

First print



New South Wales

Liquor and Registered Clubs Legislation Amendment (Minors' Entertainment) Bill 1996

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* to facilitate the holding of alcohol-free entertainment in hotels for persons under 18 years of age (minors), to allow access to club premises for junior members of a club (members under 18 years of age) in certain circumstances and to broaden the range of clubs that can allow junior membership.

The Bill:

- (a) includes provisions in the *Liquor Act 1982* similar to existing provisions in the *Registered Clubs Act 1976* to enable the Licensing Court to grant an ongoing functions authority to allow a hotel licensee to hold alcohol-free entertainment for persons under the age of 18 years in a separate and distinct part of the hotel premises, and
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- (b) includes certain conditions relating to functions authorities in both those Acts and provides for other conditions to be prescribed by regulations, and
- (c) enables the Licensing Court to grant approval for a small registered club to allow access to normally restricted areas of club premises by junior members of the club for sporting related activities, and
- (d) expands the circumstances in which minors can be members of a registered club to include cases where membership is to enable the minor to take part in regular sporting activities organised by the club, and
- (e) clarifies that it is an offence to sell or supply liquor to a minor in any place, and
- (f) makes other amendments of a minor or consequential 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

Minors functions authorities for licensed premises

Provisions of the *Liquor Act 1982* currently enable the Liquor Administration Board to authorise the use of part of premises to which a hotelier's licence relates by minors under adult supervision. The amendments will replace those provisions with provisions similar to those in the *Registered Clubs Act 1976*, establishing a scheme for application to the Licensing Court for a grant of a minors functions authority to authorise a part of licensed premises to be used for entertainment for minors.

The Licensing Court may grant a minors functions authority for any period it thinks appropriate and an annual fee is payable for the authority.

A minors functions authority is subject to conditions that must be imposed by the Licensing Court in relation to specified matters, any conditions prescribed by the regulations and any other conditions that the Licensing Court thinks appropriate to impose. The conditions that must be imposed include conditions relating to the level of adult supervision required, ensuring the quiet and good order of the surrounding neighbourhood and enabling the safe conduct of minors attending entertainment on licensed premises. A minors functions authority will also be subject to a condition that tobacco vending machines must not be located in function areas or access areas while functions are being held under the authority and that liquor must not be sold in such areas.

A licensee will commit an offence if any of the conditions of a minors functions authority are breached.

The Commissioner of Police, the Director of Liquor and Gaming or a council may make a complaint on specified grounds against the continuing operation of a minors functions authority. The Licensing Court may impose certain penalties on a licensee in complaint proceedings, including cancelling or suspending a minors functions authority held by the licensee and fining the licensee. (Schedule 1 [4] and [5])

Schedule 1 [2] ensures that the normal provisions relating to restricted areas of licensed premises (such as offences for allowing access to minors) do not apply to parts of licensed premises while they are being used in accordance with a minors functions authority. Schedule 1 [1], [3], [6]–[9] and [11]–[14] contain other consequential amendments.

Schedule 1 [15] and [16] save existing authorisations under section 112 of the Act and take account of an amendment contained in the *Liquor and Registered Clubs Legislation Amendment Bill 1996* that has been introduced into Parliament in the event that the Bill is enacted.

Offence of selling or supplying liquor to a minor

Schedule 1 [11] makes it clear that it is an offence to sell or supply liquor to a minor, regardless of where the sale or supply takes place. The amendment removes a possible doubt caused by the location of the offence in the Act near offences relating to licensed premises.

Schedule 2 Amendment of Registered Clubs Act 1976

Approval for small clubs to allow access to club premises by junior members

Schedule 2 [3] enables the Licensing Court to grant approval to a registered club to allow junior members of the club access to areas of the club premises that would otherwise be restricted, but only for the purposes of taking part in sporting activities or a prize-giving ceremony associated with sporting activities. An approval may be granted by the Licensing Court only if the Court is satisfied that, because of the size of the club, it is impractical for the club to designate a special area as an unrestricted area.

Schedule 2 [2] enables the Licensing Court to suspend or cancel an approval in complaint proceedings against a registered club.

Schedule 2 [12] ensures that the normal provisions relating to bars in registered clubs (such as provisions creating offences for allowing access to minors) do not apply to parts of registered clubs while they are being used in accordance with an approval.

Schedule 2 [10] contains a consequential amendment.

Functions authorities

Schedule 2 [4]–[9] amend the provisions of the *Registered Clubs Act 1976* relating to functions authorities that authorise entertainment for minors on club premises to bring them into line with the new provisions relating to minors functions authorities being inserted in the *Liquor Act 1982*.

Schedule 2 [13] and **[14]** provide for existing functions authorities to expire 12 months after the commencement of the amendments unless sooner cancelled or replaced. Those authorities will be subject to the existing conditions applying to them unless the Licensing Court varies or revokes those conditions or imposes new conditions in complaint proceedings. **Schedule 2 [14]** also takes account of an amendment contained in the *Liquor and Registered Clubs Legislation Amendment Bill 1996* that has been introduced into Parliament in the event that the Bill is enacted.

Junior membership of clubs

At present, minors may only be junior members of registered clubs that are golf clubs or bowling clubs or that are established primarily for athletic purposes. **Schedule 2 [11]** enables a minor to be a junior member of a club if the purpose of membership is to enable the minor to take part in regular sporting activities organised by the club. **Schedule 2 [1]** contains a consequential amendment.

