Registered Clubs Amendment Bill.

Second Reading

Mr GRANT McBRIDE (The Entrance—Minister for Gaming and Racing) [10.03 a.m.]: I move:

That this bill be now read a second time.

This highly anticipated bill makes amendments to the Registered Clubs Act that resulted from deliberations of the club industry task force. As honourable members may recall, on 22 August I announced the formation of the club industry task force. The task force comprises representatives of ClubsNSW, the Services Clubs Association, the New South Wales Bowling Association, the Club Managers Association of Australia, the Leagues Clubs Association of New South Wales, the Liquor, Hospitality and Miscellaneous Workers Union, the Department of Gaming and Racing and members of my personal staff. The aim of the task force was to develop a set of recommendations that would clearly identify and articulate what is expected of the club industry in New South Wales in the future. Particular emphasis was placed on the importance of transparency and accountability. The proposals that resulted from this process represent a significant step in addressing the concerns not only of many club members but also of the general community.

This bill deals specifically with the provision of recommendations for legislative amendments to club governance, probity and various reporting requirements. The recommendations aim to raise and set a uniform high standard of transparency and accountability in reporting the activities of registered clubs. This will help to ensure that members are adequately informed of the decisions made by members of the governing body and senior club management. The changes will also pave the way for improved standards of accountability and will assist in dispelling perceptions and allegations concerning mismanagement of clubs. The terms of reference of the task force created a two-stage program. Stage one, encompassing governance, compliance and probity issues—which I shall shortly address—was completed on 26 October. This will be followed by stage two deliberations dealing with further governance issues, club elections and constitutions, codes of conduct, industry benchmarking and community service provision.

The task force is aiming to provide legislative proposals for stage two in the 2004 autumn session of Parliament. It is extremely important for the House and the general community to understand the very positive and hardworking role played by industry representatives on the task force. These representatives showed themselves to be very willing to reform and upgrade their procedures and practices, ensuring that the club industry would try to meet the highest standards of governance, compliance and probity. They willingly accepted constructive criticism and were prepared to accept procedures that would require additional work and responsibilities, both for senior employees and club directors. Importantly, club industry representatives actively sought the Government's involvement in this reform process. This was a genuine participatory process, a real partnership. I am advised that the discussions were frank and robust, with departmental representatives also accepting constructive criticism from the industry.

The club industry members of the task force were worthy representatives of the many thousands of club members in New South Wales. Importantly, it is these members who will gain most from these deliberations. Club members will gain a greater working knowledge of the clubs' activities and management, enabling them, if desired, to play a more constructive part in club elections, ensuring that the elections are fair and democratic, and that those elected are best suited to manage the club's affairs. Protecting and enhancing the rights of club members is at the heart of the Government's considerations in this exercise. These considerations have been enhanced by the work of the club industry representatives. Their commitment and endeavours will ensure that the relationship between the club industry and the Government remains on a firm and constructive footing.
I will now briefly address the subject matter of the bill. It has become clear that there is a need for the clarification of the standards that should be met in the accounts and reports of registered clubs. This is also true of the standards to be met by members of the clubs' governing bodies and senior executives. This is particularly relevant regarding financial and management accountability. It is worth repeating that the club industry has actively sought the Government's involvement in setting and developing these financial reporting and governance standards. The Government is not imposing these new requirements arbitrarily. Rather, the Government is working, as outlined, in partnership with the club industry participants. First, this bill will introduce enhanced disclosure requirements. Existing provisions in the Registered Clubs Act preclude members of a club's governing body from receiving honorariums unless the payment has been approved by a resolution passed at a general meeting.

However, over recent years allegations have been brought to the attention of the Department of Gaming and Racing involving circumvention of these provisions. It was found that members of the governing body of a club had received remuneration and other benefits from subsidiary companies and affiliated clubs. This is clearly against the spirit of the existing provisions. Therefore, the provisions regarding financial payments will be tightened and made more transparent. In addition, any non-financial payments, such as gifts, should be clearly reported to members in the club's annual report. Although the receipt of gifts is not technically a breach of the legislation, it is considered that this level of transparency should be provided as a right to members. They can make up their own minds as to whether or not they

are happy with such gratuities. In essence, it will become necessary for board members and executives to provide details to the members of any payments received in the annual report. It will also be required that these payments be listed in a pecuniary interests register. It is considered that this form of open reporting should help to dispel any lingering perceptions that executives are offering any kind of special favours in return for personal financial gain.

