



New South Wales

# Registered Clubs Amendment Bill 2022

## 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*, the *Registered Clubs Regulation 2015*, the *Gaming and Liquor Administration Act 2007* and the *Liquor Act 2007* to—

- (a) reduce the regulatory burden on registered clubs, and
- (b) provide for reforms relating to the operation of registered clubs, including—
  - (i) reforms relating to the exclusion of persons from club premises, and
  - (ii) reforms relating to the use of technology by a registered club to enhance the club's ability to appropriately manage the entry and exclusion of persons on and from club premises, and
- (c) modernise and clarify provisions in the current legislation, including provisions relating to—
  - (i) the appointment of members of club governing bodies, club secretaries and managers of club premises, and
  - (ii) club amalgamations and de-amalgamations, and
  - (iii) holding functions for non-members and young persons on club premises, and
  - (iv) the retention by particular clubs of unrestricted trading hours if the club's premises are relocated within close proximity to the club's existing premises, and
  - (v) require that at least 1 member of the Independent Liquor and Gaming Authority be a Judge, former Judge or Australian lawyer and remove criteria for the nomination of persons for appointment as members of the Authority.

## 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.

### **Schedule 1      Amendment of Registered Clubs Act 1976 No 31**

**Schedule 1[1]** amends the definitions of *full member*, *guest* and *Secretary*, inserts definitions of *authorisation*, *authorised person*, *excluded person*, *exclusion order*, *licensed premises*, *Secretary* and *voting member* and omits the definition of *ordinary member*. **Schedule 1[2]**, **[18]** and **[19]** make consequential amendments.

**Schedule 1[3]** provides that a registered club is not required to meet the minimum number of full members prescribed by the Act, section 12 for the first 3 years after the club receives a club licence.

**Schedule 1[4]** clarifies that a registered club may offer a refund to members of the club in accordance with the club's rules.

**Schedule 1[5]** omits a redundant reference to "annual" in a provision confirming that a profit, benefit or advantage may be paid to the member of the governing member of a registered club in respect of the member's services as a member of the governing body or a committee of the club if the payment has been approved by a resolution passed at a general meeting of the persons entitled to vote at the election of the governing body of the club.

**Schedule 1[6]** provides that a registered club does not fail to meet the requirements set out in the Act, section 10 if the club prevents certain persons from entering the club's premises or removes certain persons from the club's premises in certain circumstances.

**Schedule 1[7]** provides for the circumstances in which, on the amalgamation of 2 or more registered clubs, the members of the dissolved club are automatically eligible to become members of the parent club.

**Schedule 1[8]** clarifies that the requirement for a registered club to notify the club's members of a proposed amalgamation under the Act, section 17AE is met if the club notifies its members in a notice of a general meeting of the voting members of the club.

**Schedule 1[9]** provides that the Independent Liquor and Gaming Authority (the *Authority*) may not approve the transfer of the licence of a dissolved club unless the Authority is satisfied the proposed amalgamation has been approved in principle at separate general meetings of the voting members of each of the clubs proposing to amalgamate.

**Schedule 1[11]** provides that a registered club may amalgamate with more than 10 registered clubs as prescribed by the regulations. **Section 1[10]** makes a consequential amendment.

**Schedule 1[12]** provides for the obligations of a parent club in circumstances where more than 10 clubs are amalgamated. Proposed section 17AG provides for the requirements of a parent club in relation to the operation of a dissolved club's premises, including an obligation on the parent club to continue operating the dissolved club's premises for a period of 5 years after the amalgamation and a requirement to give the Authority reports about the amalgamation. Proposed section 17AH provides for the circumstances in which a parent club may apply to the Authority for permission to cease operating a dissolved club's premises before the end of the period of 5 years after the amalgamation and sets out the process for the Authority to decide whether to allow the application.

**Schedule 1[13]** amends the Act, section 17AM to provide that the Authority may not approve the transfer of the licence held by a parent club in relation to club premises to a de-amalgamated club unless the Authority is satisfied the proposed de-amalgamation has been approved in principle at separate general meetings of the voting members of the parent club and members of the dissolved club.

**Schedule 1[14]** substitutes provisions relating to authorisations for the use of specified areas of club premises for particular purposes, including functions, to simplify and clarify the existing provisions relating to authorisations. Proposed section 18 provides for authorisations related to specifying parts of the club premises as non-restricted areas, allowing access to particular areas of the club premises to members who are under the age of 18 years or allowing particular persons to attend a function in a specified part of the club premises. Proposed section 19 provides for the requirements of an application for an authorisation and makes it an offence to fail to immediately notify the Authority of a change in information relating to the application before the application is decided, with a maximum penalty of 20 penalty units. Proposed sections 20–22 provide for the powers of the Authority to decide an application for an authorisation and impose particular conditions on an authorisation, and the particulars of mandatory conditions imposed on an authorisation. Proposed section 23 provides that an authorisation is in force only while all the conditions to which it is subject are complied with and makes it an offence for a registered club and the secretary of the club to contravene particular authorisations, with a maximum penalty of 20 penalty units for the registered club or 10 penalty units for the secretary. Proposed section 24 provides for the circumstances in which the Authority may vary, revoke or impose conditions on an authorisation. **Schedule 1[21]** makes a consequential amendment.

