



New South Wales

Registered Clubs Amendment Bill 2006

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* 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.

First print



New South Wales

Registered Clubs Amendment Bill 2006

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New South Wales

Registered Clubs Amendment Bill 2006

No. , 2006

A Bill for

An Act to amend the *Registered Clubs Act 1976* to make further provision with respect to club amalgamations, rules and membership of clubs, reporting and disclosure requirements and the disposal of club property; and for other purposes.

The Legislature of New South Wales enacts:	1
1 Name of Act	2
This Act is the <i>Registered Clubs Amendment Act 2006</i> .	3
2 Commencement	4
This Act commences on a day or day to be appointed by proclamation.	5
3 Amendment of Registered Clubs Act 1976 No 31	6
The <i>Registered Clubs Act 1976</i> is amended as set out in Schedule 1.	7
4 Repeal of Act	8
(1) This Act is repealed on the day following the day on which all of the provisions of this Act have commenced.	9 10
(2) The repeal of this Act does not, because of the operation of section 30 of the <i>Interpretation Act 1987</i> , affect any amendment made by this Act.	11 12

Schedule 1	Amendments	1
	(Section 3)	2
[1]	Section 10 Requirements to be met by clubs	3
	Omit section 10 (1) (l). Insert instead:	4
	(l) The club must comply with any requirements imposed on the club under section 38.	5 6
[2]	Section 17 Determination of complaints against registered clubs	7
	Omit “37, 39, 40,” from section 17 (1AA) (a) (x).	8
[3]	Section 17AC Definitions	9
	Omit the definition of <i>metropolitan area</i> from section 17AC (1).	10
[4]	Section 17AC (1), definition of “same area”	11
	Omit the definition. Insert instead:	12
	<i>same area</i> , in relation to the amalgamation or proposed amalgamation of 2 or more registered clubs, means the area within a radius of 50 kilometres of the main premises of the parent club.	13 14 15 16
[5]	Section 17AD Deed of amalgamation	17
	Omit the section.	18
[6]	Section 17AE Requirements in relation to club amalgamations	19
	Insert “and the regulations” after “this section” in section 17AE (1).	20
[7]	Section 17AE (3) and (4)	21
	Omit the subsections.	22
[8]	Section 17AF General limit of 10 amalgamations per club	23
	Omit “4” from section 17AF (1). Insert instead “10”.	24
[9]	Section 17AF (2)–(4)	25
	Omit the subsections.	26
[10]	Section 17AG Clubs that have already amalgamated with more than 4 other clubs	27 28
	Omit the section.	29

[11]	Section 17AH Clubs allowed to amalgamate if situated in same area only	1
	Omit “is not able” wherever occurring in section 17AH (2).	2
	Insert instead “is not, after calling for expressions of interests in accordance with the regulations from clubs in the same area, able”.	3 4
[12]	Section 17AI Major assets of dissolved club to be kept intact	5
	Omit “the assets identified in a notice under section 17AE” from the definition of <i>major assets</i> in section 17AI (3).	6 7
	Insert instead “assets that are of a class prescribed by the regulations”.	8
[13]	Section 25 Grounds of objection	9
	Insert “(including any regulations made under or for the purposes of that Division)” after “this Part” in section 25 (2) (g).	10 11
[14]	Section 30 Rules of registered clubs	12
	Insert after section 30 (1) (a):	13
	(a1) In the case of a club that has more than 10,000 full members, the election of the governing body of the club is to be conducted by a person or body approved by the Director.	14 15 16 17
	(a2) In the case of a club that has 10,000 or less full members, the election of the governing body of the club is to be conducted in such manner as may be determined by the regulations.	18 19 20 21
[15]	Section 30 (1) (b1) and (b2)	22
	Insert after section 30 (1) (b):	23
	(b1) A person is not eligible to stand for election as a member of the governing body of the club unless the person declares in writing that the person has received the education and training material for club directors that is approved by the Director.	24 25 26 27 28
	(b2) Any such written declaration is to be kept by the club in a register for a period of at least 3 years and made available to the Director on request.	29 30 31

