



New South Wales

# **Liquor and Registered Clubs Legislation Further Amendment Bill 1999**

## **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 *Liquor Act 1982* and the *Registered Clubs Act 1976*:

- (a) to vary the operation of Governor's licences with respect to responsible serving and consumption of alcohol, and
- (b) to allow nightclubs to stage alcohol-free entertainment for minors, and
- (c) to make further provision with respect to the presence of minors in registered clubs, and
- (d) to make other, minor amendments of an administrative character.

## 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

### Auction licences

**Schedule 1 [3]** amends section 6 of the Act so as to permit the sale of liquor by the holder of an auction licence to take place, in circumstances prescribed by the regulations, on premises other than licensed premises. **Schedule 1 [7]** amends section 22 of the Act so as to dispense with the requirement to give 7 days' notice to the Liquor Administration Board before a sale of liquor by auction takes place.

### Governor's licences

**Schedule 1 [4]** amends section 19 of the Act so as to require an applicant for a Governor's licence to satisfy the Minister that responsible serving practices will be in place with respect to liquor served at the licensed premises. **Schedule 1 [5]** and **[6]** amend sections 19 and 19A so as to provide that a Governor's licence ceases to be in force if the circumstances existing at the time of grant of the licence have changed fundamentally.

### Dine-or-drink authorities

**Schedule 1 [8]** amends section 37 of the Act to provide that an application for a dine-or-drink authority lodged in respect of a restaurant that is already licensed does not have to be advertised, except in circumstances where the regulations require some form of advertising.

**Schedule 1 [11]** amends section 56 of the Act so as to introduce a new fee scheme for dine-or-drink authorities. Under the new scheme, the restaurant licensee has 3 months from the time the authority is granted to pay one-quarter of the fee and another 9 months to pay the remainder of the fee.

#### **Racing club functions and surf life saving club functions**

**Schedule 1 [9]** and **[10]** amend section 51A of the Act, which regulates function licences. The amendments provide that, in addition to the 26 functions per annum authorised by an ordinary function licence, a racing club is authorised to serve liquor at race meetings held on any day and a surf life saving club is authorised to serve liquor at functions of which due notice has been given to the Commissioner of Police, the Director of Liquor and Gaming and local authorities, subject to conditions specified in the amendment. **Schedule 1 [1]** and **[2]** make consequential amendments.

#### **Provisional approval of a manager of licensed premises**

**Schedule 1 [12]** repeals and replaces section 69D of the Act, which deals with the approval by the Licensing Court of a manager of premises licensed to a body corporate or partnership. The new section makes it possible for the Court, if it has no reason to think the applicant unfit for appointment as the manager of licensed premises, to approve of the appointment on a provisional basis pending completion of such investigations as are necessary to be undertaken for a proper character assessment of the applicant. Under the section as it currently stands, the licensee cannot trade until those investigations are completed.

#### **Recovery of duty on approved gaming devices**

**Schedule 1 [13]** amends section 86JB of the Act so as to provide that unpaid gaming machine duty may be recovered either from the hotelier who keeps the machines or from a person interested in the business of a hotelier.

#### **Liquor accords and competition legislation**

**Schedule 1 [15]** inserts a new section 104E into the Act in order to remove the possibility that an arrangement entered into by licensees (or by licensees and registered clubs), with the approval of police, for the purpose of promoting responsible service of alcohol and regulating the behaviour of drinkers might infringe Commonwealth or State competition legislation.



### **Minors functions at nightclubs**

**Schedule 1 [16]** and **[17]** amend sections 111A and 111B of the Act in order to permit a minors functions authority to be granted to the holder of a nightclub licence as well as to the holder of a hotelier's licence.

**Schedule 1 [18]** amends section 111C of the Act to prescribe conditions applying to the holding of minors functions on nightclub premises.

**Schedule 1 [20]** and **[21]** make consequential amendments.

### **Use by minors of licensed premises**

**Schedule 1 [19]** amends section 112 of the Act, which deals with the power of the Liquor Administration Board to authorise a part of licensed premises to be used by minors. Under the section, application for such an authorisation may be made by the licensee or by the Commissioner of Police, and the authorisation, if granted, is subject to conditions imposed by the Board or the Commissioner. The effect of the amendment is to withdraw the Commissioner's power to impose conditions on the authorisation.