**Schedule 1[15]** provides that a registered club may use technology to—

- (a) keep a register of persons entering club premises, and
- (b) identify, and prevent from entering club premises, persons excluded from the club, and
- (c) identify, and remove from club premises, persons who engage in conduct that constitutes an offence.

**Schedule 1[17]** provides that if the governing body of a club comprises 3 or more members and the rules of the club allow non-members to be appointed to the club's governing body, the majority of members of the governing body must be members of the club.

**Schedule 1[22]** omits certain provisions related to temporary memberships for persons whose ordinary place of residence in New South Wales is within a radius of 5km from a registered club. **Schedule 1[20]** makes a consequential amendment.

**Schedule 1[23]** provides that the Act, section 30 is a Corporations legislation displacement provision for the purposes of the *Corporations Act 2001* of the Commonwealth, section 5G.

**Schedule 1[24]** clarifies that a registered club, or a governing body or committee of the club, may allow a person entitled to vote at a meeting or election related to the registered club to vote in person, electronically, by post or in another remote way. **Schedule 1[16]** makes a consequential amendment.

**Schedule 1[25]** amends the heading to section 32.

**Schedule 1[26]** amends the current obligation for a registered club to have a Secretary appointed at all times, to give a registered club a period of 2 days within which to fill a vacancy. The amendment clarifies that it is an offence for a registered club to fail to appoint a person to act as the secretary of the club within 2 days after the former secretary ceases to hold office, with a maximum penalty of 100 penalty units.

**Schedule 1[27] and [28]** provide that for a registered club under official management or receivership or in liquidation, a person is not capable of being appointed as a member of the governing body of the club unless the person has been appointed by the Supreme Court or the Federal Court of Australia or approved by the Authority.

**Schedule 1[29]** provides that the Act, section 41 is a Corporations legislation displacement provision for the purposes of the *Corporations Act 2001* of the Commonwealth, section 5G.

**Schedule 1[30]** omits a redundant transitional provision.

**Schedule 1[31]** provides for the circumstances in which costs incurred by the Secretary of the Department of Enterprise, Investment and Trade in reviewing a contract entered into by a

registered club in contravention of the Registered Clubs Accountability Code are recoverable by the Secretary from the club.

**Schedule 1[32]** provides that a registered club must not dispose of any core property of the club unless the disposal has been approved at a general meeting of the members of the club at which a majority of the votes cast supported the approval. **Schedule 1[33]** makes a consequential amendment.

**Schedule 1[34]** makes it an offence for a person to offer or provide a benefit or advantage to a registered club that is predominantly educational and relates to a specific and genuine course of study for use by a person, or by more than one person individually, as the whole or a part of the consideration for the purchase by, or provision to, the club of goods or services.

**Schedule 1[35]** provides that a registered club or a person who is the secretary or a member of the governing body of a registered club contravening a condition of an authorisation held by the club is grounds for the Authority to take disciplinary action against the club or person.

**Schedule 1[36]** provides for the circumstances in which the Authority may order a registered club to pay costs incurred by the Secretary of the Department of Enterprise, Investment and Trade in carrying out an investigation or inquiry in relation to the club or a person who is the secretary or a member of the governing body of the club or in connection with a complaint or proposed complaint.

**Schedule 1[37]** makes a grammatical correction, omitting a redundant word.

**Schedule 1[38]** provides that a court may, as a penalty for an offence committed by a registered club under the Act or the *Registered Clubs Regulation 2015*, cancel or suspend an authorisation held by the club.

**Schedule 1[39]** provides that a registered club may prohibit a person from entering or remaining in the club's premises by *exclusion order* in certain circumstances, the process for reviewing a decision to make an exclusion order and the particulars of the protection from liability of a registered club in relation to the exclusion of a person in accordance with proposed section 68. Proposed section 68 makes it an offence for a person who is excluded from a registered club under the proposed section to enter or remain in the club's premises, with a maximum penalty of 50 penalty units.

**Schedule 1[40]** omits redundant provisions that allowed persons over the age of 72 to be a member of the governing body of a registered club. The provisions is redundant because of changes to the *Corporations Act 2001* of the Commonwealth removing relevant age limits for members of governing bodies.

