



New South Wales

# Liquor and Registered Clubs Legislation Amendment Bill 1999

## Explanatory note

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

## Overview of Bill

Under the *Liquor Act 1982* and the *Registered Clubs Act 1976*, there are procedures by which complaints can be made about the disturbance to the quiet and good order of neighbourhoods caused by patrons of licensed premises and registered clubs. These procedures involve the convening of conferences by the Liquor Administration Board to assist in the resolution of matters giving rise to complaints. However, separate procedures have to be invoked if a complaint made in relation to one licensed premises or registered club is found to affect other licensed premises or other registered clubs.

The object of this Bill is to amend the *Liquor Act 1982* and the *Registered Clubs Act 1976* so as:

- (a) to make it clear that a single complaint may be made in relation to more than one licensed premises or registered club, and

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- (b) to provide that procedures on a complaint begun in relation to one licensed premises or registered club can be extended to include other licensed premises or registered clubs, and
- (c) to provide that the procedures under either of those Acts can be used where a complaint begun in relation to licensed premises is found to affect a registered club, or where a complaint begun in relation to a registered club is found to affect licensed premises.

The Bill also makes a number of other amendments of a minor, consequential or ancillary 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 giving effect to the amendments to the *Liquor Act 1982* set out in Schedule 1.

**Clause 4** is a formal provision giving effect to the amendments to the *Registered Clubs Act 1976* set out in Schedule 2.

## Schedule 1 Amendment of Liquor Act 1982

### **Complaints concerning disturbance to the quiet and good order of neighbourhoods of licensed premises**

Section 104 enables the Liquor Administration Board to convene a conference to hear submissions concerning complaints about disturbance to the quiet and good order of neighbourhoods of licensed premises. The section sets out the kinds of conditions that may be imposed on the licensee as a result of the conference, and confers certain rights of appeal against the decisions made by the Board in relation to the licence.

**Schedule 1 [8]** inserts a number of new subsections into section 104:

Subsection (1AB) makes it clear that a complaint may relate to more than one licensed premises.

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Subsection (1AC) makes it clear that a single conference may relate to more than one complaint.

Subsection (1AD) provides that a conference convened in relation to a complaint about licensed premises may be extended to include any other licensed premises and any registered club.

Subsection (1AE) applies section 104 to any licensed premises or registered club to which a conference is extended as if it had been the subject of a complaint.

Subsection (1AF) provides that action taken under section 104 in relation to a registered club to which a conference is extended has effect as if it had been taken in relation to the club under section 17AA of the *Registered Clubs Act 1976*.

**Schedule 1 [9], [10] and [11]** make consequential amendments to section 104.

**Minor amendments**

**Schedule 1 [1]** amends the definition of *non-proprietary association* so as to enable persons to hold on-licences authorising them to sell liquor at functions on behalf of local councils in the same way as persons who currently hold on-licences authorising them to sell liquor at functions on behalf of other non-profit organisations.

**Schedule 1 [5]** amends section 74A so as to make it clear that, when deciding whether any other licence would be suitable for premises the subject of an application for a special on-licence, the Liquor Administration Board is not to consider the possibility that a Governor's licence could be issued for the premises.

**Schedule 1 [6] and [7]** amend section 97 to provide that the reference to Australian Standard 3547 (the standard adopted by that section as the standard with which a breath analysing instrument must comply) is to be a reference to that standard as in force from time to time, rather than (as is currently the case) to a particular version of that standard.

**Schedule 1 [13]** inserts a new section 163A. The new section makes it a condition of a hotelier's licence that the licensee is not to grant an interest in an approved amusement device to any other person otherwise than as part of an interest granted over the licensee's assets in a manner that does not specifically identify the device or as part of financial or other arrangements approved by the Liquor Administration Board.

**Schedule 1 [2], [3], [4] and [12]** amend sections 45, 69C and 145A by way of statute law revision.



## **Schedule 2 Amendment of Registered Clubs Act 1976**

### **Complaints concerning disturbance to the quiet and good order in the neighbourhood of registered clubs**

Section 17AA enables the Liquor Administration Board to convene a conference to hear submissions concerning complaints about disturbance to the quiet and good order in the neighbourhood of a registered club. The section sets out the kinds of conditions that may be imposed on the club as a result of the conference, and confers certain rights of appeal against the decisions made by the Board in relation to the club.

**Schedule 2 [1]** inserts a number of new subsections into section 17AA:

Subsection (1AB) makes it clear that a complaint may relate to more than one registered club.

Subsection (1AC) makes it clear that a single conference may relate to more than one complaint.