[16] Section 30 (1) (h1)	1
Insert after section 30 (1) (h):	2
(h1) An employee of the club must not vote at any election of the governing body of another club or association if any member of that governing body would, as the result of that election, be entitled or qualified to be appointed (or be nominated for appointment) to the governing body of the registered club.	3 4 5 6 7 8
[17] Section 30 (2) (j)	9
Insert “(other than honorary members referred to in section 30A)” after “of the club”.	10 11
[18] Section 30 (2) (j1)	12
Insert after section 30 (2) (j):	13
(j1) A register of persons who are honorary members of the club, being persons referred to in section 30A, who attend the club on any day is to be kept in accordance with section 31 as a separate register from the register referred to in paragraph (j).	14 15 16 17 18
[19] Section 30 (2) (n) and (o)	19
Omit the paragraphs.	20
[20] Section 30 (2A) (a)	21
Omit “a map”.	22
Insert instead “subject to any exception created by the regulations under subsection (3C), a map”.	23 24
[21] Section 30 (3B)	25
Omit “is not more than”. Insert instead “is within a radius of”.	26
[22] Section 30 (3C)	27
Insert after section 30 (3B):	28
(3C) The regulations may create exceptions to subsection (3B).	29
[23] Section 30 (9) (a)	30
Omit “a majority”. Insert instead “25%”.	31

[24] Section 30A	1
Insert after section 30:	2
30A Honorary membership of RSL or services clubs for serving Defence Force personnel	3
	4
(1) The rules of each RSL or services club are taken to include a rule that any person who:	5
	6
(a) is a member of the Australian Defence Force, and	7
(b) attends the premises of the club, and	8
(c) produces evidence that the person is a member of the Australian Defence Force,	9
	10
is taken to have been admitted as an honorary member of the club for the day the person attends the club.	11
	12
Note. Any such honorary member is required to sign in as an honorary member—see section 45 (a1).	13
	14
(2) Section 30 (2) (c) does not apply in relation to a person who is taken to be admitted as an honorary member of an RSL or services club under this section.	15
	16
	17
(3) In this section:	18
<i>Australian Defence Force</i> includes the armed forces of the Commonwealth, however described.	19
	20
<i>RSL or services club</i> means:	21
(a) an RSL, Services, Ex-services, Memorial, Legion or other similar club that is a registered club, or	22
	23
(b) a registered club that has objects similar to, or that has amalgamated with, a club referred to in paragraph (a).	24
	25
[25] Section 31 Manner of keeping registers relating to members and guests	26
Insert after section 31 (1) (b):	27
(b1) section 30 (2) (j1) in relation to honorary members referred to in section 30A is to have entered in it, when any such honorary member first enters the club premises on any day, the full name, or the surname and initials, and the address, of the honorary member together with his or her signature,	28
	29
	30
	31
	32
[26] Section 34E Responsibilities and liabilities of managers of premises of registered clubs	33
	34
Omit “and 35A” from section 34E (4). Insert instead “, 35A and 56”.	35

[27] Section 37 Lodgment of registered club’s balance sheet and profit and loss account or income and expenditure account	1 2
Omit the section.	3
[28] Section 37A Lodgment of certain information	4
Omit the section.	5
[29] Section 38 Reporting requirements of registered clubs	6
Omit section 38 (1). Insert instead:	7
(1) The regulations may make provision for or with respect to the reporting requirements of registered clubs (including requirements relating to the financial statements and accounts of registered clubs and the information to be disclosed by registered clubs).	8 9 10 11 12
[30] Section 38 (2)	13
Omit “the provisions of subsection (1)”.	14
Insert instead “regulations made for the purposes of subsection (1)”.	15
[31] Section 40 Regular statements of receipts and payments	16
Omit the section.	17
[32] Section 41B Definitions	18
Omit the definition of <i>land</i> from section 41B (1).	19
[33] Section 41B (1), definition of “top executive”	20
Omit the definition. Insert instead:	21
<i>top executive</i> of a registered club means each of the following:	22
(a) the secretary of the club,	23
(b) a person appointed under section 34A as the manager of any premises of the club,	24 25
(c) a person who is, or who is of a class, prescribed by the regulations for the purposes of this definition.	26 27
[34] Sections 41E (Disclosure of gifts and remuneration from affiliated bodies) and 41F (Disclosure of gifts and remuneration from persons or organisations with contracts with registered clubs)	28 29 30
Insert “or remuneration” after “any gift” wherever occurring in sections 41E (1) and 41F (1).	31 32

[35] Section 41E (1)	1
Insert “, or the amount of remuneration,” after “the gift”.	2
[36] Sections 41E (2)–(4) and 41F (2) (b) and (3)	3
Insert “or remuneration” after “gift” wherever occurring.	4
[37] Section 41E (5)	5
Insert after section 41E (4):	6
(5) In this section and in section 41F, <i>remuneration</i> includes any fee	7
for service.	8
[38] Part 4A, Division 3 Register of interests and reporting requirements of registered clubs	9
Omit the Division.	10
[39] Section 41J	11
Omit the section. Insert instead:	12
41J Disposal by registered club of real property	13
(1) In this section:	14
<i>core property</i> of a registered club means any real property owned	15
or occupied by the club that comprises:	16
(a) the defined premises of the club, or	17
(b) any facility provided by the club for the use of its members	18
and their guests, or	19
(c) any other property declared, by a resolution passed by a	20
majority of the members present at a general meeting of	21
the ordinary members of the club, to be core property of	22
the club,	23
but does not include any property referred to in paragraphs	24
(a)–(c) that is declared, by a resolution passed by a majority of the	25
members present at a general meeting of the ordinary members of	26
the club, not to be core property of the club.	27
<i>dispose</i> of property means to sell, lease or licence the property or	28
to otherwise deal with the property in such manner as may be	29
prescribed by the regulations.	30
<i>non-core property</i> of a registered club means any real property	31
owned or occupied by the club that is not core property.	32
	33