First print



New South Wales

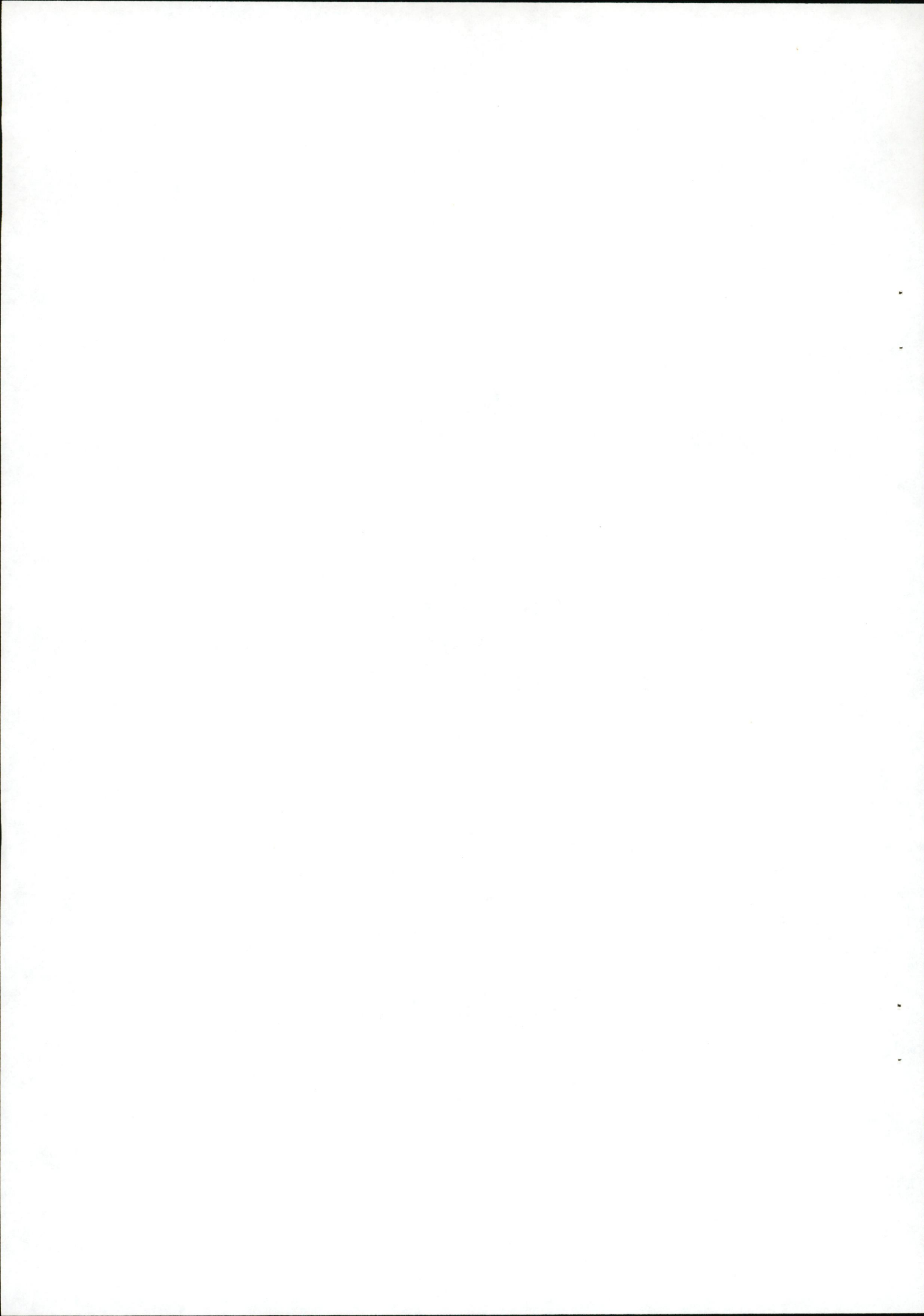
Liquor and Registered Clubs Legislation Amendment (Minors' Entertainment) Bill 1996

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New South Wales

Liquor and Registered Clubs Legislation Amendment (Minors' Entertainment) Bill 1996

No. , 1996

A Bill for

An Act to amend the *Liquor Act 1982* and the *Registered Clubs Act 1976* to make further provision with respect to entertainment for persons under 18 years of age; and for other purposes.

The Legislature of New South Wales enacts:

1 Name of Act

This Act is the *Liquor and Registered Clubs Legislation Amendment (Minors' Entertainment) Act 1996*.

2 Commencement

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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

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

Schedule 1 Amendment of Liquor Act 1982

(Section 3)

[1] Section 4 Definitions

Insert in alphabetical order in section 4 (1):

minors functions authority means a minors functions authority referred to in section 111A. 5

[2] Section 4 (1)

Insert "a minors functions authority or" before "an authorisation" in paragraph (b) of the definition of *restricted area*.

[3] Section 45 Grounds of objection 10

After section 45 (5), insert:

- (6) Objection to the granting of an application for a minors functions authority may be taken:
- (a) on the ground that any part of the licensed premises in which liquor is ordinarily sold, supplied or disposed of or consumed or in which approved amusement devices are ordinarily kept is not capable of being physically separated from the proposed function areas or access areas to be designated by the functions authority in accordance with section 111A, or 15 20
 - (b) on the ground that the sanitary conveniences on the licensed premises are not adequate or are not suitably located for use by persons attending the function areas, or 25
 - (c) on the ground that any part of the licensed premises in which liquor is ordinarily sold, supplied or disposed of or consumed or in which approved amusement devices are ordinarily kept is not capable of being physically separated from the part of the premises through or by means of which it would be necessary for a person attending such a function to pass in order to access any sanitary conveniences provided, or 30
 - (d) on any other ground. 35

[4] Section 69 Disciplinary powers of court

Insert "or a minors functions authority held by the licensee" after "licence" wherever occurring in section 69 (1) (c), (d) and (e).

[5] Part 7A, Division 1

Insert after the heading to Part 7A:

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Division 1 Functions for minors on licensed premises

111A Functions for minors on licensed premises

- (1) The court may grant an authority (a *minors functions authority*) to the holder of a hotelier's licence to permit persons who are under the age of 18 years to attend a function or functions in a specified part of the licensed premises. 10

- (2) A minors functions authority is to designate function areas (that is, each part of the licensed premises on which the functions concerned are permitted to be held) and access areas (that is, each part of the licensed premises through or by means of which minors attending those functions are to be permitted to obtain entry to or to depart from a function area). 15

- (3) A licensee is guilty of an offence if any conditions of a minors functions authority held by the licensee are contravened. 20

 Maximum penalty: 20 penalty units.