Next, the bill will enhance the powers of the Director of Liquor and Gaming. As part of ensuring compliance with these new measures, it is imperative that the Government and the Department of Gaming and Racing have the authority to require that relevant individuals supply certain information. At present, the department's Director of Liquor and Gaming can gain access to information only if it is stored on the premises of a club. This can be a significant hindrance to certain investigations involving outside parties with financial or contractual links to a club. This bill will give the Director of Liquor and Gaming the specific power to direct members of the governing body and the secretary manager of a club to provide financial and personal information of relevance to an investigation being carried out under the Act. This will greatly assist the investigation of matters directly relevant to the new reporting provisions.

The bill will introduce requirements for the approval of remuneration packages. This measure reflects the concerns that have been raised regarding secrecy provisions contained in the employment contracts of secretary managers of certain registered clubs. In some instances, these contracts and remuneration packages are subject to broad confidentiality agreements between the chairperson of the club, the secretary managers or other senior executives. Effectively, this has meant that other elected members of the governing body have been excluded from participating in an essential aspect of the club's management. Club members have also been deprived of this information. This bill will require that such employment packages must be approved by all elected board members. In order to ensure proper supervision of secondary club premises, the bill will introduce requirements for the appointment of an authorised person to supervise these premises.

Due to an increasing number of club amalgamations, it is not uncommon for a club to operate from more than one set of premises. For example, one Sydney club now operates from 12 separate premises. This has led to the situation where it is possible that there will be no-one working at the secondary premises who would be held responsible for the day-to-day management of the premises. This is clearly undesirable. Accordingly, this bill will introduce a requirement that a club with more than one set of premises must appoint an authorised person for each venue, and that this person must be approved by the Liquor Administration Board. This will ensure a more uniform approach to the setting of appropriate management standards and compliance with important regulatory matters, such as responsible service of alcohol and responsible conduct of gaming. Additionally, this would also ensure that there will be some controls over who is appointed as a fit and proper person to manage a club's premises.

The various obligations and penalties that are attached to the role of secretary under the Act would also apply to those appointed as an authorised person. However, in acknowledgement that there will be certain circumstances where this may not be absolutely necessary, this requirement will be subject to specific exemptions. These will include such cases as where the secondary venue is within 10 kilometres distance of the primary club in a metropolitan area, or within 50 kilometres in the non-metropolitan area, or where the secondary venue is very small and may only have a small number of employees. In these circumstances, it is considered that the operations of the second premises are relatively easy to monitor. The bill will require the declaration of corporate hospitality. It is a sad but true fact that allegations and complaints have been received from club members regarding the activities of senior managers and certain members of the clubs' governing body.

The complaints allege that these individuals have been in receipt of substantial corporate hospitality from persons with whom they have subsequently entered into major contractual arrangements. Although it is understood that these complaints are sometimes based on rumour and innuendo, it is considered important that measures be introduced to dispel such rumours and to provide proper transparent reporting of such hospitality when it does occur. The failure to report such hospitality to a club's members can create problems of perceived corruption. Simple reporting of this nature can overcome such negative perceptions, and hopefully bring to a halt such activities in the limited situations in which they occur. Accordingly, the measures in this bill will not prohibit such hospitality, but will require that any hospitality be recorded in a register and be disclosed in the club's annual report.

I now turn to the requirement for the approval of loans by club boards. Concerns have been expressed from time to time over the ability of clubs to advance loans to senior staff at very favourable terms and conditions. This may not necessarily be in the best interest of club members. Existing measures prohibit the club from providing loans to members of the governing body, unless approved at an annual general meeting of a club. This requirement is to be extended so that clubs will be prohibited from providing any form of loan to any member of the governing body. It will also be required that loans made to club employees must be approved by the governing body of the club, and the terms and conditions disclosed in the club's annual report. In addition, where loans are not provided for in the employee's contract of employment, the amount of loan must not exceed $10,000.

The bill also introduces enhanced requirements for reporting conflict of interest. It is not unreasonable to expect that club members should be informed of any conflicts of interest that may arise due to the activities of board members. However, it is considered that existing legislative provisions concerning the declaration of such conflicts of interests are considered inadequate. Accordingly, under the new provisions, any member of the governing body of a club or secretary must disclose any conflict of interest. This information must also be reported in the club's annual report. Furthermore, any contract between the club and any company or other organisation in which staff or board members have a financial interest must be approved by the board and reported to the annual report.

