

Registered Clubs Legislation Amendment Bill 2004

Explanatory note

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

Overview of Bill

The objects of this Bill are to amend the *Registered Clubs Act 1976* and other Acts for the following purposes:

- (a) to enable employee organisations to make complaints against registered clubs,
- (b) to require members of the governing bodies of registered clubs and top executives of registered clubs to disclose fees received from affiliated bodies,
- (c) to make it clear that an inquiry under Part 4A of the *Registered Clubs Act 1976* may arise out of information or allegations of corrupt or improper conduct by or in relation to a registered club made by any person,
- (d) to clarify the circumstances in which a person presiding at such an inquiry may make findings as to whether there has been corrupt or improper conduct by or in relation to a registered club,
- (e) to enable the findings of such an inquiry to be divulged or published by the Director of Liquor and Gaming (the **Director**), with the approval of the Minister,
- (f) to make it an offence to take reprisals against an employee of a registered club or a member of the governing body of a registered club who discloses information to the Director,
- (g) to make it an offence for an employee of a registered club or a member of the governing body of a registered club to disclose information to the Director that the employee or member knows is false or misleading in a material respect,
- (h) to extend the current powers of the Director with respect to investigation of grounds for complaints against registered clubs to other matters for which action may be taken under the *Registered Clubs Act 1976*,
- (i) to enable matters arising out of an inquiry or an investigation under that Act, and relating to the employment, including termination of employment, of a member of staff of a registered club, to be referred to the Industrial Relations Commission or the head of any Government Department involved in the administration of the *Industrial Relations Act 1996*,
- (j) to enable the Director to recover the reasonable costs of an inquiry or investigation from a registered club or a licensee, manager, close associate or non-proprietary association within the meaning of the *Liquor Act 1982*,
- (k) to make it clear that the Liquor Administration Board may suspend or cancel gaming machine authorisations if a registered club or licensee fails to pay gaming machine tax or a monitoring fee,
- (l) to enable the disclosure of information arising out of, or relating to, the administration of the *Gaming Machine Tax Act 2001* if, in the opinion of the Minister or Treasurer, it is in the public interest to do so,
- (m) to give a defence of absolute privilege in proceedings for defamation in relation to disclosures to or by the Minister or Director of a report of an inquiry under Part 4A of the *Registered Clubs Act 1976*,
- (n) to make other consequential amendments and provision of a savings and transitional 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 assent.

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 is a formal provision that gives effect to the amendments to the Acts set out in Schedule 2.

Schedule 1 Amendment of Registered Clubs Act 1976

Complaints by employee organisations

Schedule 1 [1] amends section 17 of the *Registered Clubs Act 1976* (the **Clubs Act**) to enable a person authorised by an employee organisation to make a complaint against a registered club that may result in the club's certificate of registration being cancelled. Such a complaint must be made on the grounds for complaints specified in the Clubs Act. **Schedule 1 [2]** makes a consequential amendment.

Disclosure of fees

Schedule 1 [5] amends section 41E of the Clubs Act to require a member of the governing body of a registered club or a top executive of a club to declare to the secretary of the club any remuneration, fee for services or similar payment received from an affiliated body if it exceeds \$500. Currently, it is only gifts from such bodies that are required to be declared. **Schedule 1 [6] and [11]** make consequential amendments.

Inquiries arranged by Director

Division 6 of Part 4A of the Clubs Act enables the Director to arrange for the holding of an inquiry for the purposes of investigating an allegation about any corrupt or other improper conduct in relation to a registered club. The Part also sets out procedures for such an inquiry and the powers of persons who preside at an inquiry.

Schedule 1 [7] and [8] amend section 41X of the Clubs Act to make it clear that the Director may arrange an inquiry into information about corrupt or improper behaviour, as well as allegations, and that this applies in relation to allegations made, or information provided, by any person.

Schedule 1 [9] substitutes section 41Z of the Clubs Act. In addition to the matters currently contained in that section, the proposed section makes it clear that the person presiding at the inquiry may report a finding or opinion as to whether there has been corrupt or improper conduct by a registered club or by any person in relation to a registered club and may make recommendations that the Director refer matters to law enforcement agencies or other persons. Any finding as to corrupt or improper conduct must be in relation to conduct that may involve a criminal offence or a disciplinary offence. The proposed section also enables the Director to refer matters arising out of the employment, including termination of employment, of an employee of a registered club to the Industrial Relations Commission or the head of any Government Department involved in the administration of the *Industrial Relations Act 1996*.

Schedule 1 [10] inserts proposed section 41ZAA which enables the Director, with the approval of the Minister, to divulge or publish the whole or part of the report of an inquiry. The Minister may give an approval only if of the opinion that it is in the public interest to do so.