**Schedule 1[41]** provides for transitional and savings matters, including—

- (a) that an authorisation in force before the commencement of proposed Schedule 2, Part 24, clause 107 continues as in force after the commencement, and
- (b) that a proposed amalgamation of 2 or more registered clubs that had started but not been completed before the commencement of proposed Schedule 2, Part 24, clause 108 is to continue after the commencement as if the proposed Act had not commenced, and
- (c) that if notice had been given to the members of a registered club about a general meeting before the commencement of proposed Schedule 2, Part 24, clause 109 but the meeting had not yet been held after the commencement, the meeting is to be held, and a decision made at the meeting applies, as if the proposed Act had not commenced.

## **Schedule 2     Amendment of Registered Clubs Regulation 2015**

**Schedule 2[1]** provides that a registered club may amalgamate with up to 15 other clubs.

**Schedule 2[2]** provides that a registered club must disclose certain information to voting members in certain circumstances and that a registered club must secure approval by a majority vote at a general meeting of the voting members of the club for certain decisions.

**Schedule 2[3] and [4]** makes amendments consequent on the amendments made by **Schedule 1[14]**.

**Schedule 2[5]** provides that a person who is a member of the governing body of a registered club, other than a small club, must complete governance refresher training within 5 years of completing the required training and at least once in each 5-year period after the refresher training was last completed and makes it an offence to fail to complete the required or refresher training in the specified periods, with a maximum penalty of 10 penalty units. **Schedule 2[6]** makes a consequential amendment. **Schedule 2[7]** makes it an offence for a registered club to fail to meet the club's required and governance refresher training requirements, with a maximum penalty of 10 penalty units.

**Schedule 2[8]** provides that if the number of members of the governing body of a small club who have completed governance refresher training falls below 2, another member of the governing body must, within 12 months, complete the refresher training.

**Schedule 2[9]** provides that a person who is the secretary or manager of a registered club must complete the required training within 12 months after becoming the secretary or manager and complete club management refresher training within 5 years of completing the required training and at least once in each 5-year period after the refresher training was last completed. It also makes it an offence to fail to complete the required or refresher training in the specified periods, with a maximum penalty of 10 penalty units.

**Schedule 2[10]** inserts the definition of *required training* for clause 27.

**Schedule 2[11]** omits provisions that provide exceptions to the 5km rule that enable residents who ordinarily reside within 5km of the premises of a registered club to be admitted as temporary members in certain circumstances consequent on the amendment made by **Schedule 1[22]**.

**Schedule 2[12]** increases the maximum number of persons the elected members of the governing body of a registered club may appoint as members of the governing body to 3. **Schedule 2[13]** clarifies that a person appointed as a member of the governing body by the elected members of the governing body is not required to meet the eligibility requirements of the governing body specified in the club's constitution. **Schedule 2[14]** removes a requirement that a person appointed to the governing body by the elected members of the governing body must be a full member of the club.

**Schedule 2[15]** inserts penalty notice offences set out in the proposed Act into the Regulation, Schedule 1.

**Schedule 2[16]** provides for the circumstances in which a registered club must make particular information, including financial statements that incorporate a balance sheet and the club's profit and loss accounts and trading accounts, available to full members of the club.

### **Schedule 3      Amendment of Liquor Act 2007 No 90**

**Schedule 3[1] and [2]** make amendments consequent on **Schedule 1[14]**.

**Schedule 3[3]** replaces the definition of *employee*. **Schedule 3[8]** makes a consequential amendment.

**Schedule 3[4]** provides that the Minister may, by notice published in the Gazette, declare a period during which liquor may be sold or supplied for consumption on a licensed premises to which a hotel licence or a club licence relates in addition to the trading hours that apply under the Act. **Schedule 3[5] and [6]** make consequential amendments.

**Schedule 3[7]** provides for the circumstances in which an application by a licensee to remove an unrestricted club licence to certain premises within a 5km radius of the existing licensed premises may be granted by the Authority. **Schedule 3[10]** provides that if an application is granted or not determined before the commencement of proposed section 59A, the proposed section applies as if the application had been made after the commencement of the proposed section.

**Schedule 3[9]** provides that regulations may be made for or with respect to matters relating to—

- (a) persons engaged by licensees or the managers of licensed premises under a contract for services, or
- (b) persons employed by persons mentioned in paragraph (a).

## **Schedule 4      Amendment of Gaming and Liquor Administration Act 2007 No 91**

**Schedule 4[1]** amends the *Gaming and Liquor Administration Act 2007*, section 7 to confirm that at least 1 member of the Independent Liquor and Gaming Authority must be a person who is a Judge or former Judge or has been an Australian lawyer for at least 7 years.

**Schedule 4[2]** omits the *Gaming and Liquor Administration Act 2007*, section 8(3), which provided for the criteria for the nomination of a person for consideration for appointment as a member of the Independent Liquor and Gaming Authority. The amendment omits the existing requirement relating to legal experience as a consequence of the amendment made by **Schedule 4[1]** and further omits a requirement that persons nominated must have expertise or experience in the regulation of finance crime, law enforcement in relation to finance crime or accounting or corporate governance.