- (4) Nothing in this section requires a minors functions authority to be obtained in relation to a use of licensed premises that does not contravene another provision of this Act. 25

- (5) A minors functions authority does not authorise the holding of a function in contravention of a requirement made by or under any other Act. 30

- (6) In this section, the meaning of *function* includes, but is not limited to, the meaning of function given in section 4 (1).

111B Procedure for grant of minors functions authority

- (1) The holder of a hotelier's licence may apply to the court for a minors functions authority.
- (2) An application is made by delivering it to the registrar. Notice of the application is to be given by the registrar to the Commissioner of Police and the application is not to be dealt with until that notice has been given. 5
- (3) The application is to be dealt with as follows:
 - (a) the jurisdiction of the court to grant the application may be exercised by the Principal Registrar if there is no objection to its grant, 10
 - (b) the application may be granted for a fixed period or for an indefinite period,
 - (c) the grant of the application is to be notified to the member of the Police Service who is prescribed by the regulations as the appropriate member of the Police Service for the purposes of this section. 15
- (4) The fee prescribed by the regulations is payable for the issue of a minors functions authority and on or before 15 January in each calendar year following the calendar year of its issue while the authority is in force. The authority is cancelled if the fee is not paid within 2 months after the last day for payment. 20

111C Conditions of minors functions authority

- (1) When granting a minors functions authority, the court must impose conditions on the authority relating to the following: 25
 - (a) the required level of adult supervision of minors using a part of licensed premises in accordance with the authority, 30
 - (b) the steps that the licensee must take to ensure that minors attending or departing from a function held under the authority do not disturb the quiet and good order of the neighbourhood in which the licensed premises are situated, 35

- (c) the steps that the licensee must take to enable the safe conduct of minors in the vicinity of the licensed premises when they are attending or departing from a function held under the authority.
- (2) In addition to any conditions required to be imposed on a minors functions authority under subsection (1), a minors functions authority is subject to the following conditions:
 - (a) a condition that no approved amusement device is to be located in any function area or access area specified in a minors functions authority held by the licensee while a function is being held under the authority, 5
 - (b) a condition that liquor must not be sold, supplied, disposed of or consumed in any function area or access area specified in a minors functions authority held by the licensee while a function is being held under the authority, 10
 - (c) a condition that no tobacco vending machine is to be located in any function area or access area specified in a minors functions authority while a function is being held under the authority, 15
 - (d) any conditions prescribed by the regulations for the purposes of this section, 20
 - (e) any other conditions, not inconsistent with a condition in paragraphs (a)–(d), that the court thinks appropriate to impose when granting the authority (including conditions that limit the number of functions that may be held under the authority during any particular period). 25
- (3) The court may revoke or vary a condition of a minors functions authority imposed by it:
 - (a) at any time on the application of the holder of the authority, the Director, the Commissioner of Police or a person authorised by the local council within the boundaries of which the licensed premises are situated, or 30
 - (b) of its own motion or on the hearing of any matter relating to the authority. 35

111D Complaints relating to minors functions authority

- (1) A complaint may be made against a licensee by the Commissioner of Police, the Director or a person authorised by the local council within the boundaries of which the licensed premises are situated, on any one or more of the following grounds: 5
- (a) the quiet and good order of the neighbourhood in which the licensed premises are situated will be unduly disturbed if a minors functions authority held by the licensee continues in force, 10
 - (b) the licensee has been convicted of an offence under section 111A,
 - (c) any condition of a minors functions authority held by the licensee has been contravened, whether or not the licensee has been convicted of an offence in respect of that contravention. 15
- (2) A licensing magistrate or the Principal Registrar may on a complaint made under this section issue a summons calling on a licensee to show cause why the minors functions authority held by the licensee should not be cancelled. 20
- (3) The court constituted as provided by section 9 (1) (a) or (b) is to hear and determine the matter of the complaint and may do any one or more of the following:
- (a) cancel the minors functions authority, 25
 - (b) suspend the minors functions authority,
 - (c) order the licensee to pay a penalty not exceeding 50 penalty units within such time as may be specified in the order,
 - (d) subject the minors functions authority to a specified condition, 30
 - (e) dismiss the complaint.
- (4) The court is not to hear and determine the matter earlier than 10 days after the summons issued on the complaint is served on the licensee. 35

Schedule 1 Amendment of Liquor Act 1982

- (5) Section 12 (2) does not apply to or in respect of proceedings before the court in relation to the matter of a complaint under this section.
- (6) A licensee may surrender the minors functions authority held by the licensee by giving notice of surrender to the Board. 5
- (7) So long as any amount ordered to be paid by a licensee under this section remains unpaid after the time ordered for payment, the minors functions authority held by the licensee is suspended. 10

111E Fees for certain applications

An application under this Division delivered to the registrar must not be granted unless it is accompanied by the appropriate prescribed fee, if any.

[6] Section 112 Authority for use of part of premises by minor in company of responsible adult 15

Omit section 112 (1) and (2). Insert instead:

- (1) The Board may, on the application of the licensee or the Commissioner of Police, and subject to any conditions that the Board or the Commissioner imposes, authorise the use by a minor in the company of a responsible adult of a part of the premises to which a hotelier's licence relates. 20

[7] Section 112 (3) and (4)

Omit the subsections. Insert instead: 25

- (3) A minors functions authority and an authorisation under subsection (1) may be granted in respect of the same part of premises.
- (4) If a minors functions authority is operating to permit the use by a minor of a part of premises, any authorisation under subsection (1) has no operation to the extent that it applies to that part of the premises. 30

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- [8] Section 112 (7)**
Omit the subsection.
- [9] Part 7A, Division 2, heading**
Insert after section 112:
Division 2 Offences relating to minors 5
- [10] Section 114 Sale or supply of liquor to a minor**
Insert “, in any place whether or not licensed premises,” after “not”
in section 114 (1).
- [11] Section 116A Offences by minors in hotels and late-trading
restaurants** 10
Omit “section 112 (1) (a)” from section 116A (2).
Insert instead “section 112”.
- [12] Section 116A (3)**
Omit “an authorisation under section 112 (1) (b)”.
Insert instead “a minors functions authority under section 111A”. 15
- [13] Section 116B Offences by licensees in relation to minors**
Omit “section 112 (1) (a)” from section 116B (1) (b).
Insert instead “section 112”.
- [14] Section 116B (4)**
Omit the subsection. 20
- [15] Schedule 1 Savings and transitional provisions**
Insert “*Liquor and Registered Clubs Legislation Amendment
(Minors' Entertainment) Act 1996*” at the end of clause 1 (1).

