

First print



New South Wales

Registered Clubs and Liquor Legislation Amendment Bill 1997

Explanatory note

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

Overview of Bill

The object of this Bill is to amend the *Registered Clubs Act 1976* and the *Liquor Act 1982* for the following purposes:

- to enable the members of the governing bodies of registered clubs (ie the directors) to be elected for 2 year terms as an alternative to the current rules that provide for annual elections or for elections on a triennial basis,
 - to allow proxy voting at elections of the directors of registered clubs that are also racing clubs,
 - to enable regulations to be made with respect to the conduct of elections of the directors of registered clubs,
 - to require persons who are authorised to gain access to sensitive areas (eg the computer cabinet) of gaming machines to replace any seal that is broken while gaining such access,
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Explanatory note

- to enable licensed gaming machine technicians to remove the compliance plate from gaming machines in certain limited circumstances,
- to remove an anomaly that requires licensed nightclubs to cease trading on New Year's Eve one hour earlier than they are otherwise allowed to trade,
- to make a number of miscellaneous amendments to clarify and improve the operation of the legislation.

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 *Registered Clubs Act 1976* set out in Schedules 1 and 2.

Clause 4 is a formal provision giving effect to the amendments to the *Liquor Act 1982* set out in Schedule 3.

Schedule 1 Amendments to Registered Clubs Act 1976 relating to election of members of governing bodies

At present under the Act, the rules of each registered club are taken to include the rule that the directors are to be elected annually or, if a rule of the club so provides, in accordance with Schedule 4 to the Act (ie on a triennial basis). **Schedule 1 [1]** will enable the directors of a registered club to be elected on a biennial basis (ie 2 year terms of office) if the rules of the club so provide.

Schedule 1 [2] enables proxy voting at elections of the directors of registered clubs that are also racing clubs. These clubs often have a geographically diverse membership base (unlike most other registered clubs which have a more local membership base) and rely on the proxy voting method to ensure that elections are properly representative of the members who are entitled to vote.

Schedule 1 [3] enables regulations to be made with respect to the conduct of elections of the directors of registered clubs. This will ensure that consistent procedures and standards can be prescribed in relation to the conduct of such elections.

Schedule 2 Miscellaneous amendments to Registered Clubs Act 1976

Schedule 2 [1] and **[3]** recast the general defence provision available to secretaries of registered clubs to clarify the operation of that provision and to provide that the defence is not available with respect to the offence under section 44A of the Act relating to the secretary of a registered club permitting intoxication on club premises.

Schedule 2 [2] makes it clear that the prohibition under section 54B of the Act on gaming in registered clubs does not apply in relation to any lawful gaming or wagering activity that is not otherwise prohibited on the club premises.

Schedule 2 [4] requires specially authorised persons (eg inspectors and licensed poker machine technicians) who are authorised to do certain things in relation to poker machines (eg to break seals securing a computer cabinet) to replace any such seal if it is broken while doing anything that the person is authorised to do.

Schedule 2 [6] provides that a licensed poker machine technician does not commit an offence under section 82D of the Act with respect to the removing or altering of, or interference with, the compliance plate on a poker machine in certain circumstances (such as where it is necessary to remove the plate because it is damaged). **Schedule 2 [5]** and **[7]** are consequential amendments.

Schedule 2 [8] enables regulations to be made of a savings or transitional nature as a consequence of the enactment of the proposed Act.

Schedule 3 Amendment of Liquor Act 1982

At present under section 35C (2) of the Act, licensed nightclubs are allowed to trade until 3 am Mondays to Saturdays, but trading on Sundays is limited to midnight. However, because that section provides that the nightclub may on 31 December, trade only until 2 am, nightclubs are required to cease trading one hour earlier on New Year's Eve than they would ordinarily be allowed to trade. **Schedule 3 [1]** overcomes this anomaly by providing that the 2 am closure on New Year's Eve only applies if 31 December happens to be a Sunday.

Section 86KA requires hoteliers to pay quarterly instalments of duty in respect of approved amusement devices. **Schedule 3 [2]** makes it clear that the person liable to pay the instalment for a particular quarter is the person who holds the hotelier's licence at the end of that quarter.

Schedule 3 [3] modifies a reference to the name of a certain type of licence.

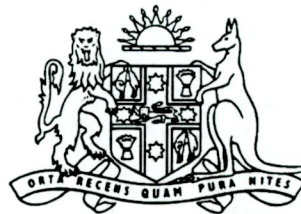
Schedule 3 [4] makes it clear that the prohibition under section 126 of the Act with respect to gaming on licensed premises does not apply in relation to any lawful gaming or wagering activity that is not otherwise prohibited on such premises.