Subsection (1AD) provides that a conference convened in relation to a complaint about a registered club may be extended to include any other registered club and any licensed premises.

Subsection (1AE) applies section 17AA to any registered club or licensed premises to which a conference is extended as if it had been the subject of a complaint.

Subsection (1AF) provides that action taken under section 17AA in relation to licensed premises to which a conference is extended has effect as if it had been taken in relation to the premises under section 104 of the *Liquor Act 1982*.

**Schedule 2 [2], [3] and [4]** make consequential amendments to section 17AA.

### **Minor amendments**

**Schedule 2 [6] and [7]** amend section 68 to provide that the reference to Australian Standard 3547 (the standard adopted by that section as the standard with which a breath analysing instrument must comply) is to be a reference to that standard as in force from time to time, rather than (as is currently the case) to a particular version of that standard.

**Schedule 2 [8]** inserts a new section 81. The new section makes it an offence for a registered club to grant an interest in a poker machine to any other person otherwise than as part of an interest granted over the club's assets in a manner that

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does not specifically identify the machine or as part of financial or other arrangements approved by the Liquor Administration Board.

**Schedule 2 [5]** amends section 30 to remove the current prohibition against proxy voting at meetings of clubs that are also registered or licensed by the NSW Thoroughbred Racing Board, by Harness Racing New South Wales or by the Greyhound Racing Authority (NSW).



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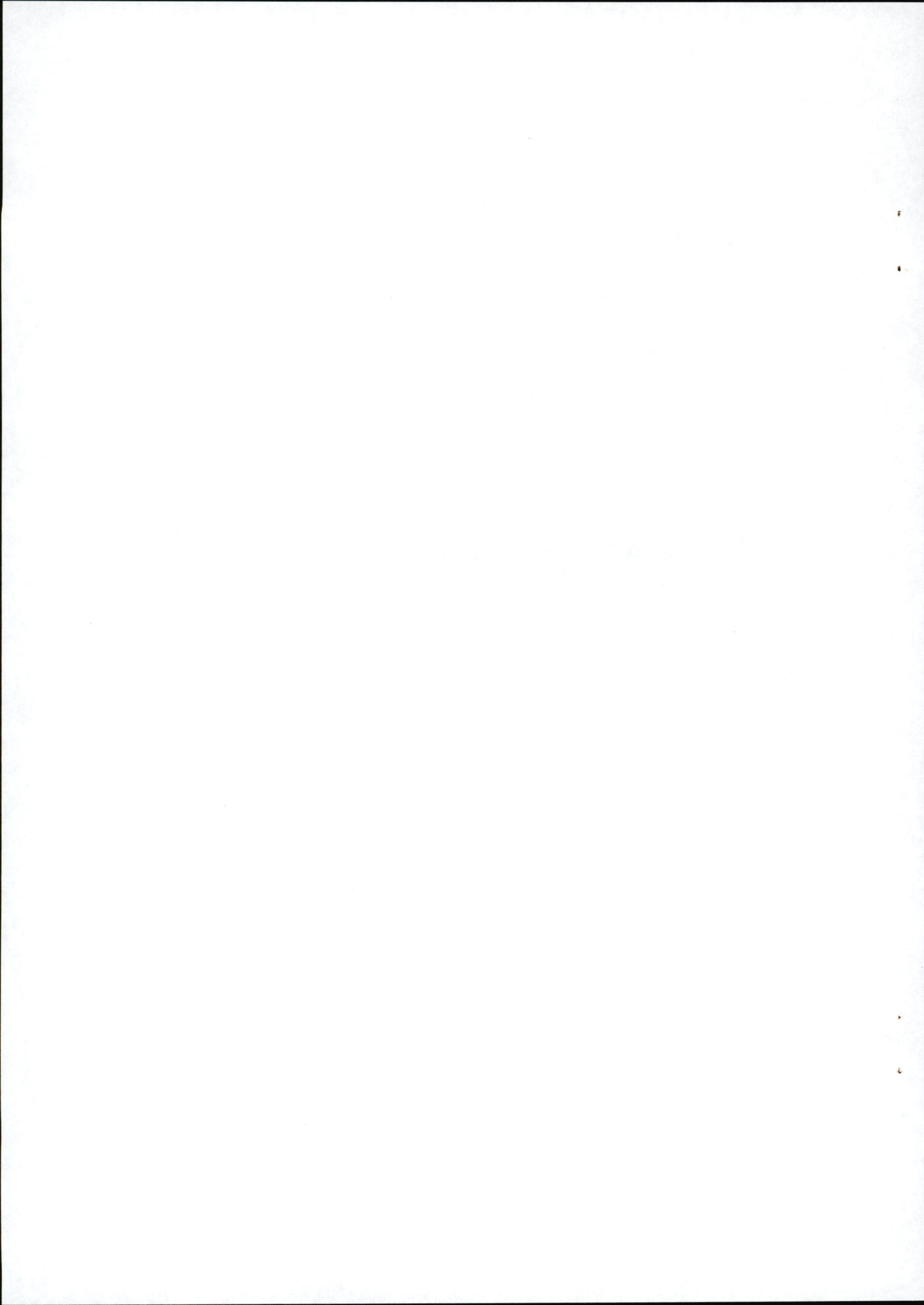
New South Wales

