

Registered Clubs Amendment Bill 2003

Explanatory note

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

Overview of Bill

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

- (a) to require the appointment of managers for premises of a registered club at which the secretary of the club is not in attendance (with certain exceptions), and
- (b) to require the disclosure of certain interests held by, and gifts given to, members of the governing body and employees of a registered club, and
- (c) to require a registered club to keep a register of such disclosures, and
- (d) to require certain matters to be reported annually to members of registered clubs including, for example, loans to employees of registered clubs and amounts paid to consultants, and
- (e) to prohibit, or place controls on, certain contracts and arrangements entered into by registered clubs, and
- (f) to enable the Director of Liquor and Gaming to take action in relation to contracts that do not comply with the new requirements, and
- (g) to make the secretary and members of the governing body of a registered club liable (with certain defences available) if the club enters into a contract in contravention of the new requirements.

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 that gives effect to the amendments to the *Registered Clubs Act 1976* set out in Schedule 1.

Schedule 1 Amendments

Managers of registered clubs

Schedule 1 [2] requires a registered club with more than one set of premises to appoint a different manager for each set of premises at which the secretary of the club is not in attendance. The manager must be a natural person who is approved by the Liquor Administration Board. Certain exceptions are provided for.

Managers appointed under the new requirements have responsibilities in relation to ensuring compliance with specified provisions of the *Registered Clubs Act 1976* and the *Gaming Machines Act 2001*. However, a secretary of a registered club is not relieved of the obligation to comply with those requirements by the appointment of a manager.

Accountability of registered clubs

Schedule 1 [9] inserts a new Part 4A into the *Registered Clubs Act 1976* which contains proposed sections 41B–41X.

Proposed section 41B contains definitions for the purposes of the proposed Part, including a definition of **top executive** of a registered club which means one of the five highest paid employees at each separate premises of the club.

Proposed section 41C requires members of the governing body of a registered club to declare material personal interests in the affairs of the club. This provision replaces the current provisions of section 39 (2) which are to be repealed by Schedule 1 [7].

Proposed section 41D replaces the provisions of section 39A which are to be repealed by Schedule 1 [8]. The proposed section requires the disclosure of financial interests in hotels held by members of the governing body of a registered club or top executives of a registered club.

Proposed section 41E requires a member of the governing body of a registered club or a top executive of a registered club to disclose gifts over \$500 received from bodies that have received grants or subsidies from the club within a certain period.

Proposed section 41F requires a member of the governing body of a registered club or an employee of a registered club to submit a return each year to the club declaring gifts received from persons or organisations that are parties to contracts or commercial arrangements with the club.

Proposed section 41G requires the secretary of a registered club to keep a register of disclosures, declarations and returns made under the new provisions.

Proposed section 41H requires a registered club to provide a report each year to each member of the club that includes specified information. The proposed section also includes provisions re-enacting some of the existing requirements relating to the disclosure of salaries of \$100,000 or more paid by a registered club, details of overseas travel by members of the governing body or employees of a club and gaming machine profits (which are to be repealed by Schedule 1 [1]).

Proposed section 41I replaces the existing requirements of section 39 (1) (which are to be repealed by Schedule 1 [7]) relating to the exhibition on the premises of a registered club of declarations by members of the governing body of the club of certain interests in the affairs of the club.

Proposed section 41J provides that a registered club must not dispose of any land of the club unless the disposal has been approved by a majority resolution at a general meeting of the club and the land is disposed of by way of open tender or public auction after a valuation by an independent valuer has been obtained.

Land includes land occupied by the club and disposal includes the granting of a lease, licence or easement over land for a period of more than 3 years (including any option to renew) or the granting of an option to buy land.

Proposed section 41K prevents a registered club from entering into a contract with a member of the governing body or top executive of the club, or a body in which such a member or top executive has a pecuniary interest, unless the proposed contract has been approved by the governing body of the club.

Proposed section 41L prevents a registered club from entering into a contract with the secretary or a manager of the club, a person prescribed by the regulations, a close relative of any of those persons or a body in which any such person has a controlling interest.

Proposed section 41M prevents a registered club from entering into a contract for the remuneration of a top executive of the club unless the proposed contract has been approved by the governing body of the club.

Proposed section 41N prevents a registered club from lending money to a member of the governing body of the club and requires loans to employees of the club to be approved by the governing body of the club and to be less than \$10,000.

Proposed section 41O provides that certain contracts to which a registered club is a party are subject to terms and conditions prescribed by the regulations for the type of contract concerned.

Proposed section 41P provides that (except in relation to proposed section 41M), the new requirements relating to contracts with a registered club do not apply to contracts of remuneration of a person as a member of the governing body of the club, to contracts of employment with employees of the club or to honorariums.

The proposed section also provides that those new requirements do not render a contract void or illegal. However, see proposed sections 41Q and 41R for action that can be taken by the Director of Liquor and Gaming in relation to contracts that do not comply with the new requirements.

Proposed section 41Q enables the Director of Liquor and Gaming to apply to the Supreme Court for an order if a registered club has disposed of land without complying with proposed section 41J. The Supreme Court may make appropriate orders in relation to the disposal of the land if it thinks that the disposal has not been generally to the benefit of the members of the club. However, the Supreme Court is not to make an order that unfairly affects the interests of certain persons.

Proposed section 41R enables the Director of Liquor and Gaming to terminate contracts of a registered club (other than relating to the disposal of land of the club) if the contract was entered into in contravention of any of the new requirements and the Director is satisfied that the termination would not affect the registered club adversely. The powers are similar to powers contained in the *Casino Control Act 1992* and the *Public Lotteries Act 1996* in relation to certain contracts.

Proposed section 41S sets out the effect of the termination of a contract under proposed section 41R.

Proposed section 41T makes it an offence for a person to give any further effect to a contract that has been terminated under proposed section 41R.

Proposed section 41U requires a registered club to notify persons when they become top executives of the club and provides a defence to such a person in proceedings for a contravention of the new provisions relating to top executives if the person has not received such a notification and could not otherwise have known that he or she was a top executive.

Proposed section 41V makes a person who is a member of the governing body or the secretary of a registered club guilty of an offence if the registered club contravenes any of the new provisions relating to contracts unless the person shows that the contravention was done without the person's knowledge or that the person could not prevent the club from contravening the provision.

Proposed section 41W enables regulations to be made for the purposes of the proposed Part.

Proposed section 41X enables the regulations to prescribe guidelines relating to certain disclosure and contract provisions in the proposed Part. Industry consultation is to be undertaken when developing proposals for any such guidelines.

Schedule 1 [3]–[6] extend the investigative powers under the *Registered Clubs Act 1976* of the Director of Liquor and Gaming to enable the investigation of suspected contraventions of the new accountability provisions.

Schedule 1 [1], [7] and [8] contain consequential amendments.

Schedule 1 [10] and [11] contain savings and transitional provisions.