[16] Schedule 1 Part 7

Insert at the end of Schedule 1:

**Part 7 Liquor and Registered Clubs Legislation
Amendment (Minors' Entertainment)
Act 1996**

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37 Authorisation for use of premises by minors

- (1) An authorisation in force under section 112 (1) (a) immediately before the commencement of Schedule 1 [6] to the *Liquor and Registered Clubs Legislation Amendment (Minors' Entertainment) Act 1996* is taken to be an authorisation under section 112 on and from that commencement. 10
- (2) An authorisation under section 112 (1) (b) in force immediately before the commencement of Schedule 1 [6] to the *Liquor and Registered Clubs Legislation Amendment (Minors' Entertainment) Act 1996* continues in force for the period, or date or dates, for which it was granted and this Act continues to apply to such an authorisation as if it had not been amended by that Act. 15

38 References to local council

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- (1) A reference in section 111C (3) (a) or 111D (1) to a person authorised by the local council within the boundaries of which the licensed premises are situated is to be read as a reference to a person authorised by the local consent authority in relation to the licensed premises. 25
- (2) This clause operates:
- (a) on and from the commencement of section 111C if Schedule 1 [3] to the *Liquor and Registered Clubs Legislation Amendment Act 1996* has commenced before the commencement of section 111C, or 30
- (b) on and from the commencement of Schedule 1 [3] to the *Liquor and Registered Clubs Legislation Amendment Act 1996* if that item commences on or after the commencement of section 111C. 35

Schedule 2 Amendment of Registered Clubs Act 1976

(Section 4)

[1] Section 4 Definitions

Insert in alphabetical order in section 4 (1):

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sporting activities includes athletics.

[2] Section 17 Determination of complaints against registered clubs

Insert "or an approval under section 22A relating to the premises of the club" after "functions authority of the club" wherever occurring in section 17 (2) (a), (b) or (d).

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[3] Section 22A

Insert after section 22:

22A Access to club premises by junior members

(1) The Licensing Court may grant approval to a registered club to allow members of the club who are under the age of 18 years access to areas of the club premises that would otherwise be restricted, but only if:

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(a) the approval is for the purpose of taking part in sporting activities or a prize-giving ceremony associated with sporting activities, and

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(b) the Licensing Court is satisfied that because of the size of the club premises it is impractical for the club to designate an area of the club premises as a non-restricted area for the purposes of an authority under section 22.

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(2) An application for approval may be made to the Licensing Court by or on behalf of a registered club.

- (3) An application is made by delivering to the registrar:
- (a) the application, and a copy of the application, signed by the secretary of the club, and
 - (b) a plan of the premises of the club in a form approved by the Licensing Court. 5
- (4) The Licensing Court is not to deal with an application for approval until after the end of the period of 7 days commencing on and from the day the application was made.
- (5) An approval may be revoked by the Licensing Court at any time on an application made by: 10
- (a) the club to which the approval was granted, or
 - (b) the Director, or
 - (c) the Commissioner of Police.
- (6) When granting an approval, the Licensing Court must impose conditions on the approval relating to the following: 15
- (a) the required level of adult supervision of members under the age of 18 years using the premises of the club under the approval, 20
 - (b) the establishment of, and the manner of keeping, a register to be signed by members under the age of 18 years each time they use the premises of the club under the approval and by each adult supervising them, 25
 - (c) the steps that the club must take to ensure that liquor is not sold or supplied to persons under the age of 18 years using the premises of the club under the approval,
 - (d) the steps that the club must take to ensure that poker machines are not used by persons under the age of 18 years using the premises of the club under the approval. 30
- (7) In addition to the conditions imposed on an approval by the Licensing Court under subsection (1), the approval is subject to the following conditions: 35

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- (a) a condition that tobacco vending machines must be unable to be operated while members under the age of 18 years are using the premises of the club under the approval,
- (b) any conditions prescribed by the regulations for the purposes of this section, 5
- (c) any other conditions, not inconsistent with a condition in paragraph (a) or (b), that the Licensing Court thinks appropriate to impose when granting the approval. 10
- (8) A registered club and the secretary of the registered club are each guilty of an offence if any conditions of an approval under this section held by the club are contravened.
- Maximum penalty: 20 penalty units in the case of a registered club and 10 penalty units in the case of the secretary. 15
- (9) The Licensing Court may revoke or vary a condition of an approval imposed by it:
- (a) at any time on the application of the holder of the approval, the Director, the Commissioner of Police or a person authorised by the local council within the boundaries of which the premises of the club are situated, or 20
- (b) of its own motion or on the hearing of any matter relating to the approval. 25
- [4] Section 23 Functions on club premises**
Omit section 23 (3) (c) and (d).
- [5] Section 23 (4) and (4A)**
Omit subsection (4). Insert instead: 30
- (4) Nothing in this section requires a functions authority to be obtained in relation to a use of the premises of a club that does not contravene another provision of this Act.

(4A) A functions authority does not authorise the holding of a function in contravention of a requirement made by or under any other Act.