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New South Wales

# Liquor and Registered Clubs Legislation Amendment Bill 1999

No. , 1999

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## A Bill for

An Act to amend the *Liquor Act 1982* and the *Registered Clubs Act 1976* with respect to complaints of disturbance in the neighbourhood of licensed premises and registered clubs, and for other purposes.

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**The Legislature of New South Wales enacts:****1 Name of Act**

This Act is the *Liquor and Registered Clubs Legislation Amendment Act 1999*.

**2 Commencement**

This Act commences on a day or days to be appointed by proclamation.

**3 Amendment of Liquor Act 1982 No 147**

The *Liquor Act 1982* is amended as set out in Schedule 1.

**4 Amendment of Registered Clubs Act 1976 No 31**

The *Registered Clubs Act 1976* is amended as set out in Schedule 2.

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**Schedule 1 Amendment of Liquor Act 1982**

	1
	2
	(Section 3)
	3
<b>[1] Section 4 Definitions</b>	4
Insert "a local consent authority or" after "including" in the definition of <i>non-proprietary association</i> in section 4 (1).	5 6 7
<b>[2] Section 45 Grounds of objection</b>	8
Omit section 45 (2AA) (a) and (b). Insert instead:	9 10
(a) the primary purpose of the business to be conducted under the authority of the licence to which the application relates is not the sale of liquor by retail, or	11 12 13
(b) the proposed use of approved gaming devices on the premises to which the application relates will detract unduly from the character of the premises or from the enjoyment of persons ordinarily resorting to the premises (otherwise than for gaming).	14 15 16 17 18
<b>[3] Section 45 (4) (c1) and (c2)</b>	19
Omit the paragraphs. Insert instead:	20 21
(c1) in the case of an objection on the ground specified in subsection (2AA) (a)—that the primary purpose of the business to be conducted under the authority of the licence to which the application relates is the sale of liquor by retail, or	22 23 24 25 26
(c2) in the case of an objection on the ground specified in subsection (2AA) (b)—that the proposed use of approved gaming devices on the premises to which the application relates will not detract unduly from the character of the premises or from the enjoyment of persons ordinarily resorting to the premises (otherwise than for gaming), or	27 28 29 30 31 32
<b>[4] Section 69C Restrictions on who may be appointed as manager</b>	33
Insert "or class of premises" after "the premises" in section 69C (1) (a).	34 35

<b>[5] Section 74A Certificate of suitability for on-licence</b>	1
Insert "(other than a Governor's licence)" after "under this Act" in section 74A (2) (a1).	2 3 4
<b>[6] Section 97 Breath analysis equipment</b>	5
Omit "—1993" from section 97 (3).	6 7
<b>[7] Section 97 (3)</b>	8
Insert ", as in force from time to time," after "That standard".	9 10
<b>[8] Section 104 Quiet and good order of neighbourhood</b>	11
Insert after section 104 (1AA):	12 13
(1AB) A complaint may relate to more than one licensed premises.	14
(1AC) A conference may relate to more than one complaint.	15
(1AD) A conference convened in relation to licensed premises the subject of a complaint may be extended to include any other licensed premises, and any registered club, if the Board is satisfied:	16 17 18
(a) that the evidence given in support of the complaint would support a complaint against the other licensed premises or registered club, or	19 20 21
(b) that, assuming that the complaint is shown to be justified, action taken in relation to the licensed premises the subject of the complaint will be ineffective unless similar action is taken in relation to the other licensed premises or registered club.	22 23 24 25 26
(1AE) Any licensed premises or registered club to which a conference is extended as referred to in subsection (1AD) is, for the purposes of this section, taken to be the subject of a complaint, and this section applies to the complaint:	27 28 29 30
(a) as if the complaint had been made under subsection (1), and	31 32
(b) as if a reference in this section to licensed premises included a reference to a registered club, and	33 34
(c) as if a reference in this section to a licence included a reference to a certificate of registration, and	35 36