(2)	The annual report of a registered club must specify the core property and non-core property of the club as at the end of the financial year to which the report relates.	1 2 3
(3)	A registered club must not dispose of any core property of the club unless:	4 5
(a)	the property has been valued by a registered valuer within the meaning of the <i>Valuers Act 2003</i> , and	6 7
(b)	the disposal has been approved at a general meeting of the ordinary members of the club at which a majority of the votes cast supported the approval, and	8 9 10
(c)	any sale is by way of public auction or open tender conducted by an independent real estate agent or auctioneer.	11 12 13
(4)	The regulations may create exceptions to this section.	14
[40]	Section 41O Controlled contracts	15
	Omit the section.	16
[41]	Section 41Q Director may apply for orders in relation to disposal of real property owned by registered club	17 18
	Omit section 41Q (1). Insert instead:	19
(1)	If any real property that is owned or occupied by a registered club is disposed of otherwise than as provided by section 41J, the Director may make an application to the Supreme Court for an order in relation to the disposition of the property.	20 21 22 23
[42]	Section 41Q (2) and (3)	24
	Omit “the land” wherever occurring. Insert instead “the property”.	25
[43]	Section 41R Termination of certain contracts	26
	Omit section 41R (1). Insert instead:	27
(1)	This section applies in relation to a contract (other than a contract for the disposal of real property owned or occupied by a registered club) entered into by a registered club in contravention of a provision of Division 4.	28 29 30 31
[44]	Section 41ZB Regulations for purposes of Part	32
	Insert “, or the amount of remuneration,” after “a gift” in section 41ZB (b).	33

[45] Section 41ZB (b1)	1
Insert after section 41ZB (b):	2
(b1) the keeping by the secretary of a registered club of a	3
register of disclosures, declarations and returns made to	4
the club under Division 2 (including declarations recorded	5
as referred to in section 41D (4)),	6
[46] Section 45 Unauthorised persons using defined premises of registered club	7
Insert after section 45 (1) (a):	8
(a1) is an honorary member of the club (as referred to in section	9
30A) and the particulars required by section 31 (1) (b1)	10
have not been entered on that day in the register of	11
honorary members kept by the club in accordance with the	12
rule of the club referred to in section 30 (2) (j1), or	13
	14
[47] Section 45 (2A)	15
Insert “(a1) or” after “subsection (1)”.	16
[48] Section 49	17
Omit the section. Insert instead:	18
49 Amendment of rules of club	19
A registered club must, within one month after amending its	20
rules, lodge with the Director, in electronic form or in such other	21
manner as may be approved by the Director, a copy of all the	22
rules of the club (other than the rules contained in section 30 (1)	23
and (2)) and of the amendments certified as correct by the	24
secretary of the club.	25
Maximum penalty: 5 penalty units.	26
[49] Section 65 Proceedings for offences arising under this Act	27
Omit “37,” and “40,” from the Table to the section.	28
[50] Section 73 Regulations	29
Insert “the following” after “for or with respect to” where secondly occurring	30
in section 73 (1).	31
[51] Section 73 (1) (k), (l) and (m)	32
Omit “or” wherever occurring.	33

[52] Section 73 (1) (o)	1
Insert after section 73 (1) (n):	2
(o) the amalgamation of registered clubs under section 17A.	3
[53] Schedule 2 Savings, transitional and other provisions	4
Insert at the end of clause 1A (1):	5
<i>Registered Clubs Amendment Act 2006</i>	6
[54] Schedule 2, Part 19	7
Insert after Part 18:	8
Part 19 Registered Clubs Amendment Act 2006	9
91 Pending applications for club amalgamations	10
Subject to the regulations, the amendments made by the	11
<i>Registered Clubs Amendment Act 2006</i> to Division 1A of Part 2	12
do not apply to or in respect of an application under section 17A	13
that was made (but not granted) before the commencement of	14
those amendments and any such application is to be heard and	15
determined as if those amendments had not been made.	16