[6] Section 23A Procedure for grant of a functions authority

Omit "and may be granted subject to such conditions as the Court thinks appropriate (including conditions that limit the number of functions that may be held under the authority during any particular period)" from section 23A (3) (b). 5

[7] Section 23A (5)

Omit the subsection. 10

[8] Section 23AA

Insert after section 23A:

23AA Conditions of functions authority

- (1) When granting a functions authority to authorise the holding of functions for persons under the age of 18 years, the Licensing Court must impose conditions on the authority relating to the following: 15
- (a) the required level of adult supervision of persons under the age of 18 years using a part of the premises of the club in accordance with the authority, 20
 - (b) the steps that the club must take to ensure that persons under the age of 18 years attending or departing from a function held under the authority do not disturb the quiet and good order of the surrounding neighbourhood, 25
 - (c) the steps that the club must take to enable the safe conduct of persons under the age of 18 years in the vicinity of the premises of the club when they are attending or departing from a function held in accordance with the authority. 30

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- (2) In addition to any conditions required to be imposed on a functions authority under subsection (1), a functions authority is subject to the following conditions:
- (a) a condition that no poker machine is to be located in any function area or access area specified in a functions authority held by the club while a function is being held under the authority, 5
 - (b) a condition that liquor must not be sold, supplied, disposed of or consumed in any function area or access area specified in a functions authority while a function associated with the celebration of Christmas is being held under the authority, 10
 - (c) a condition that liquor must not be sold, supplied, disposed of or consumed in any function area or access area specified in a functions authority while a function for persons under 18 years of age is being held under the authority, 15
 - (d) a condition that no tobacco vending machine is to be located in any function area or access area specified in a functions authority while a function is being held under the authority, 20
 - (e) a condition that a record must be kept at the club (in a form approved by the Board) of each function held at the club under the functions authority specifying details of the approval of the governing body of the club for the holding of the function, the date on which and the times during which it was held and the name of any person or body on whose behalf it was held, 25
 - (f) any conditions prescribed by the regulations for the purposes of this section, 30
 - (g) any other conditions, not inconsistent with a condition in paragraphs (a)–(f), that the Licensing Court thinks appropriate to impose when granting the functions authority (including conditions that limit the number of functions that may be held under the authority during any particular period). 35

- (3) The Licensing Court may revoke or vary a condition of a functions authority imposed by it:
- (a) at any time on the application of the holder of the authority, the Director, the Commissioner of Police or a person authorised by the local council within the boundaries of which the premises of the club are situated, or 5
 - (b) of its own motion or on the hearing of any matter relating to the authority.
- [9] Section 23B Complaints relating to functions authority** 10
- Insert after section 23B (3) (a):
- (a1) suspend the club's functions authority,
- [10] Section 25 Grounds of objection**
- Insert “, 22A” after “section 22 (1)” in section 25 (6).
- [11] Section 30 Rules of registered clubs** 15
- Omit section 30 (2) (e). Insert instead:
- (e) A person under the age of 18 years must not be admitted as a member of the club unless the purpose of membership is to enable the person to take part in regular sporting activities organised by the club. 20
- [12] Section 43 Definitions**
- Insert at the end of paragraph (b) of the definition of *bar* in section 43:
- , or 25
 - (c) a part of the premises of the club in respect of which an approval under section 22A is in force whenever it operates to authorise the use of that part of the premises by a member of a registered club under the age of 18 years. 30

[13] Schedule 2 Transitional provisions

Insert "*Liquor and Registered Clubs Legislation Amendment (Minors' Entertainment) Act 1996*" at the end of clause 1A (1).

[14] Schedule 2 Part 10

Insert at the end of Schedule 2:

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**Part 10 Liquor and Registered Clubs Legislation
Amendment (Minors' Entertainment) Act
1996**

63 Authorisation for use of premises by minors

A functions authority in force immediately before the commencement of Schedule 2 [8] to the *Liquor and Registered Clubs Legislation Amendment (Minors' Entertainment) Act 1996*: 10

(a) ceases to have effect at the end of the period of 12 months from that commencement unless sooner cancelled or a replacement functions authority is granted, and 15

(b) is, during that 12-month period, subject only to the conditions which applied to it immediately before that commencement, unless those conditions are varied or revoked in accordance with this Act or new conditions are imposed by the Licensing Court in complaint proceedings under this Act. 20

64 References to local council

(1) A reference in section 22A (9) (a) or 23AA (3) (a) to a person authorised by the council of the area under the *Local Government Act 1993* within the boundaries of which the premises of the club are situated is to be read as a reference to a person authorised by the local consent authority in relation to the premises of the club. 25
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Schedule 2 Amendment of Registered Clubs Act 1976

- (2) This clause operates:
- (a) on and from the commencement of section 23AA if Schedule 2 [3] to the *Liquor and Registered Clubs Legislation Amendment Act 1996* has commenced before the commencement of section 23AA (3), or 5
 - (b) on and from the commencement of Schedule 2 [3] to the *Liquor and Registered Clubs Legislation Amendment Act 1996* if that item commences on or after the commencement of section 23AA (3). 10



New South Wales

Liquor and Registered Clubs Legislation Amendment (Minors' Entertainment) Act 1996 No 43

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New South Wales

Liquor and Registered Clubs Legislation Amendment (Minors' Entertainment) Act 1996 No 43

Act No 43, 1996

An Act to amend the *Liquor Act 1982* and the *Registered Clubs Act 1976* to make further provision with respect to entertainment for persons under 18 years of age; and for other purposes. [Assented to 27 June 1996]

The Legislature of New South Wales enacts:

1 Name of Act

This Act is the *Liquor and Registered Clubs Legislation Amendment (Minors' Entertainment) Act 1996*.

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

(Section 3)

[1] Section 4 Definitions

Insert in alphabetical order in section 4 (1):

minors functions authority means a minors functions authority referred to in section 111A.

[2] Section 4 (1)

Insert "a minors functions authority or" before "an authorisation" in paragraph (b) of the definition of *restricted area*.