Schedule 1 [16] inserts Part 19 into Schedule 2 to the Clubs Act. The proposed Part applies the amended and substituted provisions relating to inquiries to any existing inquiries for which a final report has not yet been provided.

Protection of employees from reprisals

Schedule 1 [12] inserts proposed sections 43B and 43C. Proposed section 43B makes it an offence for a person or registered club to take detrimental action (including dismissal from employment or loss of office) against an employee or

a member of the governing body of the club who discloses information to the Director concerning conduct that is or may be the subject of a complaint under the Clubs Act. Proposed section 43C makes it an offence for an employee or a member of the governing body of a registered club to disclose information to the Director concerning the conduct of a club or a person that the employee or member knows is false or misleading in a material respect.

Investigations and related powers of Director

Currently, the Director is given powers to carry out investigations to ascertain whether a complaint should be made in relation to the secretary, or a member of the governing body, of a registered club. They include a power to request the Commissioner of Police to inquire into and report on matters and to make other requirements of other persons to produce documents and information.

Schedule 1 [14] inserts proposed section 57E which extends these powers to investigations to ascertain whether a complaint should be made in relation to a registered club or whether a member of the governing body or an employee of a club is complying with Part 4A of the Clubs Act (relating to accountability requirements). **Schedule 1 [3] and [4]** make consequential amendments.

Schedule 1 [14] also inserts proposed sections 57F and 57G. Proposed section 57F enables the Director to refer matters arising out of an investigation or inquiry under proposed section 57E to a law enforcement agency or other person or body, if satisfied that they relate to a breach of the law or constitute or may constitute grounds for taking other proceedings. Matters arising out of the employment, including termination of employment, of an employee of a registered club may be referred to the Industrial Relations Commission or the head of any Government Department involved in the administration of the *Industrial Relations Act 1996*. Proposed section 57G enables the Director to require a registered club to pay the Director's reasonable costs of an investigation or inquiry if it results in a complaint and an order is made by the Licensing Court that the costs be awarded to the Director in the proceedings.

Schedule 1 [13] makes a consequential amendment.

Schedule 1 [16] inserts a transitional provision that applies proposed section 57G to investigations or inquiries commencing on or after the commencement of the proposed section.

Savings and transitional provisions

Schedule 1 [15] enables regulations to be made containing savings and transitional provisions consequential on the enactment of the proposed Act.

Schedule 2 Amendment of other Acts

Schedule 2.1 amends the *Defamation Act 1974* to insert proposed section 17V. The proposed section gives a defence of absolute privilege in proceedings for defamation in relation to disclosures to or by the Minister or Director of a report of an inquiry under Part 4A of the Clubs Act.

Schedule 2.2 [1] amends the *Gaming Machines Act 2001* to make it clear that the Liquor Administration Board may suspend or cancel the authorisation of a holder of an authorisation to keep approved gaming machines if the holder fails to pay a monitoring fee or gaming machine tax under the *Gaming Machine Tax Act 2001* or instalments of tax or tax penalties.

Schedule 2.2 [2] amends the *Gaming Machines Act 2001* to insert proposed section 206B. The proposed section enables the Minister or the Treasurer, or the Director-General of the Department of Gaming and Racing, to publish information arising out of, or relating to, the administration or execution of that Act if, in the opinion of the Minister or Treasurer, it is in the public interest to do so.

Schedule 2.2 [3] amends the *Gaming Machines Act 2001* to enable regulations to be made containing savings and transitional provisions consequential on the

enactment of the proposed Act.

Schedule 2.3 [1] inserts proposed sections 66B and 66C into the *Liquor Act 1982*. Proposed section 66B enables the Director to refer matters arising out of an investigation or inquiry under section 66A of that Act to a law enforcement agency or other person or body, if satisfied that they relate to a breach of the law or constitute or may constitute grounds for taking other proceedings. Proposed section 66C enables the Director to require a licensee, manager, close associate or non-proprietary association to pay the Director's reasonable costs of an investigation or inquiry if it results in a complaint and an order is made by the Licensing Court that the costs be awarded to the Director in the proceedings.

Schedule 2.3 [2] amends the *Liquor Act 1982* to update a reference.

Schedule 2.3 [3] amends the *Liquor Act 1982* to enable regulations to be made containing savings and transitional provisions consequential on the enactment of the proposed Act.

Schedule 2.3 [4] inserts Part 22 into Schedule 1. The proposed Part applies proposed section 66C to investigations or inquiries commencing on or after the commencement of the proposed section.