

**LOCAL GOVERNMENT (BACKPACKERS HOSTELS)
AMENDMENT ACT 1990 No. 89**

NEW SOUTH WALES



TABLE OF PROVISIONS

1. Short title
2. Commencement
3. Amendment of Local Government Act 1919 No. 41
4. Consequential amendment of Land and Environment Court Act 1979 No. 204

SCHEDULE 1—AMENDMENT OF LOCAL GOVERNMENT ACT 1919

THE UNIVERSITY OF CHICAGO

PHYSICS DEPARTMENT



PHYSICS 321
LECTURE 10
MAY 10, 1961

**LOCAL GOVERNMENT (BACKPACKERS HOSTELS)
AMENDMENT ACT 1990 No. 89**

NEW SOUTH WALES



Act No. 89, 1990

An Act to amend the Local Government Act 1919 so as to provide for the elimination of fire hazards in backpackers hostels; and to make a consequential amendment to the Land and Environment Court Act 1979. [Assented to 7 December 1990]

Local Government (Backpackers Hostels) Amendment 1990

The Legislature of New South Wales enacts:

Short title

1. This Act may be cited as the Local Government (Backpackers Hostels) Amendment Act 1990.

Commencement

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

Amendment of Local Government Act 1919 No. 41

3. The Local Government Act 1919 is amended as set out in Schedule 1.

Consequential amendment of Land and Environment Court Act 1979 No. 204

4. The Land and Environment Court Act 1979 is amended by inserting in section 18 (a) after the matter "317F," the matter "317JZ,".

SCHEDULE 1—AMENDMENT OF LOCAL GOVERNMENT ACT 1919

(Sec. 3)

(1) Part 11, Division 4BB:

After Division 4BA, insert:

Division 4BB—Backpackers hostels

Definitions

317JT. (1) In this Division:

"backpackers hostel" means any premises that are used for the purpose of accommodating members of the public (for fee or reward) for periods of less than a week, but does not include:

- (a) premises the subject of a licence under the Liquor Act 1982 or a certificate of registration under the Registered Clubs Act 1976; or
- (b) a motel; or
- (c) a boarding house; or
- (d) a house let in lodgings;

Local Government (Backpackers Hostels) Amendment 1990

SCHEDULE 1—AMENDMENT OF LOCAL GOVERNMENT ACT
1919—*continued*

“**emergency closure order**” means an order in force under section 317JV;

“**rectification order**” means an order in force under section 317JU.

(2) In this Division, a reference to premises that are used for a purpose is a reference to premises that are predominantly used for that purpose, whether or not they are also used for some other purpose.

Rectification orders

317JU. (1) If it appears to the council, on reasonable grounds, that any premises:

- (a) are being used for the purposes of a backpackers hostel; and
- (b) are being managed or used in such a manner as to give rise to a life-threatening fire hazard,

the council may, by order in writing served on the owner of the premises or on any person apparently engaged in the management of the premises, direct that specified measures to eliminate the hazard be taken within a specified time.

(2) The measures that may be specified in a rectification order include measures requiring:

- (a) the erection of notices; and
- (b) the provision of fire extinguishers and other fire-fighting equipment; and
- (c) the maintenance of fire doors; and
- (d) the removal of combustible material from fire exits,

but do not include measures requiring the carrying out of any structural work or the installation of any fixtures.

(3) The time allowed by a rectification order for the taking of any such measures must not be less than 24 hours.

(4) A rectification order must specify the grounds on which it is made and must also specify that an emergency closure order may be made in respect of the premises if the rectification order is not complied with within the time allowed by the rectification order.

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1919—*continued*

Emergency closure orders

317JV. (1) If the measures specified in a rectification order are not complied with within the time allowed by the order, the council may, by a further order served on the owner of the premises concerned or on any person apparently engaged in the management of the premises, direct that the premises not be used for the purposes of a backpackers hostel.

(2) An emergency closure order must specify that it has been made on the grounds that specified requirements of a rectification order have not been complied with within the time allowed by the rectification order and must also state that there is a right of appeal to the Land and Environment Court against the emergency closure order but that such an appeal does not operate to stay the emergency closure order.

(3) The council must ensure that a written notice containing the terms of the emergency closure order is affixed to the premises concerned in a conspicuous position at or near each entrance and exit of the premises.

(4) A person must not remove, deface, obliterate or conceal a notice that is duly affixed to premises the subject of an emergency closure order.

Maximum penalty: 10 penalty units (in the case of an individual) or 20 penalty units (in the case of a corporation).

(5) The council must ensure that an emergency closure order made by it is revoked as soon as it is satisfied that the requirements of the relevant rectification order have been complied with.