The club industry will be fully involved with the implementation of these provisions. ClubsNSW and other club industry associations will take on responsibility for developing guidelines to assist clubs in dealing with conflicts of interest and tendering processes. It is envisaged that these guidelines will assist the industry in further raising standards of accountability. Existing provisions in the Registered Clubs Act require that clubs disclose various matters such as the salaries of the top five highest-paid employees, details of overseas travel by members of the governing body or employees, et cetera, in their annual reports. While this requirement is generally well observed, some clubs provide the members with an abridged version of the annual report only, and in so doing have omitted some of this important information. Accordingly, it will be required that this information be disclosed in any abridged or consolidated version of a club's annual report.

Another issue that has given rise to concern is the lack of reporting of legal settlements and legal fees. This is reflected in the complaints that have been received by the department concerning the payments that have been made to board members or to the management of clubs as a result of the settlement of a legal dispute. Despite the confidentiality provisions that may be part of certain of these legal settlements, for the sake of total transparency it is considered vital that all such payments are disclosed to the members in the club's annual report. Similarly, clubs will also be required to disclose in the annual report details of any legal fees of board members or management of clubs that have been paid for by clubs. Another aspect of the bill that relates to transparency is the new requirements for the disclosure of consultancies. Club members have a right to be informed of how their club's funds are spent. Again, these new requirements will address the perceptions of a lack of transparency in such dealings.

Another issue of transparency addressed by this bill is the alleged practice of employment of family members of board members and senior management. The measures in the bill will not prohibit the employment of direct relatives of board members and senior management. However—as I stated before—on the grounds of transparency, it is considered essential that full details of any such employment be disclosed to members of clubs and be included in the club's annual report. The next set of measures contained in this bill relates to new provisions that will create a class of controlled contracts. The measures seek to address a growing trend for the involvement of private, entrepreneurial interest in the management of registered clubs. This is particularly of concern in regard to smaller clubs that are struggling with financial difficulties and the disposal of the assets of these clubs. This situation has created an alarming trend where it appears that private entrepreneurs have sought to gain control over a club's management and operations. In so doing, they have obtained significant financial benefits and in some cases ownership of the club's assets.

The Department of Gaming and Racing has been able to identify and prevent many of these arrangements from proceeding. However, some individuals and organisations are becoming more inventive in their attempts to circumvent the current legislative provisions and to gain control over club operations and assets. Accordingly, the bill will provide for certain contracts to be declared controlled contracts. Club members have also expressed concern that a club's governing body or executives are able to dispose of the club's major assets and premises without all members being involved in the process. This has even given rise to allegations that a minority of club members could be in a position to dispose of the club's major assets at less than market value. This would be of clear detriment to the interests of club members. Hence, this bill provides for changes that will prevent the disposal of major assets without a majority resolution of all members. When such disposal is approved by all members, it will also be required that it be done by way of public auction or open tender process. Failure to comply with these provisions will render the contract null and void.

The final amendment in this package again deals with the need for greater transparency and management of probity. Club members have raised concerns regarding the potential and existing business operations of some chief executive officers [CEOs] and secretary managers of clubs. These CEOs and secretary managers have entered into contracts with companies to supply goods and services to their club, with the secretary manager, or members of his or her direct family, having a definite or controlling interest in the contracted company. Such procedures have caused club members and the general community much concern. Are such deals in the best interest of the club and its members? Is it appropriate for an employee of the club to be dealing directly with a company in which he or she has a controlling interest? Is it appropriate for a club manager, already in receipt of an often generous salary package, to earn further income from a contract which he or she has arranged to sell goods and services to the club he or she is managing?

All these questions raise a number of probity issues and, while justifications in strictly legal terms may be provided, many club members are left with the perception that something is not quite right with these deals. Given these perceptions and probity concerns, the task force felt it would be to the benefit of the club industry as a whole to bring these activities to a halt. Therefore, the final amendment in this package will preclude a club's CEO or secretary manager from entering his or her club into a contractual arrangement with any company in which he or she, or members of his or her immediate family, have a direct or controlling interest. This will bring further transparency to the dealings of senior club employees, removing the perception that self-interested sweetheart deals are rife in the New South Wales club industry. In conclusion, this bill introduces numerous measures of direct and long-term benefit to registered clubs and their members. The Government considers that none of the measures in the bill raises any issues relevant to the Legislation Review Committee's scrutiny of bills function. The changes are supported by the club industry, club employee associations and the Government. I commend the bill to the House.