

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 as follows:

- (a) to enable the regulations to specify the requirements that must be complied with in relation to the amalgamation of registered clubs,
- (b) to increase, from 4 to 10, the number of clubs with which any particular club may amalgamate,
- (c) to require the election of the governing body of a registered club to be conducted, depending on the size of the club, either by a person or body approved by the Director of Liquor and Gaming or in accordance with the regulations,
- (d) to enable the regulations to create exceptions to the 5-kilometre residency test that applies in relation to temporary club membership,
- (e) to confer on serving Defence Force personnel honorary membership of all RSL or services clubs,
- (f) to consolidate the financial reporting requirements that apply in relation to registered clubs,
- (g) to modify the requirements relating to disposal of club property,
- (h) to make a number of other amendments of a minor or consequential nature.

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.

Clause 4 provides for the repeal of the proposed Act after all the amendments made by the proposed Act have commenced. Once the amendments have commenced the proposed Act will be spent and section 30 of the Interpretation Act 1987 provides that the repeal of an amending Act does not affect the amendments made by that Act.

Schedule 1 Amendments

Amendments relating to club amalgamations

At present under sections 17AD and 17AE of the Act, the Licensing Court may not approve of 2 or more clubs amalgamating unless it is satisfied that the clubs have entered into a deed of amalgamation and the club members have been notified of the proposed amalgamation. The information contained in the notice to the members is specified in the Act. Schedule 1 [5] omits the provision relating to the deed of amalgamation and Schedule 1 [7] omits the provisions specifying the information to be contained in the notice to members. In place of these provisions, Schedule 1 [6] provides that the amalgamation of 2 or more clubs will need to comply with the requirements prescribed by the regulations. Schedule 1 [52] is a consequential amendment authorising the making of regulations for or with respect to the amalgamation of clubs and Schedule 1 [13] makes it clear that an objection in relation to a proposed amalgamation may be made on the ground that the requirements of the regulations have not been complied with.

At present under section 17AF of the Act, a registered club is prevented from amalgamating with more than 4 other clubs over any period of time. Schedule 1 [8] increases the maximum number of amalgamations to 10 per club. Schedule 1 [9] and [10] are consequential amendments.

At present under section 17AH of the Act, 2 or more clubs are generally allowed to amalgamate only if they are situated in the same area. Schedule 1 [4] defines the term same area as the area within a radius of 50 kilometres from the main premises of the amalgamated (or "parent") club, regardless of whether the clubs concerned are located in a metropolitan or regional area. Schedule 1 [3] is a consequential amendment.

Schedule 1 [11] will require the club that will be dissolved as a result of a proposed amalgamation to call for expressions of interests from clubs in the same area before it is allowed to amalgamate.

Schedule 1 [12] provides that the major assets of a dissolved club that are required to be kept intact after an amalgamation will be those assets that are of a class prescribed by the regulations.

Schedule 1 [54] provides that the changes made by the proposed Act in relation to club amalgamations do not apply to pending applications for an amalgamation.

Amendments relating to rules of clubs

Schedule 1 [14] provides that the election of the governing body of a registered club must, in the case of a club with more than 10,000 full members (i.e. members who are entitled to vote), be conducted by a person or body approved by the Director of Liquor and Gaming. In the case of smaller clubs, the election must be conducted in the manner determined by the regulations.

Schedule 1 [15] provides that a person is not eligible to stand for election as a member of the governing body of a club unless the person declares that he or she has received the education and training material (which relates to the responsibilities and duties of club directors) that is approved by the Director of Liquor and Gaming.

Schedule 1 [16] prohibits an employee of a registered club from voting at an election of the governing body of another entity if the members of that entity's governing body are entitled or qualified to be appointed to the registered club's governing body.

Schedule 1 [19] removes the requirement that any promotional or advertising matter relating to a club include a statement that the matter is for the information of the members and their guests.