Premises not to be used in contravention of an emergency closure order

317JW. (1) Neither the owner of any premises the subject of an emergency closure order, nor any person engaged in the management of any such premises, is to cause or permit the premises to be used in contravention of the order.

Maximum penalty: 50 penalty units or imprisonment for 6 months, or both (in the case of an individual) or 100 penalty units (in the case of a corporation).

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SCHEDULE 1—AMENDMENT OF LOCAL GOVERNMENT ACT
1919—*continued*

(2) It is a sufficient defence to a prosecution under this section if the defendant satisfies the court that he or she was unaware of the fact that the premises were the subject of such an order.

Evacuation of premises

317JX. (1) The council may, if it is satisfied that it is necessary to do so in order to prevent premises from being used as a backpackers hostel in contravention of an emergency closure order, direct a person to do any or all of the following:

- (a) to leave the premises;
- (b) to remove from the premises any other persons who are in that person's care;
- (c) not to enter the premises.

(2) If the person does not comply with the direction, the council may do all such things as are reasonably necessary to ensure compliance with it.

(3) In exercising the powers conferred on the council by this section, a proper employee of the council:

- (a) may be accompanied and assisted by a police officer; and
- (b) may use such force as is reasonably necessary in the circumstances.

Powers of fire brigades

317JY. (1) An authorised fire officer may exercise such of the powers of a council under this Division as are specified in the fire officer's authorisation under this section.

(2) For the purpose of inspecting premises to determine whether or not there are grounds for exercising any such power, an authorised fire officer may exercise the powers conferred on a council by section 524 (Entry and other powers).

(3) In exercising a power under this Division, an authorised fire officer may be accompanied and assisted by a police officer.

(4) In this section, a reference to an authorised fire officer, in relation to the exercise of a power under this Division, is a reference to:

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SCHEDULE 1—AMENDMENT OF LOCAL GOVERNMENT ACT
1919—*continued*

- (a) a member of staff of New South Wales Fire Brigades;
or
- (b) an officer or member of a fire brigade,
who is for the time being authorised by the Minister
administering the Fire Brigades Act 1989 to exercise that
power.

Appeals

317JZ. (1) The owner of any premises the subject of an emergency closure order may appeal against the order to the Land and Environment Court.

(2) Subject to any order of the Land and Environment Court, an appeal under this section does not operate to stay the emergency closure order in respect of which the appeal is made.

Ordinances

317JZA. For the purposes of this Division, an ordinance may be made for or with respect to:

- (a) the management and use of backpackers hostels in relation to the avoidance and elimination of fire hazards; and
- (b) the exemption from any provision of this Division of any specified premises or specified class of premises; and
- (c) the exercise by councils of the powers conferred on them by this Division.

Division binds Crown

317JZB. This Division binds the Crown.

(2) Section 635 (Obstruction):

After section 635 (j), insert:

- (k) any member of staff of New South Wales Fire Brigades, or any officer or member of a fire brigade, exercising functions under Division 4B or 4BB of Part 11,

[Minister's second reading speech made in—

Legislative Assembly on 13 November 1990

Legislative Council on 28 November 1990]

FIRST PRINT

**LOCAL GOVERNMENT (BACKPACKERS HOSTELS)
AMENDMENT BILL 1990**

NEW SOUTH WALES



EXPLANATORY NOTE

(This Explanatory Note relates to this Bill as introduced into Parliament)

The object of this Bill is to amend the Local Government Act 1919 so as to make provision with respect to the prevention and elimination of life-threatening fire hazards in backpackers hostels.

The Bill also amends the Land and Environment Court Act 1979 as a consequence of a right of appeal to the Land and Environment Court to be created by the amendments to the Local Government Act 1919.

References in this Bill to monetary penalties are expressed in penalty units. Under section 56 of the Interpretation Act 1987, 1 penalty unit is currently equivalent to \$100.

Clause 1 specifies the short title of the proposed Act.

Clause 2 provides for the commencement of the proposed Act on a day to be appointed by proclamation.

Clause 3 is a formal provision that gives effect to the Schedule of amendments to the Local Government Act 1919.

Clause 4 amends the Land and Environment Court Act 1979 as a consequence of the right of appeal to the Land and Environment Court to be created by the amendments to the Local Government Act 1919.

SCHEDULE 1—AMENDMENT OF LOCAL GOVERNMENT ACT 1919

Schedule 1 (1) inserts a proposed Division 4BB (Backpackers hostels) into Part 11 of the Act. The proposed Division contains proposed sections 317JT-317JZB.