Schedule 3 [5] makes it clear that the requirement for a hotelier to provide a gaming room if the hotelier is authorised to have more than 10 gaming machines applies regardless of the operational status of the gaming machines that are kept, used or operated by the hotelier.

Schedule 3 [6] requires specially authorised persons (eg inspectors and licensed amusement device technicians) who are authorised to do certain things in relation to approved amusement devices (eg to break seals securing a computer cabinet) to replace any such seal if it is broken while doing anything that the person is authorised to do.

Schedule 3 [8] provides that a licensed amusement device technician does not commit an offence under section 195 of the Act with respect to the removing or altering of, or interference with, the compliance plate on an approved amusement device in certain circumstances (such as where it is necessary to remove the plate because it is damaged). **Schedule 3 [7]** and **[9]** are consequential amendments.

Schedule 3 [10] enables regulations to be made of a savings or transitional nature as a consequence of the enactment of the proposed Act.



New South Wales

Registered Clubs and Liquor Legislation Amendment Bill 1997

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New South Wales

Registered Clubs and Liquor Legislation Amendment Bill 1997

No. , 1997

A Bill for

An Act to amend the *Registered Clubs Act 1976* to make further provision with respect to the election of governing bodies of registered clubs, and with respect to administrative and machinery matters; to amend the *Liquor Act 1982* with respect to administrative and machinery matters; and for other purposes.

The Legislature of New South Wales enacts:

1 Name of Act

This Act is the *Registered Clubs and Liquor Legislation Amendment Act 1997*.

2 Commencement

5

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

3 Amendment of Registered Clubs Act 1976 No 31

The *Registered Clubs Act 1976* is amended as set out in Schedules 1 and 2.

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4 Amendment of Liquor Act 1982 No 147

The *Liquor Act 1982* is amended as set out in Schedule 3.

Schedule 1 Amendments to Registered Clubs Act 1976 relating to election of members of governing bodies

(Section 3)

- [1] Section 30 Rules of registered clubs** 5
- Omit section 30 (1) (a). Insert instead:
- (a) The governing body of the club responsible for the management of the business and affairs of the club is to be elected:
 - (i) annually, or 10
 - (ii) if a rule of the club so provides—biennially, or
 - (iii) if a rule of the club so provides—in accordance with Schedule 4, 15at an election in respect of which the full members only of the club are entitled to vote.
- [2] Section 30 (5A)**
- Insert after section 30 (5):
- (5A) Subsection (1) (d) (ii) does not apply in respect of a registered club that is: 20
 - (a) a race club registered or licensed by the AJC Principal Club, or
 - (b) a harness racing club registered by Harness Racing New South Wales, or
 - (c) a greyhound racing club registered by the Greyhound Racing Authority (NSW). 25
- [3] Section 73 Regulations**
- Insert at the end of section 73 (1) (m):
- , or
 - (n) any matter relating to the conduct of an election of the members of the governing body of a registered club. 30

**Schedule 2 Miscellaneous amendments to
Registered Clubs Act 1976**

(Section 3)

[1] Section 23 Functions on club premises

Insert after section 23 (3): 5

(3A) It is a sufficient defence to a prosecution of a secretary of a registered club for an offence under subsection (3) if it is proved that:

(a) the secretary had taken all reasonable precautions to avoid commission of the alleged offence, and 10

(b) at the time of the alleged offence the secretary did not know, and could not reasonably be expected to have known, that the alleged offence had been committed.

[2] Section 54B Gaming on club premises prohibited 15

Insert “, or any other lawful gaming or wagering activity,” after “1901” in section 54B (3).

[3] Section 56

Omit the section. Insert instead:

56 General defence available to secretary of registered club to prosecutions 20

(1) Except as provided by subsection (2), it is a sufficient defence to a prosecution of a secretary of a registered club for an offence under this Part if it is proved that:

(a) the secretary had taken all reasonable precautions to avoid commission of the alleged offence, and 25

(b) at the time of the alleged offence the secretary did not know, and could not reasonably be expected to have known, that the alleged offence had been committed. 30