At present under the Act, a person who lives within 5 kilometres of the premises of a registered club is not eligible for admission as a temporary member of the club.

Schedule 1 [21] makes it clear that the relevant area is an area within a radius of 5 kilometres of the club's premises. Schedule 1 [22] enables the regulations to create exceptions to the rule preventing persons living within a 5 kilometre radius of a club being admitted as temporary members. Schedule 1 [20] is a consequential amendment.

At present under section 30 of the Act, only the full members of a club (i.e. persons who are ordinary members or life members) are entitled to vote at an election of the governing body of the club. The rules of a club can however limit this entitlement to a class of full members, so long as the number of that class of full members is at least 50% of the total number of the full members of the club. Schedule 1 [23] will provide that the eligible voting members must comprise at least 25% of the club's full members.

Schedule 1 [48] modifies the manner in which clubs are required to give notice when they amend their rules.

Amendments relating to honorary membership for serving Defence Force personnel

Schedule 1 [24] provides that any serving member of the Australian Defence Force is taken to be admitted as an honorary member of any RSL or services club on each day the person attends the club's premises. Schedule 1 [18] and [25] provide that a separate register is to be kept by the club of the Defence Force personnel who are admitted on the day as honorary members of the club. Schedule 1 [17] is a consequential amendment.

Schedule 1 [46] makes it clear that Defence Force personnel who are admitted as honorary members of an RSL or services club must sign in as honorary members when attending the club's premises. Schedule 1 [47] is a consequential amendment.

Amendments relating to financial reporting and disclosure requirements

Schedule 1 [27], [28] and [31] omit a number of provisions that require registered

clubs to lodge balance sheets and accounts and to keep financial statements. Schedule 1 [38] also omits provisions relating to miscellaneous annual reporting requirements. In place of these deleted provisions, Schedule 1 [29] enables the regulations to make provision for or with respect to the financial reporting requirements of registered clubs. Schedule 1 [1], [2], [30] and [49] are consequential amendments.

At present under the Act, a member of the governing body of a registered club must declare or disclose any gift he or she receives from an affiliated body or from a person or organisation that is a party to a contract with the club. Schedule 1 [34]–[37] extend this requirement to any remuneration (including a fee for service) that is received by the member from any such body or party. Schedule 1 [44] is a consequential amendment and Schedule 1 [45] enables the regulations to require the secretary of a registered club to keep a register of any such disclosures and declarations.

Schedule 1 [40] removes the requirement that certain contracts (referred to as “controlled contracts”) entered into by a registered club are taken to include terms and conditions prescribed by the regulations and that copies of such contracts must be provided to the Director. Schedule 1 [43] is a consequential amendment.

Amendments relating to disposal of club property

At present under the Act, a registered club must not dispose of any land owned or occupied by it unless certain requirements have been complied with. Schedule 1 [39] creates a distinction between a club’s core property (e.g. the defined premises of the club) and its non-core property (i.e. any other real property such as an investment property). Only the disposal of core property will be subject to requirements such as obtaining the approval of the club’s members and having the property independently valued. Schedule 1 [32], [41] and [42] are consequential on the change of terminology from “land” owned or occupied by a club to the “property” of a club.

Other amendments

Schedule 1 [26] provides that the general defence available to the secretary of a registered club for an offence in relation to the club applies also to the person appointed as manager of any premises of the club.

Schedule 1 [33] modifies the definition of top executive of a club (which is relevant to provisions concerning the accountability of clubs) so that rather than covering the 5 highest paid executives at each separate premises of the club it will only refer to the secretary of the club, the manager of any of the club’s premises and any person who is (or who is of a class) prescribed by the regulations.

Schedule 1 [50] and [51] are consequential on the insertion of the regulation-making power in relation to the amalgamation of registered clubs as inserted by Schedule 1 [52].

Schedule 1 [53] enables regulations of a savings or transitional nature to be made as a consequence of the proposed Act.