(d)	as if the powers exercisable by a member of the Board under subsection (3) included, in relation only to a registered club, the power referred to in section 17AA (3) (a1) of the <i>Registered Clubs Act 1976</i> .	1 2 3 4
(1AF)	Action taken under this section in relation to a registered club has effect under the <i>Registered Clubs Act 1976</i> in the same way as if it had been taken under section 17AA of that Act in relation to a complaint dealt with under that section.	5 6 7 8
<b>[9]</b>	<b>Section 104 (2)</b>	9
	Insert "or licensees" after "licensee".	10 11
<b>[10]</b>	<b>Section 104 (3)</b>	12
	Insert "in relation to a licence," after "may,".	13 14
<b>[11]</b>	<b>Section 104 (4)</b>	15
	Omit "the licence". Insert instead "a licence".	16 17
<b>[12]</b>	<b>Section 145A Penalty notices</b>	18
	Omit "Division 8A (Special provisions for body corporate licensees) of Part 3 or section 144 (Licensee liable for act of employee)" from section 145A (7). Insert instead "section 69F, 69G, 69H or 144".	19 20 21 22
<b>[13]</b>	<b>Section 163A</b>	23
	Insert after section 163:	24 25
	<b>163A Granting interests in approved amusement devices</b>	26
(1)	It is a condition of a hotelier's licence that the licensee is not to grant any interest in an approved amusement device to any other person.	27 28 29
(2)	This section does not apply to:	30
(a)	an interest in an approved amusement device that arises from an interest (such as a floating charge) granted over the whole of the licensee's assets or over a portion of the licensee's assets that includes, but does not specifically identify, the device, or	31 32 33 34 35

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Schedule 1      Amendment of Liquor Act 1982

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- (b) an interest in an approved amusement device that is  
granted in accordance with financial or other arrangements  
approved by the Board.      1  
2  
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**Schedule 2      Amendment of Registered Clubs Act  
1976**

(Section 4)

**[1] Section 17AA Quiet and good order of neighbourhood**

Insert after section 17AA (1AA):

- (1AB) A complaint may relate to more than one registered club.
- (1AC) A conference may relate to more than one complaint.
- (1AD) A conference convened in relation to a registered club the subject of a complaint may be extended to include any other registered club, and any licensed premises within the meaning of the *Liquor Act 1982*, if the Board is satisfied:
- (a) that the evidence given in support of the complaint would support a complaint against the other registered club or licensed premises, or
  - (b) that, assuming that the complaint is shown to be justified, action taken in relation to the registered club the subject of the complaint will be ineffective unless similar action is taken in relation to the other registered club or licensed premises.
- (1AE) Any registered club or licensed premises to which a conference is extended as referred to in subsection (1AD) is, for the purposes of this section, taken to be the subject of a complaint, and this section applies to the complaint:
- (a) as if the complaint had been made under subsection (1), and
  - (b) as if a reference in this section to a registered club included a reference to licensed premises, and
  - (c) as if a reference in this section to a certificate of registration included a reference to a licence.
- (1AF) Action taken under this section in relation to licensed premises has effect under the *Liquor Act 1982* in the same way as if it had been taken under section 104 of that Act in relation to a complaint dealt with under that section.

<b>[2] Section 17AA (2)</b>	1
Insert "or registered clubs" after "registered club".	2 3
<b>[3] Section 17AA (3)</b>	4
Insert "in relation to a registered club's certificate of registration," after "may,".	5 6 7
<b>[4] Section 17AA (4)</b>	8
Omit "the club". Insert instead "a club".	9 10
<b>[5] Section 30 Rules of registered clubs</b>	11
Omit "(ii)" from section 30 (5A).	12 13
<b>[6] Section 68 Breath analysis equipment</b>	14
Omit "—1993" from section 68 (3).	15 16
<b>[7] Section 68 (3)</b>	17
Insert ", as in force from time to time," after "That standard".	18 19
<b>[8] Section 81</b>	20
Insert after section 80:	21 22
<b>81 Granting interests in poker machines</b>	23
(1) A registered club must not grant any interest in a poker machine to any other person.	24 25
Maximum penalty: 50 penalty units.	26
(2) This section does not apply to:	27
(a) an interest in a poker machine that arises from an interest (such as a floating charge) granted over the whole of the registered club's assets or over a portion of the registered club's assets that includes, but does not specifically identify, the machine, or	28 29 30 31 32
(b) an interest in a poker machine that is granted in accordance with financial or other arrangements approved by the Board.	33 34 35