-
- (2) Subsection (1) does not apply to:
- (a) an offence under section 44A (1) (a), and
 - (b) any other offence under this Part in respect of which a defence is specifically available to the secretary of a registered club. 5
- [4] Section 82D Protection of sensitive areas of poker machines**
- Insert after section 82D (1):
- (1A) A specially authorised person must, if the person breaks any seal in doing anything referred to in subsection (1), replace the seal. 10
- Maximum penalty: 100 penalty units.
- [5] Section 82D (2)**
- Omit "A person".
Insert instead "Except as provided by subsection (2A), a person".
- [6] Section 82D (2A)** 15
- Insert after section 82D (2):
- (2A) Subsection (2) does not prevent the holder of a technician's licence from doing any of the following things in relation to the compliance plate on a poker machine, so long as the machine is not operated at any time when the compliance plate is not attached to the machine: 20
- (a) moving the compliance plate to another part of the machine,
 - (b) removing the compliance plate if it is damaged, and replacing it with a new compliance plate, 25
 - (c) destroying any such damaged compliance plate,
 - (d) temporarily removing the compliance plate in order to enable work to be done to the facade of the machine. 30

Registered Clubs and Liquor Legislation Amendment Bill 1997

Schedule 2 Miscellaneous amendments to Registered Clubs Act 1976

[7] Section 82D (4)

Insert before the definition of *computer cabinet*:

compliance plate has the same meaning as in section 116D.

[8] Schedule 2 Transitional provisions

5

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

Registered Clubs and Liquor Legislation Amendment Act 1997

Schedule 3 Amendment of Liquor Act 1982

(Section 4)

[1] Section 35C Nightclub licence—trading hours

Omit section 35C (2) (d). Insert instead:

- (d) on a Sunday that is 31 December and is not a restricted trading day—from noon to 2 am on the following day (whether or not that following day is a restricted trading day). 5

[2] Section 86KA Payment by instalments

Omit section 86KA (2). Insert instead: 10

- (2) Quarterly instalments of duty are payable by a hotelier in respect of each instalment period. The liability to pay such an instalment lies with the hotelier who holds the licence concerned at the end of the instalment period.

[3] Section 117D Use of approved amusement device by minor prohibited 15

Omit “an approved” from section 117D (2). Insert instead “an”.

[4] Section 126 Gaming on licensed premises

Insert “, or any other lawful gaming or wagering activity,” after “1901” in section 126 (3). 20

[5] Section 161 Authority to keep approved gaming devices

Omit “used and operated” from section 161 (11).
Insert instead “kept, used or operated”.

- [6] Section 195 Protection of sensitive areas of approved amusement devices**
- Insert after section 195 (1):
- (1A) A specially authorised person must, if the person breaks any seal in doing anything referred to in subsection (1), replace the seal. 5
- Maximum penalty: 100 penalty units.
- [7] Section 195 (2)**
- Omit "A person".
Insert instead "Except as provided by subsection (2A), a person". 10
- [8] Section 195 (2A)**
- Insert after section 195 (2):
- (2A) Subsection (2) does not prevent the holder of an amusement device technician's licence from doing any of the following things in relation to the compliance plate on an approved amusement device, so long as the device is not operated at any time when the compliance plate is not attached to the device: 15
- (a) moving the compliance plate to another part of the device, 20
- (b) removing the compliance plate if it is damaged, and replacing it with a new compliance plate,
- (c) destroying any such damaged compliance plate,
- (d) temporarily removing the compliance plate in order to enable work to be done to the facade of the device. 25

[9] Section 195 (4)

Insert before the definition of *computer cabinet*:

compliance plate has the same meaning as in section 186.

[10] Schedule 1 Savings and transitional provisions

5

Insert at the end of clause 1 (1):

