

Second Reading

The Hon. TONY KELLY (Minister for Lands) [5.25 p.m.]: I move:

That this bill be now read a second time.

I seek leave to have my second reading speech incorporated in *Hansard*.

Leave granted.

In June the Rees Government signalled that it would be delivering new measures to help secure the future of clubs in New South Wales.

The amendments in this bill are an important part of those measures.

The amendments flow from a review undertaken by the Independent Pricing and Regulatory Tribunal which examined the significant economic contribution clubs make to the community in New South Wales, as well as the commercial, social and regulatory pressures on clubs, and emerging industry trends.

The IPART review also looked at club governance issues—reducing red tape, improving financial management, and identifying training and development needs.

Extensive consultation by IPART ensured that clubs from around New South Wales were able to make a contribution to the review.

At the conclusion of the review, IPART released a report containing 69 recommendations to support the future viability of clubs. Those recommendations have received Government and industry support.

Many of the recommendations relate to financial reporting and benchmarking, education and training to improve club management, diversifying club operations, and measures to ensure industry viability. ClubsNSW, representatives of club industry bodies and the New South Wales Office of Liquor, Gaming and Racing are working together to implement IPART's recommendations.

The focus is currently on recommendations relating to corporate governance, constitutional reform, an industry management plan and a club viability panel.

These are complex issues, and it is possible that this work may lead to proposals for changes to the registered club laws in the future.

In the meantime, the bill now before the House implements recommendations to remove unnecessary regulatory restrictions on clubs.

Clubs are diversifying their activities in order to generate revenue from other income producing streams.

The Registered Clubs Act currently prohibits clubs from providing off-site catering at functions sponsored by, and paid by, persons who are not members of the club.

This bill will amend the Act so that clubs can cater off-site to non-club members. This will enable clubs to expand their business activities and be competitive in the market.

Some clubs cater for a high volume of holiday makers and business travellers who frequent the club regularly during their stay.

These persons usually enter clubs as temporary members. However, the Registered Clubs Act currently requires these temporary members to sign a register each time they enter a club's premises.

Amendments in this bill will enable clubs to adopt more flexible sign-in procedures for temporary members.

Clubs will be allowed to issue temporary memberships for a consecutive period not exceeding seven days—with the Casino, Liquor, Gaming and Control Authority able to approve longer periods of up to 30 consecutive days.

The Registered Clubs Act also restricts membership numbers in clubs, and requires that clubs seek regulatory approval if they wish to increase membership numbers.

It is understood that this restriction was introduced many years ago to address issues relating to overcrowding in club venues.

The enactment of planning and fire safety laws in the meantime has made this provision redundant. It imposes unnecessary red tape and costs on clubs.

This bill will delete that provision from the Registered Clubs Act.

These amendments will assist clubs to expand their business operations, attract new customers, and reduce costs. They have been welcomed by the clubs industry.

This bill also contains a range of miscellaneous liquor law amendments.

The new Liquor Act commenced on 1 July 2008. The new laws were a significant departure from the previous liquor licensing arrangements that had been in place for many decades.

A new administrative licensing system was introduced to replace the former court-based regime, and liquor licence categories were overhauled to reduce red tape and costs.

Much work has been done to ensure the new licensing system could commence on 1 July last year, and to ensure the benefits of the new system continue to be realised for all stakeholders.

Some implementation issues have been identified with the new laws as result of this work. These require amendments to the Liquor Act 2007, the Casino, Liquor and Gaming Control Authority Act 2007, and the Registered Clubs Act 1976.

With the first 12 months of operation of the new laws now behind us, it is also appropriate to undertake some fine tuning to clarify issues that have been identified by stakeholders. The amendments in this bill will do that.

They are routine and machinery type matters which will assist in the efficient and effective operation of the liquor regulatory system.

I will briefly detail those now.

The right for hotels and on-premises licences to utilise existing extended trading hours on Good Friday and Christmas Day morning was restored in December last year via the Liquor Amendment (Restricted Trading Days) Regulation 2008. However, it is preferable that this issue be corrected in the Liquor Act to avoid confusion and for long term certainty.

The bill will therefore make the necessary amendments to the Act.

The bill also includes amendments to ensure that trading that was permitted under the former Liquor Act for restaurants on Good Friday and Christmas Day can continue for these venues.

I want to assure members that restrictions on Good Friday and Christmas Day trading for hotels and bottle shops that applied under the former Liquor Act will continue to apply under the new Act.

The previous Liquor Act permitted all wine producers to also sell their own cider, perry and mead at their cellar door. This bill amends the Liquor Act to restore this right for metropolitan wine producers.

For consistency with the wine producer provisions in the Act, cider, perry and mead producers will also be permitted to make cellar door sales as well as sales at wine shows and producers' markets.

The new Liquor Act allows non-metropolitan brewers and distillers to sell their own product directly to the public at their licensed premises. The bill extends this privilege to metropolitan brewers and distillers, while also clarifying that sales are not restricted to products in bottles

Some shopping centre operators that have bars or restaurants within their centres wish to be able to hold the liquor licence for those premises while leasing or subleasing the premises to a separate business operator. The present law prohibits this.

Allowing a shopping centre operator to hold the liquor licence has merit, given that responsibility for compliance with the liquor laws will rest with the operator, who has an ongoing presence and interest in a well operated venue.

Therefore, the bill amends the Liquor Act to allow for the approval of leasing or sub-leasing of premises in a shopping centre where liquor is sold for on premises consumption. The Authority will be able to impose controls on such arrangements by way of licence conditions.

Under the Liquor Act, police, local councils and residents can make complaints to the Director-General of Communities New South Wales relating to undue disturbance to the quiet and good order of the neighbourhood associated with the conduct of a licensed premises and/or patrons.