[3] Section 45 Grounds of objection

After section 45 (5), insert:

- (6) Objection to the granting of an application for a minors functions authority may be taken:
 - (a) on the ground that any part of the licensed premises in which liquor is ordinarily sold, supplied or disposed of or consumed or in which approved amusement devices are ordinarily kept is not capable of being physically separated from the proposed function areas or access areas to be designated by the functions authority in accordance with section 111A, or
 - (b) on the ground that the sanitary conveniences on the licensed premises are not adequate or are not suitably located for use by persons attending the function areas, or
 - (c) on the ground that any part of the licensed premises in which liquor is ordinarily sold, supplied or disposed of or consumed or in which approved amusement devices are ordinarily kept is not capable of being physically separated from the part of the premises through or by means of which it would be necessary for a person attending such a function to pass in order to access any sanitary conveniences provided, or
 - (d) on any other ground.

[4] Section 69 Disciplinary powers of court

Insert "or a minors functions authority held by the licensee" after "licence" wherever occurring in section 69 (1) (c), (d) and (e).

[5] Part 7A, Division 1

Insert after the heading to Part 7A:

Division 1 Functions for minors on licensed premises

111A Functions for minors on licensed premises

- (1) The court may grant an authority (a *minors functions authority*) to the holder of a hotelier's licence to permit persons who are under the age of 18 years to attend a function or functions in a specified part of the licensed premises.
- (2) A minors functions authority is to designate function areas (that is, each part of the licensed premises on which the functions concerned are permitted to be held) and access areas (that is, each part of the licensed premises through or by means of which minors attending those functions are to be permitted to obtain entry to or to depart from a function area).
- (3) A licensee is guilty of an offence if any conditions of a minors functions authority held by the licensee are contravened.

Maximum penalty: 20 penalty units.

- (4) Nothing in this section requires a minors functions authority to be obtained in relation to a use of licensed premises that does not contravene another provision of this Act.
- (5) A minors functions authority does not authorise the holding of a function in contravention of a requirement made by or under any other Act.
- (6) In this section, the meaning of *function* includes, but is not limited to, the meaning of function given in section 4 (1).

111B Procedure for grant of minors functions authority

- (1) The holder of a hotelier's licence may apply to the court for a minors functions authority.
- (2) An application is made by delivering it to the registrar. Notice of the application is to be given by the registrar to the Commissioner of Police and the application is not to be dealt with until that notice has been given.
- (3) The application is to be dealt with as follows:
 - (a) the jurisdiction of the court to grant the application may be exercised by the Principal Registrar if there is no objection to its grant,
 - (b) the application may be granted for a fixed period or for an indefinite period,
 - (c) the grant of the application is to be notified to the member of the Police Service who is prescribed by the regulations as the appropriate member of the Police Service for the purposes of this section.
- (4) The fee prescribed by the regulations is payable for the issue of a minors functions authority and on or before 15 January in each calendar year following the calendar year of its issue while the authority is in force. The authority is cancelled if the fee is not paid within 2 months after the last day for payment.

111C Conditions of minors functions authority

- (1) When granting a minors functions authority, the court must impose conditions on the authority relating to the following:
 - (a) the required level of adult supervision of minors using a part of licensed premises in accordance with the authority,
 - (b) the steps that the licensee must take to ensure that minors attending or departing from a function held under the authority do not disturb the quiet and good order of the neighbourhood in which the licensed premises are situated,

Schedule 1 Amendment of Liquor Act 1982

- (c) the steps that the licensee must take to enable the safe conduct of minors in the vicinity of the licensed premises when they are attending or departing from a function held under the authority.
- (2) In addition to any conditions required to be imposed on a minors functions authority under subsection (1), a minors functions authority is subject to the following conditions:
- (a) a condition that no approved amusement device is to be located in any function area or access area specified in a minors functions authority held by the licensee while a function is being held under the authority,
 - (b) a condition that liquor must not be sold, supplied, disposed of or consumed in any function area or access area specified in a minors functions authority held by the licensee while a function is being held under the authority,
 - (c) a condition that no tobacco vending machine is to be located in any function area or access area specified in a minors functions authority while a function is being held under the authority,
 - (d) any conditions prescribed by the regulations for the purposes of this section,
 - (e) any other conditions, not inconsistent with a condition in paragraphs (a)–(d), that the court thinks appropriate to impose when granting the authority (including conditions that limit the number of functions that may be held under the authority during any particular period).
- (3) The court may revoke or vary a condition of a minors functions authority imposed by it:
- (a) at any time on the application of the holder of the authority, the Director, the Commissioner of Police or a person authorised by the local council within the boundaries of which the licensed premises are situated, or
 - (b) of its own motion or on the hearing of any matter relating to the authority.

111D Complaints relating to minors functions authority

- (1) A complaint may be made against a licensee by the Commissioner of Police, the Director or a person authorised by the local council within the boundaries of which the licensed premises are situated, on any one or more of the following grounds:
 - (a) the quiet and good order of the neighbourhood in which the licensed premises are situated will be unduly disturbed if a minors functions authority held by the licensee continues in force,
 - (b) the licensee has been convicted of an offence under section 111A,
 - (c) any condition of a minors functions authority held by the licensee has been contravened, whether or not the licensee has been convicted of an offence in respect of that contravention.
- (2) A licensing magistrate or the Principal Registrar may on a complaint made under this section issue a summons calling on a licensee to show cause why the minors functions authority held by the licensee should not be cancelled.
- (3) The court constituted as provided by section 9 (1) (a) or (b) is to hear and determine the matter of the complaint and may do any one or more of the following:
 - (a) cancel the minors functions authority,
 - (b) suspend the minors functions authority,
 - (c) order the licensee to pay a penalty not exceeding 50 penalty units within such time as may be specified in the order,
 - (d) subject the minors functions authority to a specified condition,
 - (e) dismiss the complaint.
- (4) The court is not to hear and determine the matter earlier than 10 days after the summons issued on the complaint is served on the licensee.

- (5) Section 12 (2) does not apply to or in respect of proceedings before the court in relation to the matter of a complaint under this section.
- (6) A licensee may surrender the minors functions authority held by the licensee by giving notice of surrender to the Board.
- (7) So long as any amount ordered to be paid by a licensee under this section remains unpaid after the time ordered for payment, the minors functions authority held by the licensee is suspended.