### **False or misleading statements**

**Schedule 1 [22]** amends section 139 of the Act, which prohibits the deliberate making of a false or misleading statement in an official document under the Act or the deliberate omission of relevant matter from it. The amendment dispenses with the requirement (for the purposes of establishing an offence under the section) to prove that the statement or omission was deliberate. Instead, it will be sufficient to convict the defendant if it is shown that the defendant either knew or could reasonably be expected to have known that the statement was false, or that there was a material omission.

### **Evidentiary matters**

**Schedule 1 [23]** and **[24]** amend section 140 of the Act, which deals with matters of evidence in proceedings under the Act. The object of the amendments is to make it clear that section 140 does not require an averment to be made in any particular terms.



The amendments also provide for the inclusion in the section of other matters of record that may be the subject of averments.

### **Applications for authority to keep gaming devices**

**Schedule 1 [25]** amends section 161 of the Act to permit an application for an authority to keep a gaming device to be verified by the manager of the licensed premises in certain cases.

### **Returns in respect of gaming devices connected to computerised monitoring system**

**Schedule 1 [27]** amends section 200AA of the Act, which provides for arrangements to be made for the furnishing of information required by the operator of a computerised monitoring system to carry out monitoring functions in relation to gaming machines for the purposes of both the *Liquor Act 1982* and the *Registered Clubs Act 1976*. The amendment provides that the arrangements may include provision for the time within which, and the person to whom, the relevant information is to be furnished. **Schedule 1 [14]** and **[26]** make consequential amendments.

### **Savings and transitional provisions**

**Schedule 1 [28]** and **[29]** amend Schedule 1 to the Act (Savings and transitional provisions) to provide for the transitional application of amendments made by the proposed Act and to allow any necessary regulations to be made as a consequence of those amendments.

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

### **Minors as guests of temporary club members**

**Schedule 2 [1]** repeals and replaces the definition of *guest* in section 4 of the Act, and **Schedule 2 [2]** inserts a definition of *responsible adult*, so as to permit a minor to enter and use the facilities of a registered club (other than bars and gaming machines) as the guest of a temporary member who, in relation to the minor, is a responsible adult (that is, a parent, guardian or other person having parental responsibility for the minor). **Schedule 2 [5]**, **[6]** and **[12]** make consequential amendments.

### **Rules regulating election of governing bodies of registered clubs**

**Schedule 2** [3] and [4] amend section 30 of the Act, which contains certain rules applying to registered clubs. The amendments extend the operation of a particular rule to encompass biennial, as well as annual, elections of the governing body of a club, and is made for the sake of consistency with amendments made to the Act in 1997.

### **Minors in bar areas of clubs**

**Schedule 2** [7] repeals section 51A of the Act (which provided a defence in respect of the offence of permitting a minor to be in a poker machine area) and **Schedule 2** [9] inserts a new section 52AA of the Act which includes the defence provided by the repealed section 51A and another defence in relation to minors in bar areas. The defence in both cases consists in establishing that the minor was only passing through the area in order to get to another part of the club and was at all times in the company and immediate presence of a responsible adult.

**Schedule 2** [8] inserts a new section 51B, which provides that it is an offence on the part of both a club and its secretary to allow a minor to serve liquor in any of the club's bars, unless the Liquor Administration Board has authorised it.

### **Other amendments**

**Schedule 2** [10], [13] and [14] make amendments concerning false or misleading statements, local liquor accords and connection of gaming devices to a centralised monitoring system. They are similar to the amendments made by **Schedule 1** [22], [15], and [14], respectively, in relation to premises licensed under the *Liquor Act 1982*.

**Schedule 2** [11] amends section 66 of the Act so as to provide that payment of a penalty notice for an offence does not preclude the taking of disciplinary action under the Act in respect of the same matter.

**Schedule 2** [15] and [16] amend Schedule 2 to the Act (Transitional provisions) to include a transitional provision and to allow any necessary regulations to be made as a consequence of the amendments made by the proposed Act.



New South Wales

# **Liquor and Registered Clubs Legislation Further Amendment Bill 1999**

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New South Wales

# **Liquor and Registered Clubs Legislation Further 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 Governor's licences, entertainment for minors at nightclubs, the presence of minors in registered clubs and other matters.

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**The Legislature of New South Wales enacts:**

**1 Name of Act**

This Act is the *Liquor and Registered Clubs Legislation Further 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.