Proposed section 317JT defines the expressions "backpackers hostel", "emergency closure order" and "rectification order" for the purposes of the proposed Division.

Local Government (Backpackers Hostels) Amendment 1990

Proposed section 317JU authorises a council to issue a rectification order in respect of any premises that are being used as a backpackers hostel if the council is of the opinion that a life-threatening fire hazard exists as a consequence of the way in which the premises are being managed or used. Such an order will specify what measures must be taken to eliminate the hazard and will specify a time (being not less than 24 hours) within which such action must be taken.

Proposed section 317JV authorises a council to issue an emergency closure order against premises in respect of which a rectification order has been issued but not complied with. Notice of the making of the order will be affixed to the premises at or near each entrance and exit. It will be an offence, punishable by a fine of 10 penalty units (in the case of an individual) or 20 penalty units (in the case of a corporation), to remove, deface, obliterate or conceal such a notice.

Proposed section 317JW makes it an offence, punishable by a fine of 50 penalty units or imprisonment for 6 months, or both (in the case of an individual) or 100 penalty units (in the case of a corporation), for the owner of premises the subject of an emergency closure order, or any person engaged in the management of any such premises, to cause or permit the premises to be used in contravention of the order. It will be a sufficient defence to proceedings for such an offence if the defendant establishes that he or she was unaware of the fact that the premises were the subject of such an order.

Proposed section 317JX enables a council to evacuate premises the subject of an emergency closure order. The clause also enables a council employee to be accompanied and assisted by a police officer when exercising the employee's powers under the proposed section.

Proposed section 317JY enables New South Wales Fire Brigades (by means of an authorised fire officer) to exercise the powers of a council under the proposed Division and, for that purpose, to exercise also the powers of a council under section 524 (Entry and other powers). The clause also enables an authorised fire officer to be accompanied and assisted by a police officer when exercising powers under the proposed Division.

Proposed section 317JZ enables the owner of any premises the subject of an emergency closure order to appeal to the Land and Environment Court against the order. The clause also provides that (subject to any order of the Land and Environment Court) an appeal does not operate as a stay of the emergency closure order to which it relates.

Proposed section 317JZA provides for the making of ordinances for the purposes of the proposed Division.

Proposed section 317JZB provides that the proposed Division binds the Crown.

Schedule 1 (2) amends section 635 (Obstruction) so as to apply that section to the obstruction of fire officers exercising powers under the existing Division 4B of Part 11 and under the proposed Division 4BB to be inserted by Schedule 1 (1).

FIRST PRINT

**LOCAL GOVERNMENT (BACKPACKERS HOSTELS)
AMENDMENT BILL 1990**

NEW SOUTH WALES



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SCHEDULE 1—AMENDMENT OF LOCAL GOVERNMENT ACT 1919

**LOCAL GOVERNMENT (BACKPACKERS HOSTELS)
AMENDMENT BILL 1990**

NEW SOUTH WALES



No. , 1990

A BILL FOR

An Act to amend the Local Government Act 1919 so as to provide for the elimination of fire hazards in backpackers hostels; and to make a consequential amendment to the Land and Environment Court Act 1979.

Local Government (Backpackers Hostels) Amendment 1990

The Legislature of New South Wales enacts:

Short title

1. This Act may be cited as the Local Government (Backpackers Hostels) Amendment Act 1990.

Commencement

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

Amendment of Local Government Act 1919 No. 41

3. The Local Government Act 1919 is amended as set out in Schedule 1.

Consequential amendment of Land and Environment Court Act 1979 No. 204

4. The Land and Environment Court Act 1979 is amended by inserting in section 18 (a) after the matter "317F," the matter "317JZ,".

SCHEDULE 1—AMENDMENT OF LOCAL GOVERNMENT ACT 1919

(Sec. 3)

(1) Part 11, Division 4BB:

After Division 4BA, insert:

Division 4BB—Backpackers hostels

Definitions

317JT. (1) In this Division:

"backpackers hostel" means any premises that are used for the purpose of accommodating tourists (for fee or reward) for periods of less than a week, but does not include:

- (a) premises the subject of a licence under the Liquor Act 1982 or a certificate of registration under the Registered Clubs Act 1976; or
- (b) a motel; or
- (c) a boarding house; or
- (d) a house let in lodgings;

Local Government (Backpackers Hostels) Amendment 1990

SCHEDULE 1—AMENDMENT OF LOCAL GOVERNMENT ACT
1919—*continued*

“**emergency closure order**” means an order in force under section 317JV;

“**rectification order**” means an order in force under section 317JU.

(2) In this Division, a reference to premises that are used for a purpose is a reference to premises that are predominantly used for that purpose, whether or not they are also used for some other purpose.