111E Fees for certain applications

An application under this Division delivered to the registrar must not be granted unless it is accompanied by the appropriate prescribed fee, if any.

[6] Section 112 Authority for use of part of premises by minor in company of responsible adult

Omit section 112 (1) and (2). Insert instead:

- (1) The Board may, on the application of the licensee or the Commissioner of Police, and subject to any conditions that the Board or the Commissioner imposes, authorise the use by a minor in the company of a responsible adult of a part of the premises to which a hotelier's licence relates.

[7] Section 112 (3) and (4)

Omit the subsections. Insert instead:

- (3) A minors functions authority and an authorisation under subsection (1) may be granted in respect of the same part of premises.
- (4) If a minors functions authority is operating to permit the use by a minor of a part of premises, any authorisation under subsection (1) has no operation to the extent that it applies to that part of the premises.

[8] Section 112 (7)

Omit the subsection.

[9] Part 7A, Division 2, heading

Insert after section 112:

Division 2 Offences relating to minors

[10] Section 114 Sale or supply of liquor to a minor

Insert “, in any place whether or not licensed premises,” after “not” in section 114 (1).

[11] Section 116A Offences by minors in hotels and late-trading restaurants

Omit “section 112 (1) (a)” from section 116A (2).
Insert instead “section 112”.

[12] Section 116A (3)

Omit “an authorisation under section 112 (1) (b)”.
Insert instead “a minors functions authority under section 111A”.

[13] Section 116B Offences by licensees in relation to minors

Omit “section 112 (1) (a)” from section 116B (1) (b).
Insert instead “section 112”.

[14] Section 116B (4)

Omit the subsection.

[15] Schedule 1 Savings and transitional provisions

Insert “*Liquor and Registered Clubs Legislation Amendment (Minors' Entertainment) Act 1996*” at the end of clause 1 (1).

[16] Schedule 1 Part 7

Insert at the end of Schedule 1:

**Part 7 Liquor and Registered Clubs Legislation
Amendment (Minors' Entertainment)
Act 1996**

37 Authorisation for use of premises by minors

- (1) An authorisation in force under section 112 (1) (a) immediately before the commencement of Schedule 1 [6] to the *Liquor and Registered Clubs Legislation Amendment (Minors' Entertainment) Act 1996* is taken to be an authorisation under section 112 on and from that commencement.
- (2) An authorisation under section 112 (1) (b) in force immediately before the commencement of Schedule 1 [6] to the *Liquor and Registered Clubs Legislation Amendment (Minors' Entertainment) Act 1996* continues in force for the period, or date or dates, for which it was granted and this Act continues to apply to such an authorisation as if it had not been amended by that Act.

38 References to local council

- (1) A reference in section 111C (3) (a) or 111D (1) to a person authorised by the local council within the boundaries of which the licensed premises are situated is to be read as a reference to a person authorised by the local consent authority in relation to the licensed premises.
- (2) This clause operates:
 - (a) on and from the commencement of section 111C if Schedule 1 [3] to the *Liquor and Registered Clubs Legislation Amendment Act 1996* has commenced before the commencement of section 111C, or
 - (b) on and from the commencement of Schedule 1 [3] to the *Liquor and Registered Clubs Legislation Amendment Act 1996* if that item commences on or after the commencement of section 111C.

Schedule 2 Amendment of Registered Clubs Act 1976

(Section 4)

[1] Section 4 Definitions

Insert in alphabetical order in section 4 (1):

sporting activities includes athletics.

[2] Section 17 Determination of complaints against registered clubs

Insert "or an approval under section 22A relating to the premises of the club" after "functions authority of the club" wherever occurring in section 17 (2) (a), (b) or (d).

[3] Section 22A

Insert after section 22:

22A Access to club premises by junior members

- (1) The Licensing Court may grant approval to a registered club to allow members of the club who are under the age of 18 years access to areas of the club premises that would otherwise be restricted, but only if:
 - (a) the approval is for the purpose of taking part in sporting activities or a prize-giving ceremony associated with sporting activities, and
 - (b) the Licensing Court is satisfied that because of the size of the club premises it is impractical for the club to designate an area of the club premises as a non-restricted area for the purposes of an authority under section 22.
- (2) An application for approval may be made to the Licensing Court by or on behalf of a registered club.

Schedule 2 Amendment of Registered Clubs Act 1976

- (3) An application is made by delivering to the registrar:
 - (a) the application, and a copy of the application, signed by the secretary of the club, and
 - (b) a plan of the premises of the club in a form approved by the Licensing Court.
- (4) The Licensing Court is not to deal with an application for approval until after the end of the period of 7 days commencing on and from the day the application was made.
- (5) An approval may be revoked by the Licensing Court at any time on an application made by:
 - (a) the club to which the approval was granted, or
 - (b) the Director, or
 - (c) the Commissioner of Police.
- (6) When granting an approval, the Licensing Court must impose conditions on the approval relating to the following:
 - (a) the required level of adult supervision of members under the age of 18 years using the premises of the club under the approval,
 - (b) the establishment of, and the manner of keeping, a register to be signed by members under the age of 18 years each time they use the premises of the club under the approval and by each adult supervising them,
 - (c) the steps that the club must take to ensure that liquor is not sold or supplied to persons under the age of 18 years using the premises of the club under the approval,
 - (d) the steps that the club must take to ensure that poker machines are not used by persons under the age of 18 years using the premises of the club under the approval.
- (7) In addition to the conditions imposed on an approval by the Licensing Court under subsection (1), the approval is subject to the following conditions:

-
- (a) a condition that tobacco vending machines must be unable to be operated while members under the age of 18 years are using the premises of the club under the approval,
 - (b) any conditions prescribed by the regulations for the purposes of this section,
 - (c) any other conditions, not inconsistent with a condition in paragraph (a) or (b), that the Licensing Court thinks appropriate to impose when granting the approval.
- (8) A registered club and the secretary of the registered club are each guilty of an offence if any conditions of an approval under this section held by the club are contravened.