## Schedule 1 Amendment of Liquor Act 1982

### [1] Section 4 Definitions

Insert "and, in relation to a surf life saving club, includes any gathering of members of the club (and their guests) organised by the club for social purposes" after "entertainment" in the definition of *function* in section 4 (1).

### [2] Section 4 (1)

Insert in alphabetical order:

*racing club* means a body (whether incorporated or unincorporated) registered as a racing club by the *NSW Thoroughbred Racing Board, Harness Racing New South Wales* or the *Greyhound Racing Authority (NSW)*.

*surf life saving club* means a body (whether incorporated or unincorporated) that provides surf life saving services to members of the public in New South Wales.

### [3] Section 6 Application of Act

Insert "(or, in circumstances prescribed by the regulations, at other premises)" after "relates" in section 6 (e).

### [4] Section 19 Governor may authorise issue of certain licences

Insert after section 19 (2):

(2A) The Minister is not to make a recommendation under subsection (1) unless the Minister is satisfied, on information supplied by the Board or otherwise, that practices will be in place at the licensed premises as soon as the licence is issued that ensure, as far as reasonably practicable, that:

(a) liquor is sold, supplied and served responsibly on the premises, and

(b) all reasonable steps are taken to prevent intoxication on the premises,

and that those practices will remain in place while the licence is in force.

**[5] Section 19 (5)**

Insert after section 19 (4):

- (5) A licence issued under this section ceases to be in force:
  - (a) in the case of a licence authorising the sale of liquor at a specified railway station—if the railway station ceases to be regularly serviced by a passenger train (or a motor omnibus or other motor vehicle) operated by or on behalf of the State Rail Authority, or
  - (b) in the case of a licence authorising the sale of liquor on premises referred to in subsection (1) (b)—if the premises cease to be vested in the Crown or a public authority constituted by an Act, or
  - (c) in the case of a licence authorising the sale of liquor at a construction camp or works referred to in subsection (1) (c)—if the construction camp or works have ceased to exist, or
  - (d) in any case—on the expiry of a period of time, if the licence so provides.

**[6] Section 19A Duration of licences**

Insert after section 19A (3):

- (4) The provisions of this section, in so far as they apply to a licence issued in accordance with section 19, apply in addition to the provisions of section 19 (5).

**[7] Section 22 Off-licence—miscellaneous conditions**

Omit section 22 (4).

**[8] Section 37 Making of application**

Insert after section 37 (1):

- (1A) An application for a dine-or-drink authority in respect of premises already licensed as a restaurant need not be advertised in a newspaper or in any other manner, except in so far as the regulations otherwise provide.

<b>[9] Section 51A Functions authorised by permanent on-licence (function)</b>	1
Insert after section 51A (1) (b):	2
, and	3
(c) if the licence is held by a racing club or surf life saving club—additional functions at which the sale and supply of liquor is permitted by subsection (3B) or (3C).	4
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<b>[10] Section 51A (3A)–(3E)</b>	8
Insert after section 51A (3):	9
(3A) A reference in subsection (2) (a) to a function does not include a reference to a function permitted by subsection (3B) or (3C).	10
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(3B) Liquor may be sold or supplied under a licence held by a racing club at functions held on any days on which the club holds race meetings.	12
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(3C) Liquor may be sold or supplied under a licence held by a surf life saving club at functions, of which notice has been given in accordance with subsection (3D), held on any Saturday, Sunday or public holiday (other than a restricted trading day) in connection with or following an activity associated with the conduct or administration of surf life saving.	14
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(3D) Notice in writing of a function referred to in subsection (3C) must be given to the Commissioner of Police, the Director and the council in whose area (within the meaning of the <i>Local Government Act 1993</i> ) the function is to be held, at least 14 days before the day of the function.	22
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(3E) A licence held by a surf life saving club is subject to the following conditions in respect of each function referred to in subsection (3C):	27
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(a) the function must be held on club premises (and if the club has several premises, only on its principal premises) and the only participants must be members of the club and their guests, and	30
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(b) the licensee must ensure that a register is kept on the premises, in which such details as the Director may require concerning any such function are recorded, and	34
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| (c) | the function must have been approved by resolution recorded in the records of the governing body of the club, and  | 1<br>2<br>3                |
| (d) | food of a nature and quantity consistent with the responsible sale, supply and service of alcohol must be made available whenever liquor is made available at the function, and  | 4<br>5<br>6<br>7           |
| (e) | liquor must not be made available at the function at any time before 12 noon or after 10 pm on the day on which the function is held, and  | 8<br>9<br>10               |
| (f) | liquor must not be made available at the function for a period of more than 4 hours, and   | 11<br>12                   |
| (g) | all persons engaged in the sale, supply or service of liquor at the function must have successfully completed a course of training, approved by the Board, that promotes the responsible sale, supply and service of liquor, and | 13<br>14<br>15<br>16<br>17 |
| (h) | the licensee and persons engaged in the sale, supply or service of liquor at the function must take all reasonable steps to ensure that no liquor is available at the function to any person under the age of 18 years, and      | 18<br>19<br>20<br>21       |
| (i) | the licensee must ensure that adequate adult supervision is maintained at any time when persons under the age of 18 years are on the premises while the function is being held, and  | 22<br>23<br>24<br>25       |
| (j) | police officers and special inspectors are to be permitted full and free access to the premises where the function is held, and to the register referred to in paragraph (b), at all times while the function is being held.     | 26<br>27<br>28<br>29       |