Registered Clubs and Liquor Legislation Amendment Act 1997



New South Wales

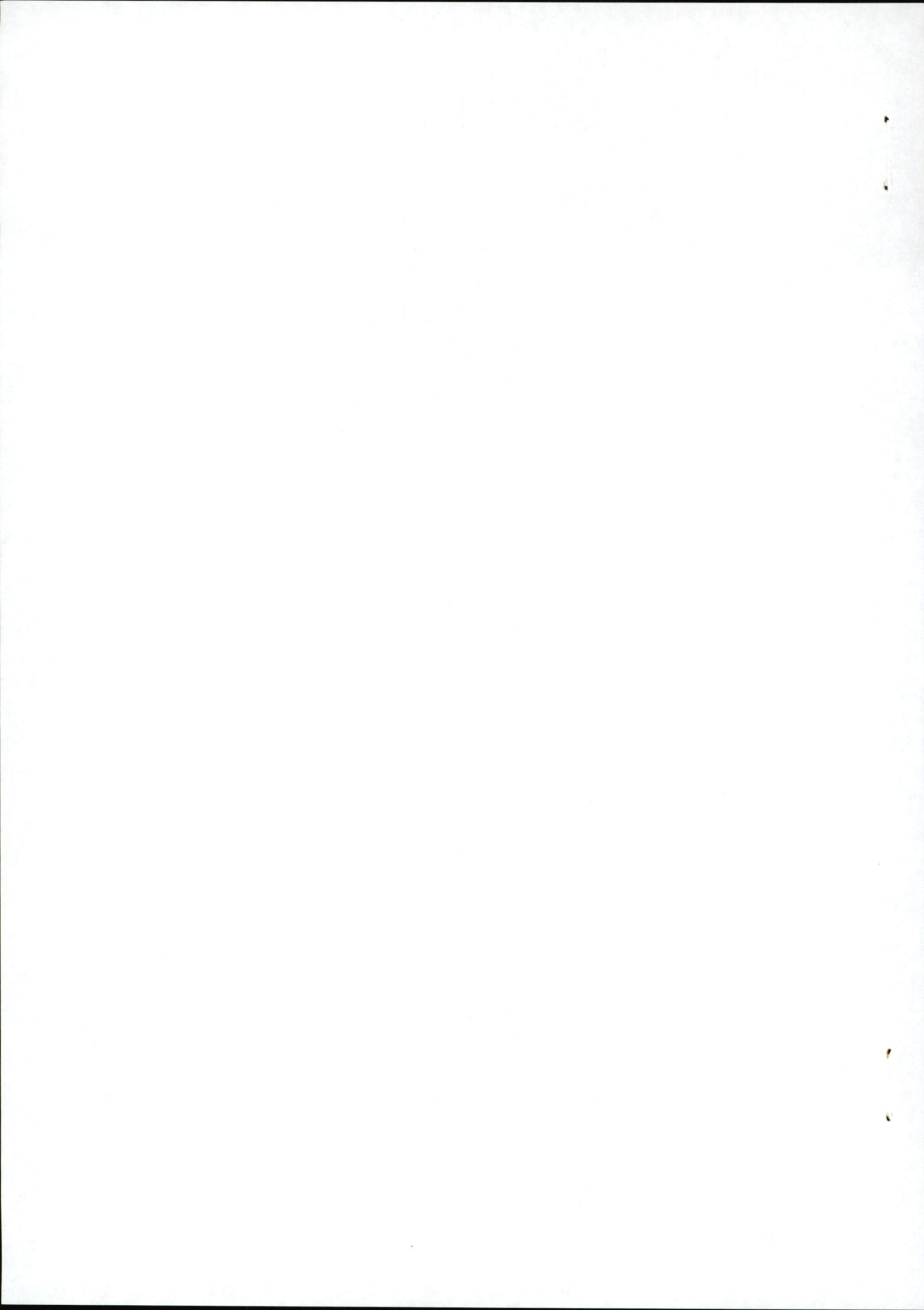
Registered Clubs and Liquor Legislation Amendment Act 1997 No 73

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New South Wales

Registered Clubs and Liquor Legislation Amendment Act 1997 No 73

Act No 73, 1997

An Act to amend the *Registered Clubs Act 1976* to make further provision with respect to the election of governing bodies of registered clubs, and with respect to administrative and machinery matters; to amend the *Liquor Act 1982* with respect to administrative and machinery matters; and for other purposes. [Assented to 10 July 1997]

The Legislature of New South Wales enacts:

1 Name of Act

This Act is the *Registered Clubs and Liquor Legislation Amendment Act 1997*.

2 Commencement

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

3 Amendment of Registered Clubs Act 1976 No 31

The *Registered Clubs Act 1976* is amended as set out in Schedules 1 and 2.

4 Amendment of Liquor Act 1982 No 147

The *Liquor Act 1982* is amended as set out in Schedule 3.

Schedule 1 Amendments to Registered Clubs Act 1976 relating to election of members of governing bodies

(Section 3)

[1] Section 30 Rules of registered clubs

Omit section 30 (1) (a). Insert instead:

- (a) The governing body of the club responsible for the management of the business and affairs of the club is to be elected:
 - (i) annually, or
 - (ii) if a rule of the club so provides—biennially, or
 - (iii) if a rule of the club so provides—in accordance with Schedule 4,at an election in respect of which the full members only of the club are entitled to vote.

[2] Section 30 (5A)

Insert after section 30 (5):

- (5A) Subsection (1) (d) (ii) does not apply in respect of a registered club that is:
 - (a) a race club registered or licensed by the AJC Principal Club, or
 - (b) a harness racing club registered by Harness Racing New South Wales, or
 - (c) a greyhound racing club registered by the Greyhound Racing Authority (NSW).

[3] Section 73 Regulations

Insert at the end of section 73 (1) (m):

- , or
- (n) any matter relating to the conduct of an election of the members of the governing body of a registered club.