Maximum penalty: 20 penalty units in the case of a registered club and 10 penalty units in the case of the secretary.

- (9) The Licensing Court may revoke or vary a condition of an approval imposed by it:
- (a) at any time on the application of the holder of the approval, the Director, the Commissioner of Police or a person authorised by the local council within the boundaries of which the premises of the club are situated, or
 - (b) of its own motion or on the hearing of any matter relating to the approval.

[4] Section 23 Functions on club premises

Omit section 23 (3) (c) and (d).

[5] Section 23 (4) and (4A)

Omit subsection (4). Insert instead:

- (4) Nothing in this section requires a functions authority to be obtained in relation to a use of the premises of a club that does not contravene another provision of this Act.

- (4A) A functions authority does not authorise the holding of a function in contravention of a requirement made by or under any other Act.

[6] Section 23A Procedure for grant of a functions authority

Omit "and may be granted subject to such conditions as the Court thinks appropriate (including conditions that limit the number of functions that may be held under the authority during any particular period)" from section 23A (3) (b).

[7] Section 23A (5)

Omit the subsection.

[8] Section 23AA

Insert after section 23A:

23AA Conditions of functions authority

- (1) When granting a functions authority to authorise the holding of functions for persons under the age of 18 years, the Licensing Court must impose conditions on the authority relating to the following:
- (a) the required level of adult supervision of persons under the age of 18 years using a part of the premises of the club in accordance with the authority,
 - (b) the steps that the club must take to ensure that persons under the age of 18 years attending or departing from a function held under the authority do not disturb the quiet and good order of the surrounding neighbourhood,
 - (c) the steps that the club must take to enable the safe conduct of persons under the age of 18 years in the vicinity of the premises of the club when they are attending or departing from a function held in accordance with the authority.

- (2) In addition to any conditions required to be imposed on a functions authority under subsection (1), a functions authority is subject to the following conditions:
- (a) a condition that no poker machine is to be located in any function area or access area specified in a functions authority held by the club while a function is being held under the authority,
 - (b) a condition that liquor must not be sold, supplied, disposed of or consumed in any function area or access area specified in a functions authority while a function associated with the celebration of Christmas is being held under the authority,
 - (c) a condition that liquor must not be sold, supplied, disposed of or consumed in any function area or access area specified in a functions authority while a function for persons under 18 years of age is being held under the authority,
 - (d) a condition that no tobacco vending machine is to be located in any function area or access area specified in a functions authority while a function is being held under the authority,
 - (e) a condition that a record must be kept at the club (in a form approved by the Board) of each function held at the club under the functions authority specifying details of the approval of the governing body of the club for the holding of the function, the date on which and the times during which it was held and the name of any person or body on whose behalf it was held,
 - (f) any conditions prescribed by the regulations for the purposes of this section,
 - (g) any other conditions, not inconsistent with a condition in paragraphs (a)–(f), that the Licensing Court thinks appropriate to impose when granting the functions authority (including conditions that limit the number of functions that may be held under the authority during any particular period).

Schedule 2 Amendment of Registered Clubs Act 1976

- (3) The Licensing Court may revoke or vary a condition of a functions authority imposed by it:
- (a) at any time on the application of the holder of the authority, the Director, the Commissioner of Police or a person authorised by the local council within the boundaries of which the premises of the club are situated, or
 - (b) of its own motion or on the hearing of any matter relating to the authority.

[9] Section 23B Complaints relating to functions authority

Insert after section 23B (3) (a):

- (a1) suspend the club's functions authority,

[10] Section 25 Grounds of objection

Insert “, 22A” after “section 22 (1)” in section 25 (6).

[11] Section 30 Rules of registered clubs

Omit section 30 (2) (e). Insert instead:

- (e) A person under the age of 18 years must not be admitted as a member of the club unless the purpose of membership is to enable the person to take part in regular sporting activities organised by the club.

[12] Section 43 Definitions

Insert at the end of paragraph (b) of the definition of *bar* in section 43:

, or

- (c) a part of the premises of the club in respect of which an approval under section 22A is in force whenever it operates to authorise the use of that part of the premises by a member of a registered club under the age of 18 years.

[13] Schedule 2 Transitional provisions

Insert "*Liquor and Registered Clubs Legislation Amendment (Minors' Entertainment) Act 1996*" at the end of clause 1A (1).

[14] Schedule 2 Part 10

Insert at the end of Schedule 2:

**Part 10 Liquor and Registered Clubs Legislation
Amendment (Minors' Entertainment) Act
1996**

63 Authorisation for use of premises by minors

A functions authority in force immediately before the commencement of Schedule 2 [8] to the *Liquor and Registered Clubs Legislation Amendment (Minors' Entertainment) Act 1996*:

- (a) ceases to have effect at the end of the period of 12 months from that commencement unless sooner cancelled or a replacement functions authority is granted, and
- (b) is, during that 12-month period, subject only to the conditions which applied to it immediately before that commencement, unless those conditions are varied or revoked in accordance with this Act or new conditions are imposed by the Licensing Court in complaint proceedings under this Act.

64 References to local council

- (1) A reference in section 22A (9) (a) or 23AA (3) (a) to a person authorised by the council of the area under the *Local Government Act 1993* within the boundaries of which the premises of the club are situated is to be read as a reference to a person authorised by the local consent authority in relation to the premises of the club.

Schedule 2 Amendment of Registered Clubs Act 1976

- (2) This clause operates:
- (a) on and from the commencement of section 23AA if Schedule 2 [3] to the *Liquor and Registered Clubs Legislation Amendment Act 1996* has commenced before the commencement of section 23AA (3), or
 - (b) on and from the commencement of Schedule 2 [3] to the *Liquor and Registered Clubs Legislation Amendment Act 1996* if that item commences on or after the commencement of section 23AA (3).

[Minister's second reading speech made in—
Legislative Assembly on 29 May 1996
Legislative Council on 25 June 1996]