**[11]    Section 56 Fee for grant of licence** 30

Omit section 56 (9) (a). Insert instead: 31

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|------|--|----------------|
| (a)  | The authority:   | 32<br>33       |
| (i)  | is not to be issued if one-quarter of the prescribed fee has not been paid within 3 months after the authority is granted, and | 34<br>35<br>36 |
| (ii) | is not to be issued until one-quarter of the prescribed fee has been paid, and   | 37<br>38       |

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| (iii) | does not take effect until the authority has been       | 1 |
|       | endorsed on the on-licence concerned by the             | 2 |
|       | Principal Registrar or another registrar, and           | 3 |
| (iv)  | is automatically cancelled on the first                 | 4 |
|       | anniversary of its grant if any part of the fee for     | 5 |
|       | the authority remains unpaid at that date.              | 6 |
| (a1)  | If the authority is cancelled under paragraph (a) (iv), | 7 |
|       | amounts paid toward the prescribed fee are not          | 8 |
|       | refundable to the applicant.                            | 9 |

**[12] Section 69D** 10

Omit the section. Insert instead: 11

**69D Court approval of manager** 12

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| (1) | An application for the court's approval of a person's                | 13 |
|     | appointment as the manager of licensed premises is to be made        | 14 |
|     | in the form approved by the Board.                                   | 15 |
| (2) | The court is not to give its approval unless satisfied that the      | 16 |
|     | person concerned is a fit and proper person to manage licensed       | 17 |
|     | premises.  | 18 |
| (3) | If the court is satisfied on the information before it that there is | 19 |
|     | nothing that might preclude it from giving its approval, but         | 20 |
|     | requires more information before making a final decision, the        | 21 |
|     | court may give a provisional approval of the person to be such       | 22 |
|     | a manager.   | 23 |
| (4) | A provisional approval is sufficient to entitle the appointment      | 24 |
|     | of the person, in accordance with section 69E, as manager of         | 25 |
|     | the licensed premises concerned for a period specified by the        | 26 |
|     | court. Any such appointment lapses, however, unless the court        | 27 |
|     | confirms its approval within that period (or within such             | 28 |
|     | extension of that period as the court may allow).                    | 29 |
| (5) | An approval or provisional approval may be given so as to            | 30 |
|     | apply in relation to particular licensed premises, to all licensed   | 31 |
|     | premises of a specified class or to all licensed premises, as the    | 32 |
|     | court thinks fit.  | 33 |
|     |  | 34 |