These provisions have existed for many years, and are intended to provide a mechanism for complaints to be resolved quickly and in an informal manner, with, minimal cost and complexity.

Besides the disturbance complaint process, the new Liquor Act provides regulators with a range of tools to address problems associated with alcohol consumption and the operation of licensed premises. Most of these tools did not exist when current disturbance complaint provisions were originally inserted into the former Liquor Act.

There are circumstances where these other tools may be more effective at quickly addressing alcohol-related problems. It is therefore appropriate that regulators have the discretion to utilise the full suite of tools at their disposal when responding to complaints involving licensed premises.

The current liquor laws go some way towards facilitating this. However, greater clarity would assist regulators and

stakeholders.

Therefore, the bill contains amendments which make it clear that the Director-General is not limited to the complaint process set out in Division 3 of Part 5 of the Liquor Act in dealing with complaints.

The bill also clarifies that the Director-General can deal with a complaint quickly by allowing consideration of written submissions made by complainants and responses provided by licensees, without having to hold a conference.

Further, the bill ensures that the Director-General is able to make the necessary changes to liquor licence conditions when determining a complaint.

Due process will be required so that parties are given an opportunity to make submissions to the Director-General before a complaint is determined.

These amendments are being made so that the disturbance complaint process can operate quickly and effectively to address neighbourhood problems, rather than being bogged down by legal argument about process.

The amendments will ensure the full suite of liquor regulatory tools can be brought to bear to address neighbourhood problems associated with licensed premises and the conduct of patrons.

Transitional provisions provide that these amendments extend to complaints made, but not determined, before their commencement.

The bill when introduced into the other place also included a provision regarding legal representation at a complaint conference.

Subsequently, the Government acknowledged that there were concerns about this particular issue, and the bill was amended in the other place to remove that provision.

The previous Liquor Act contained a provision requiring persons to answer any question asked by a special inspector or a police officer in relation to records, documents, and other things that could be seized under that Act.

The Casino, Liquor and Gaming Control Authority Act contains a similar requirement. However, the requirement applies only to licensing inspectors, and not to police.

This can hinder effective law enforcement by police, and could lead to increased enforcement costs. The bill therefore amends the Act to ensure police have the same powers as licensing inspectors.

The Casino, Liquor and Gaming Control Authority Act also provides that an inspector may require a person to furnish information or records in connection with any matter relating to the responsibilities or functions of the Authority under the gaming and liquor legislation.

However, the requirement does not extend to information or records in connection with the responsibilities or functions of an inspector, the Director General or the Commissioner of Police. This severely limits the use of information that is obtained, and can lead to increased enforcement costs.

The bill therefore clarifies that a person may be required by an inspector or the Commissioner of Police to furnish information and/or records in connection with any matter relating to the responsibilities or functions of an inspector, the Director-General and the Commissioner of Police.

The operation of this provision will continue to be subject to limits in the Casino, Liquor and Gaming Control Authority Act so that these powers may only be exercised in relation to the administration of the liquor and gaming laws and the promotion of the objects of those laws.

The bill also makes a range of clarifying amendments to ensure the effective operation of the liquor laws. The amendments ensure that business owners can apply to transfer a liquor licence in appropriate circumstances—such as where the licensee is dismissed from or leaves the business.

The bill also makes it clear that where a local court imposes conditions on a liquor licence as a result of a prosecution for a breach of the law, those conditions can subsequently be varied or revoked upon application.

Key official provisions in the Casino, Liquor and Gaming Control Authority Act are being amended to make it clear that a key official must not be a close associate of an applicant for, or the holder of, a gaming or liquor licence.

Various information provision requirements in the Liquor Act relating to persons interested in a liquor licence are being aligned to ensure consistency. This will also reduce the amount of information required to be provided by some licensees to the Casino, Liquor and Gaming Control Authority.

The opportunity is also being taken to clarify the operation of club manager requirements in the Liquor Act so it is clear that all clubs must have a manager who is responsible under the liquor laws for the operation of the club's licence. For most clubs, the manager will continue to be the person who is the secretary of the club.

The bill includes additional savings and transitional provisions associated with the abolition of the former Liquor Administration Board so it is clear that functions exercised by the former board can be exercised by the Casino, Liquor and Gaming Control Authority. This will ensure that a few remaining applications that were made under the former

Liquor Act can be finalised.

The bill also clarifies the application of certain licensing provisions requiring notification of cease to trade and the keeping of an incident register by limited licences.

Finally, a range of miscellaneous "statute law" type amendments are included in the bill to update terminology.

I commend the bill to the House.

The Hon. RICK COLLESS [5.25 p.m.]: I speak on behalf of the Coalition on the Liquor and Registered Clubs Legislation Amendment Bill 2009. This bill will essentially correct some of the inconsistencies in the rewritten Liquor Act that commenced on 1 July 2008. That Act contained some unintended consequences and drafting errors, which this bill seeks to tidy up. A number of positions in registered clubs have been rectified to the advantage of the club movement. In particular clubs will be able to issue seven-day temporary memberships and will be able to remove outdated memberships, some of which refer to the good old days when clubs had capacity limits because of overcrowding and inadequate fire escape provisions and so forth which have been corrected with new building laws. The bill will also give clubs the right to operate commercial catering to strengthen their businesses, which the Opposition believes is an advantage to them. Clubs have spent a considerable amount of money on their catering operations and will now be able to operate on a commercial basis.

The bill also amends the Liquor Act. The Opposition had some real concerns before the Government agreed to move an amendment in the Legislative Assembly to section 89 which removed the right of licensees to be legally represented when there was an issue particularly in relation to noise disturbance disputes. The Opposition commends the Government for removing that section, which will rectify drafting errors and unintended consequences to make it a more workable piece of legislation, and as a result it will not oppose the bill.