Schedule 2 Miscellaneous amendments to Registered Clubs Act 1976

(Section 3)

[1] Section 23 Functions on club premises

Insert after section 23 (3):

- (3A) It is a sufficient defence to a prosecution of a secretary of a registered club for an offence under subsection (3) if it is proved that:
- (a) the secretary had taken all reasonable precautions to avoid commission of the alleged offence, and
 - (b) at the time of the alleged offence the secretary did not know, and could not reasonably be expected to have known, that the alleged offence had been committed.

[2] Section 54B Gaming on club premises prohibited

Insert “, or any other lawful gaming or wagering activity,” after “1901” in section 54B (3).

[3] Section 56

Omit the section. Insert instead:

56 General defence available to secretary of registered club to prosecutions

- (1) Except as provided by subsection (2), it is a sufficient defence to a prosecution of a secretary of a registered club for an offence under this Part if it is proved that:
- (a) the secretary had taken all reasonable precautions to avoid commission of the alleged offence, and
 - (b) at the time of the alleged offence the secretary did not know, and could not reasonably be expected to have known, that the alleged offence had been committed.

- (2) Subsection (1) does not apply to:
- (a) an offence under section 44A (1) (a), and
 - (b) any other offence under this Part in respect of which a defence is specifically available to the secretary of a registered club.

[4] Section 82D Protection of sensitive areas of poker machines

Insert after section 82D (1):

- (1A) A specially authorised person must, if the person breaks any seal in doing anything referred to in subsection (1), replace the seal.

Maximum penalty: 100 penalty units.

[5] Section 82D (2)

Omit "A person".

Insert instead "Except as provided by subsection (2A), a person".

[6] Section 82D (2A)

Insert after section 82D (2):

- (2A) Subsection (2) does not prevent the holder of a technician's licence from doing any of the following things in relation to the compliance plate on a poker machine, so long as the machine is not operated at any time when the compliance plate is not attached to the machine:

- (a) moving the compliance plate to another part of the machine,
- (b) removing the compliance plate if it is damaged, and replacing it with a new compliance plate,
- (c) destroying any such damaged compliance plate,
- (d) temporarily removing the compliance plate in order to enable work to be done to the facade of the machine.

[7] Section 82D (4)

Insert before the definition of *computer cabinet*:

compliance plate has the same meaning as in section 116D.

[8] Schedule 2 Transitional provisions

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

Registered Clubs and Liquor Legislation Amendment Act 1997

Schedule 3 Amendment of Liquor Act 1982

(Section 4)

[1] Section 35C Nightclub licence—trading hours

Omit section 35C (2) (d). Insert instead:

- (d) on a Sunday that is 31 December and is not a restricted trading day—from noon to 2 am on the following day (whether or not that following day is a restricted trading day).

[2] Section 86KA Payment by instalments

Omit section 86KA (2). Insert instead:

- (2) Quarterly instalments of duty are payable by a hotelier in respect of each instalment period. The liability to pay such an instalment lies with the hotelier who holds the licence concerned at the end of the instalment period.

[3] Section 117D Use of approved amusement device by minor prohibited

Omit “an approved” from section 117D (2). Insert instead “an”.

[4] Section 126 Gaming on licensed premises

Insert “, or any other lawful gaming or wagering activity,” after “1901” in section 126 (3).

[5] Section 161 Authority to keep approved gaming devices

Omit “used and operated” from section 161 (11).
Insert instead “kept, used or operated”.

[6] Section 195 Protection of sensitive areas of approved amusement devices

Insert after section 195 (1):

- (1A) A specially authorised person must, if the person breaks any seal in doing anything referred to in subsection (1), replace the seal.

Maximum penalty: 100 penalty units.

[7] Section 195 (2)

Omit "A person".

Insert instead "Except as provided by subsection (2A), a person".

[8] Section 195 (2A)

Insert after section 195 (2):

- (2A) Subsection (2) does not prevent the holder of an amusement device technician's licence from doing any of the following things in relation to the compliance plate on an approved amusement device, so long as the device is not operated at any time when the compliance plate is not attached to the device:
- (a) moving the compliance plate to another part of the device,
 - (b) removing the compliance plate if it is damaged, and replacing it with a new compliance plate,
 - (c) destroying any such damaged compliance plate,
 - (d) temporarily removing the compliance plate in order to enable work to be done to the facade of the device.

[9] Section 195 (4)

Insert before the definition of *computer cabinet*:

compliance plate has the same meaning as in section 186.

[10] Schedule 1 Savings and transitional provisions

Insert at the end of clause 1 (1):

*Registered Clubs and Liquor Legislation Amendment Act
1997*

[Minister's second reading speech made in—
Legislative Assembly on 17 June 1997
Legislative Council on 27 June 1997]

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