<b>[13]    Section 86JB Duty on approved gaming devices</b>	1
Omit "as a debt due to the Crown" from section 86JB (3). Insert instead:	2
, as a debt due to the Crown, from:	3
(a)    the hotelier, or	4
(b)    any person who, at the time the amount became due,	5
was directly interested in the business, or the profits of	6
the business, carried on under the hotelier's licence.	7
	8
<b>[14]    Section 86L Records and returns</b>	9
Insert "(other than those connected to an authorised CMS)" after "gaming	10
devices" in section 86L (2).	11
	12
<b>[15]    Section 104E</b>	13
Insert after section 104D:	14
	15
<b>104E    Trade Practices exemption</b>	16
(1) In this section, <i>local liquor accord</i> means any code of practice,	17
memorandum of understanding or other arrangement:	18
(a)    that affects the supply of liquor, or the opening and	19
closing of licensed premises, or both, and	20
(b)    that is entered into in writing between two or more	21
licensees (or between one or several licensees and one	22
or several clubs registered under the <i>Registered Clubs</i>	23
<i>Act 1976</i> ), with the approval of the Commissioner of	24
Police or a delegate of the Commissioner, for the	25
purpose of eliminating or reducing alcohol-related	26
violence or anti-social behaviour or other alcohol-	27
related harm.	28
(2) Entry by any person into a local liquor accord to which this	29
section applies, and any conduct on the part of any person for	30
the purpose of promoting or giving effect to the terms of a local	31
liquor accord, are specifically authorised by this Act for the	32
purposes of the <i>Trade Practices Act 1974</i> of the	33
Commonwealth and the <i>Competition Code of New South</i>	34
<i>Wales</i> .	35



(3) Conduct authorised by subsection (2) is authorised only to the extent (if any) to which the conduct, so far as it consists of things done to regulate the supply of liquor or in some other respect, would otherwise contravene Part IV of the <i>Trade Practices Act 1974</i> of the Commonwealth or the <i>Competition Code of New South Wales</i> .	1 2 3 4 5 6
<b>[16] Section 111A Functions for minors on licensed premises</b>	7
Insert "or a nightclub licence" after "hotelier's licence" in section 111A (1).	8 9
<b>[17] Section 111B Procedure for grant of minors functions authority</b>	10
Insert "or a nightclub licence" after "hotelier's licence" in section 111B (1).	11 12
<b>[18] Section 111C Conditions of minors functions authority</b>	13
Insert after section 111C (2):	14 15
(2A) In addition to conditions imposed by or under subsections (1) and (2), a minors functions authority in force in relation to the licensed premises of a nightclub is subject to the following conditions:	16 17 18 19
(a) no liquor is to be sold or supplied on the premises while any function is being held pursuant to the authority,	20 21
(b) a period of one hour (or such longer period as the court may approve) must elapse, following the conclusion of any such function, before the sale or supply of liquor on the premises is resumed.	22 23 24 25
<b>[19] Section 112 Authority for use of part of premises by minor in company of responsible adult</b>	26 27
Omit "or the Commissioner" where secondly occurring in section 112 (1).	28 29
<b>[20] Section 116A Offences by minors in hotels, nightclubs and restaurants</b>	30
Omit "subsection (1) or (2)" from section 116A (3).	31
Insert instead "this section".	32 33

<b>[21]    Section 116B Offences by licensees in relation to minors</b>	1
Insert after section 116B (4):	2
(5) Subsections (1) (c) and (2) (c) do not apply to that part of any	3
licensed premises to which a minors functions authority under	4
section 111A applies and in which, at the material time, a	5
function is being held in pursuance of the authority.	6
	7
<b>[22]    Section 139 False or misleading statements</b>	8
Insert “, or could reasonably be expected to know” after “knows” in section	9
139 (1).	10
	11
<b>[23]    Section 140 Averments</b>	12
Insert “(however expressed)” after “allegation” where firstly occurring in	13
section 140 (1).	14
	15
<b>[24]    Section 140 (1) (d8)–(d13)</b>	16
Insert after section 140 (1) (d7):	17
(d8)    that a minors functions authority is in force in respect of	18
a specified part of any premises,	19
(d9)    that an authorisation under section 112 is in force in	20
respect of a specified part of any premises,	21
(d10)   that a specified area is a reception area,	22
(d11)   that a specified condition has been, and remains,	23
imposed on a specified licence,	24
(d12)   that a specified person has been approved under	25
Division 8A of Part 3 as the manager of specified	26
licensed premises,	27
(d13)   that a specified gaming device is an approved gaming	28
device,	29
	30