Rectification orders

317JU. (1) If it appears to the council, on reasonable grounds, that any premises:

- (a) are being used for the purposes of a backpackers hostel; and
- (b) are being managed or used in such a manner as to give rise to a life-threatening fire hazard,

the council may, by order in writing served on the owner of the premises or on any person apparently engaged in the management of the premises, direct that specified measures to eliminate the hazard be taken within a specified time.

(2) The measures that may be specified in a rectification order include measures requiring:

- (a) the erection of notices; and
- (b) the provision of fire extinguishers and other fire-fighting equipment; and
- (c) the maintenance of fire doors; and
- (d) the removal of combustible material from fire exits,

but do not include measures requiring the carrying out of any structural work or the installation of any fixtures.

(3) The time allowed by a rectification order for the taking of any such measures must not be less than 24 hours.

(4) A rectification order must specify the grounds on which it is made and must also specify that an emergency closure order may be made in respect of the premises if the rectification order is not complied with within the time allowed by the rectification order.

Local Government (Backpackers Hostels) Amendment 1990

SCHEDULE 1—AMENDMENT OF LOCAL GOVERNMENT ACT
1919—*continued*

Emergency closure orders

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(3) The council must ensure that a written notice containing the terms of the emergency closure order is affixed to the premises concerned in a conspicuous position at or near each entrance and exit of the premises.

(4) A person must not remove, deface, obliterate or conceal a notice that is duly affixed to premises the subject of an emergency closure order.

Maximum penalty: 10 penalty units (in the case of an individual) or 20 penalty units (in the case of a corporation).

(5) The council must ensure that an emergency closure order made by it is revoked as soon as it is satisfied that the requirements of the relevant rectification order have been complied with.

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Maximum penalty: 50 penalty units or imprisonment for 6 months, or both (in the case of an individual) or 100 penalty units (in the case of a corporation).

(2) It is a sufficient defence to a prosecution under this section if the defendant satisfies the court that he or she was unaware of the fact that the premises were the subject of such an order.

Local Government (Backpackers Hostels) Amendment 1990

SCHEDULE 1—AMENDMENT OF LOCAL GOVERNMENT ACT
1919—*continued*

Evacuation of premises

317JX. (1) The council may, if it is satisfied that it is necessary to do so in order to prevent premises from being used as a backpackers hostel in contravention of an emergency closure order, direct a person to do any or all of the following:

- (a) to leave the premises;
- (b) to remove from the premises any other persons who are in that person's care;
- (c) not to enter the premises.

(2) If the person does not comply with the direction, the council may do all such things as are reasonably necessary to ensure compliance with it.

(3) In exercising the powers conferred on the council by this section, a proper employee of the council:

- (a) may be accompanied and assisted by a police officer; and
- (b) may use such force as is reasonably necessary in the circumstances.

Powers of fire brigades

317JY. (1) An authorised fire officer may exercise such of the powers of a council under this Division as are specified in the fire officer's authorisation under this section.

(2) For the purpose of inspecting premises to determine whether or not there are grounds for exercising any such power, an authorised fire officer may exercise the powers conferred on a council by section 524 (Entry and other powers).

(3) In exercising a power under this Division, an authorised fire officer may be accompanied and assisted by a police officer.

(4) In this section, a reference to an authorised fire officer, in relation to the exercise of a power under this Division, is a reference to:

- (a) a member of staff of New South Wales Fire Brigades; or
- (b) an officer or member of a fire brigade,

Local Government (Backpackers Hostels) Amendment 1990

**SCHEDULE 1—AMENDMENT OF LOCAL GOVERNMENT ACT
1919—continued**

who is for the time being authorised by the Minister administering the Fire Brigades Act 1989 to exercise that power.

Appeals

317JZ. (1) The owner of any premises the subject of an emergency closure order may appeal against the order to the Land and Environment Court.

(2) Subject to any order of the Land and Environment Court, an appeal under this section does not operate to stay the emergency closure order in respect of which the appeal is made.

Ordinances

317JZA. For the purposes of this Division, an ordinance may be made for or with respect to:

- (a) the management and use of backpackers hostels in relation to the avoidance and elimination of fire hazards; and
- (b) the exemption from any provision of this Division of any specified premises or specified class of premises; and
- (c) the exercise by councils of the powers conferred on them by this Division.

Division binds Crown

317JZB. This Division binds the Crown.

(2) Section 635 (Obstruction):

After section 635 (j), insert:

- (k) any member of staff of New South Wales Fire Brigades, or any officer or member of a fire brigade, exercising functions under Division 4B or 4BB of Part 11,
-