</i> is repealed.	11
<b>5 Amendment of Act and regulation</b>	12
The Act and the regulation specified in Schedule 2 is amended as set out in that Schedule.	13 14

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<b>Schedule 1</b>	<b>Amendment of Summary Offences Act 1988</b>	1
		2
	(Section 3)	3
<b>[1] Part 3A</b>		4
	Insert after Part 3:	5
	<b>Part 3A Minors in sex clubs</b>	6
<b>21A</b>	<b>Definitions</b>	7
	In this Part:	8
	<i>declared sex club</i> means premises for the time being declared under this Part to be a sex club.	9 10
	<i>live sex entertainment</i> means live public entertainment of a sexually explicit nature, such as striptease or actual or simulated sexual intercourse (whether or not involving audience participation).	11 12 13 14
	<i>manager</i> of a declared sex club means a person having the management or control, or otherwise in charge, of the club.	15 16
	<i>minor</i> means a person who has not attained the age of 18 years.	17 18
	<i>public entertainment</i> means entertainment to which admission may ordinarily be gained by members of the public (whether or not the public to whom it is open consists only of a limited class of persons) on payment of money, or other consideration, as the price or condition of admission. Entertainment does not cease to be public entertainment merely because:	19 20 21 22 23 24
	(a) some (but not all) persons may be admitted to the entertainment otherwise than on payment of money, or other consideration, as the price or condition of admission, or	25 26 27 28
	(b) payment of money or other consideration, is demanded as the charge for a meal or other refreshment, or for any other service or thing, before admission to the	29 30 31

	entertainment is granted or as the charge for the	1
	entertainment after admission to the entertainment has	2
	been granted.	3
	<i>senior police officer</i> means a police officer of or above the	4
	rank of senior sergeant.	5
<b>21B</b>	<b>Minister may declare premises to be sex club on application of</b>	6
	<b>senior police officer</b>	7
(1)	A senior police officer may apply to the Minister for premises	8
	to be declared a sex club under this Part.	9
(2)	The Minister may declare the premises to be a sex club under	10
	this Part if satisfied that:	11
(a)	the premises are used solely or substantially for live sex	12
	entertainment, and	13
(b)	there is no effective prohibition under the <i>Liquor</i>	14
	<i>Act 1982</i> or any other law on minors entering the	15
	premises.	16
(3)	The premises declared to be a sex club may include any area	17
	that is associated with any part of the premises used for live sex	18
	entertainment.	19
(4)	The Minister may rely on information supplied in the	20
	application for the declaration or any other information	21
	available to the Minister for the purposes of making the	22
	declaration.	23
(5)	The following provisions apply to the declaration of a sex club:	24
(a)	the declaration must set out a description of the	25
	premises to which it relates,	26
(b)	the declaration may be limited to circumstances	27
	specified in the declaration,	28
(c)	the declaration may be revoked by the Minister at any	29
	time.	30
(6)	The Minister may delegate the powers conferred on the	31
	Minister by this section (other than this power of delegation).	32



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<b>21C</b>	<b>Notification of declaration of premises</b>	1
(1)	The declaration of any premises as a sex club is to be notified by any one or more of the following means:	2
		3
(a)	by publication of the declaration in the Gazette,	4
(b)	by publication of the declaration in any newspaper circulating in the area in which the premises are located,	5
		6
		7
(c)	by the service of notice of the declaration on the manager of the premises or a person who:	8
		9
(i)	is entitled to any of the proceeds of the operation of the premises, or	10
		11
(ii)	is otherwise concerned in the management of the premises,	12
		13
(d)	by affixing a notice of the declaration in a conspicuous place at the main entry point to the premises.	14
		15
(2)	A declaration does not take effect until it has been notified by any one of those means.	16
		17
<b>21D</b>	<b>Minors not permitted in declared sex clubs</b>	18
(1)	A person engaged in the operation of a declared sex club must not permit a minor to enter or remain in the club.	19
		20
	Maximum penalty: 20 penalty units.	21
(2)	A person is engaged in the operation of a declared sex club if:	22
(a)	the person is the manager of the club, or	23
(b)	the person is employed to carry out duties in the club, or	24
(c)	the person is entitled to any of the proceeds of the operation of the club or is otherwise concerned in the management of the club.	25
		26
		27
(3)	It is a defence to a prosecution for an offence under subsection (1) if it is proved that:	28
		29
(a)	the person charged believed on reasonable grounds that the minor was of or above the age of 18 years, or	30
		31

(b)	the person charged had no knowledge that the minor was in the club and could not, by the exercise of due diligence, have prevented the minor from being in the club.	1 2 3 4
<b>21E</b>	<b>Notices to be displayed</b>	5
(1)	The manager of a declared sex club must ensure that there is continually displayed at each entry point to the club a notice that:	6 7 8
(a)	states that a minor is not permitted to enter the club, and	9
(b)	is displayed in such a manner that it would be reasonable to expect that a person entering the club would be alerted to its contents.	10 11 12
	Maximum penalty: 20 penalty units.	13
(2)	The regulations may make provision for or with respect to the size and content of such notices.	14 15
<b>21F</b>	<b>Police powers of entry</b>	16
(1)	If a police officer believes on reasonable grounds that a minor is in a declared sex club, the officer may, at any time of the day or night, enter the premises to ascertain whether an offence under this Part has been or is being committed.	17 18 19 20
(2)	A police officer exercising the power conferred by subsection (1) may, with or without assistance, break into the premises if entry is refused or is unreasonably delayed.	21 22 23
(3)	If a police officer is satisfied, on reasonable grounds, that a minor is in a declared sex club, the officer may remove the minor, or cause the minor to be removed, from the premises.	24 25 26
(4)	A person who wilfully delays or obstructs a police officer in the exercise of a power under this section is guilty of an offence.	27 28
	Maximum penalty: 50 penalty units.	29
(5)	In the exercise of a power conferred under this section, a police officer may request any person to answer any question relating to any suspected offence under this Part.	30 31 32

Summary Offences Amendment (Minors in Sex Clubs) and Theatres and Public Halls Repeal Bill 2001

Amendment of Summary Offences Act 1988

Schedule 1

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<b>[2] Schedule 2 Savings and transitional provisions</b>	1
Insert at the end of clause 1 (1) in Schedule 2:	2
<i>Summary Offences Amendment (Minors in Sex Clubs) and Theatres and Public Halls Repeal Act 2001</i>	3
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Summary Offences Amendment (Minors in Sex Clubs) and Theatres and  
Public Halls Repeal Bill 2001

Schedule 2      Amendment of Act and regulation

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<b>Schedule 2    Amendment of Act and regulation</b>	1
(Section 5)	2
<b>2.1    Boxing and Wrestling Control Act 1986 No 11</b>	3
<b>Section 62C Application for and granting of permits</b>	4
Omit section 62C (5).	5
<b>2.2    Dangerous Goods (General) Regulation 1999</b>	6
<b>Dictionary</b>	7
Omit the definitions of <i>public hall</i> and <i>theatre</i> .	8
Insert instead of the latter definition:	9
<i>theatre or public hall</i> means any building or part of a building	10
that is used or intended to be used for the purpose of providing	11
public entertainment or conducting public meetings.	12