<b>[25] Section 161 Authority to keep approved gaming devices</b>	1
Insert after section 161 (12):	2
(13) If the hotelier's licence is held by a body corporate or a partnership, an application under this section may be lodged, and supporting information may be furnished and verified, on the hotelier's behalf by the manager approved by the court under Division 8A of Part 3.	3
<b>[26] Section 200AA Meaning of "connected" to an authorised CMS</b>	4
Omit "to the CMS licensee" from section 200AA (1).	5
<b>[27] Section 200AA (2A)</b>	6
Insert after section 200AA (2):	7
(2A) Such arrangements may make provision for or with respect to the time within which, and the person to whom, information is to be furnished.	8
<b>[28] Schedule 1 Savings and transitional provisions</b>	9
Insert at the end of clause 1 (1):	10
<i>Liquor and Registered Clubs Legislation Further Amendment Act 1999</i>	11
<b>[29] Schedule 1 Savings and transitional provisions</b>	12
Insert in appropriate order and with appropriate Part and clause numbers:	13
<b>Part Liquor and Registered Clubs Legislation Further Amendment Act 1999</b>	14
<b>Definition</b>	15
In this Part, <i>amending Act</i> means the <i>Liquor and Registered Clubs Legislation Further Amendment Act 1999</i> .	16



**Authorisation and cancellation of Governor's licences**

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| (1) Section 19 (2A) applies in respect of an application for a Governor's licence that was made but not determined before the date on which that subsection commenced, as well as in respect of applications made on or after that date. | 5  |
| (2) A Governor's licence:  | 6  |
| (a) that is of a kind referred to in paragraph (a), (b) or (c) of section 19 (5), and  | 8  |
| (b) in respect of which an event of the kind referred to in any of those paragraphs occurred before the commencement of that subsection, and   | 11 |
| (c) under which liquor is still being sold or supplied at the commencement of that subsection,   | 13 |
| ceases to be in force 2 years after the commencement of that subsection, unless sooner cancelled or surrendered in accordance with this Act.   | 16 |

**Advertising of dine-or-drink authorities**

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|  | 17 |
| (1) Section 37 (1A) applies to an application under section 37 that was made but not determined before the date on which that subsection commenced, as well as to applications made on or after that date.   | 21 |
| (2) Section 56, as amended by the amending Act, applies in respect of an application under section 23AD that was made but not determined before the date on which the amendment took effect, as well as in respect of applications made on or after that date. | 26 |

**Function licences held by racing clubs and surf life saving clubs**

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|   | 27 |
| Section 51A, as amended by the amending Act, applies in respect of a function licence in force on the date on which the amendments took effect, as well as in respect of a licence granted on or after that date. | 31 |

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**Approval of managers of licensed premises**

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The provisions of section 69D, as inserted by the amending Act, apply in respect of an application for approval that was made but not determined before the date on which those provisions commenced, as well as in respect of applications made on or after that date.

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**Recovery of duty on approved gaming devices**

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Section 86JB, as amended by the amending Act, applies in respect of any amount of duty that became or becomes due from a hotelier on or after 1 January 1998.

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**Trade practices exemption**

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Section 104E applies to a local liquor accord entered into before or after the commencement of that section.

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**Authority for use of part of premises by minor**

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The amendment made by the amending Act to section 112 does not affect any condition imposed on an authorisation granted under that section before the amendment took effect.

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

(Section 4)

**[1]    Section 4 Definitions**

Omit the definition of *guest* from section 4 (1). Insert instead:

*guest:*

- (a) of a full member, provisional member or honorary member of a registered club, means a person:
  - (i) whose name and address (unless the person is a minor), countersigned by the member, are entered in a register kept for the purpose by the club, and
  - (ii) who, at all times while on the club premises, remains in the reasonable company of the member, and
  - (iii) who does not remain on the club premises any longer than the member, and
- (b) of a temporary member of a registered club, means a minor:
  - (i) who, at all times while on the club premises, remains in the company and immediate presence of the member, and
  - (ii) who does not remain on the club premises any longer than the member, and
  - (iii) in relation to whom the member is a responsible adult.

**[2]    Section 4 (1), definition of "responsible adult"**

Insert in alphabetical order:

*responsible adult* means a person of or above the age of 18 years who, in relation to a minor, belongs to one or more of the following classes of persons:

- (a) a parent, step-parent or guardian of the minor,



(b)	the minor's spouse or any person who, although not legally married to the minor, ordinarily lives with the minor as the minor's spouse on a permanent and domestic basis,	1 2 3 4
(c)	a person who for the time being has parental responsibility for the minor.	5 6
<b>[3]</b>	<b>Section 30 Rules of registered clubs</b>	7
	Insert "(or a subclass of full members determined by a rule of the kind referred to in subsection (9))" before "are entitled" in section 30 (1) (a).	8 9 10
<b>[4]</b>	<b>Section 30 (9) (a)</b>	11
	Omit "annual".	12 13
<b>[5]</b>	<b>Section 45 Unauthorised persons using defined premises of registered club</b>	14 15
	Omit "full member, a provisional member or an honorary" from section 45 (1) (a).	16 17 18
<b>[6]</b>	<b>Section 45 (2)</b>	19
	Omit "full members, provisional members and honorary" from section 45 (2).	20 21 22
<b>[7]</b>	<b>Section 51A Minors passing through poker machine areas</b>	23
	Omit the section.	24 25
<b>[8]</b>	<b>Section 51B</b>	26
	Insert before section 52:	27 28
<b>51B</b>	<b>Sale or supply of liquor by minor</b>	29
(1)	If in a registered club a person under the age of 18 years is permitted to sell, supply or serve liquor on the premises of the club, the registered club and the secretary of the club are each guilty of an offence.	30 31 32 33
	Maximum penalty: 50 penalty units.	34

(2) No offence is committed under this section if the person under the age of 18 years:	1
(a) was permitted to sell, supply or serve liquor only in the dining rooms or other unrestricted areas of the club, and	2
(b) was permitted to do so with the consent of the Board (proof of which lies on the defendant).	3
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<b>[9] Section 52AA</b>	7
Insert after section 52:	8
	9
<b>52AA Minors passing through bars or poker machine areas</b>	10
(1) It is a sufficient defence to a prosecution for an offence arising under section 50 (1) (b) or (2A), 50A, 51 (1) (e) or 52 if it is proved that the minor concerned:	11
(a) was present in the bar or poker machine area only for so long as was reasonably necessary to pass through it in order conveniently to gain access to another area of the club that the minor may enter without contravening this Act, and	12
(b) was at all times while in the bar or poker machine area in the company and immediate presence of a responsible adult.	13
(2) The defences provided by this section are in addition to any other available defences.	14
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<b>[10] Section 55 False or misleading statements</b>	24
Insert “, or could reasonably be expected to know” after “knows” in section 55 (1).	25
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<b>[11] Section 66 Penalty notices</b>	28
Insert “or Division 6 of Part 11” after “17AAA” wherever occurring in section 66 (4) and (6).	29
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	31
<b>[12] Section 67 Power to demand certain particulars from certain persons on premises of registered clubs</b>	32
Insert “, or a minor who is the guest of a member” after “club” wherever occurring in section 67 (2) (b) (i) and (3) (b) (i).	33
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**[13] Section 76A**

Insert after section 76:

**76A Trade Practices exemption**

- (1) In this section, *local liquor accord* means any code of practice, memorandum of understanding or other arrangement:
  - (a) that affects the supply of liquor, or the opening and closing of registered clubs, or both, and
  - (b) that is entered into in writing by two or more registered clubs (or between one or several registered clubs and one or several persons licensed under the *Liquor Act 1982*), with the approval of the Commissioner of Police or a delegate of the Commissioner, for the purpose of eliminating or reducing alcohol-related violence or anti-social behaviour or other alcohol-related harm.
- (2) Entry by any person into a local liquor accord to which this section applies, and any conduct on the part of any person for the purpose of promoting or giving effect to the terms of a local liquor accord, are specifically authorised by this Act for the purposes of the *Trade Practices Act 1974* of the Commonwealth and the *Competition Code of New South Wales*.
- (3) Conduct authorised by subsection (2) is authorised only to the extent (if any) to which the conduct, so far as it consists of things done to regulate the supply of liquor or in some other respect, would otherwise contravene Part IV of the *Trade Practices Act 1974* of the Commonwealth or the *Competition Code of New South Wales*.

**[14] Section 87H Records and returns**

Insert "(other than devices connected to an authorised centralised monitoring system)" after "gaming devices" in section 87H (2) (a).

**[15] Schedule 2 Transitional provisions**

Insert at the end of clause 1A (1):

*Liquor and Registered Clubs Legislation Further Amendment Act 1999*



Liquor and Registered Clubs Legislation Further Amendment Bill 1999

Schedule 2      Amendment of Registered Clubs Act 1976

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**[16] Schedule 2 Transitional provisions**

Insert in appropriate order and with appropriate Part and clause numbers:

**Part Liquor and Registered Clubs Legislation Further  
Amendment Act 1999**

**Trade practices exemption**

Section 76A applies to a local liquor accord entered into before  
or after the commencement of that section.

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