

## Addisons Focus Papers

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### **Registered Clubs Amendment Act 2006 and Gaming Machines Amendment (Retail Shopping Centres) Regulation 2006.**

Two legislative changes came into force December 2006, significantly changing the legal framework for Registered Clubs in New South Wales. Both acts provide clubs with greater operational scope and increase their range of investment and business opportunities. Given the far-reaching consequences of these changes, it is important that registered clubs are aware of how they will be affected.

#### **Registered Clubs Amendment Act 2006**

The Registered Clubs Amendment Act 2006 (“**Amendment Act**”) was recently passed by Parliament and received Assent on 27 November 2006. The object of the Amendment Act is to amend the *Registered Clubs Act 1976* (NSW) (“**Act**”).

The Act governs the registration of clubs, their rules and management. The purpose of the Amendment Act is to amend the Act and introduce a number of measures, which together with other objectives, are designed to:

1. reduce red tape and the compliance burdens for registered clubs; and
2. improve the probity and transparency of the management of registered clubs.

While many of these amendments are effective from 22 December 2006, a number of the major provisions will not be in force until supporting regulations are formulated in early 2007.

The main changes that will take effect once regulations have been passed are:

#### ***Amalgamation of Registered Clubs***

The Amendment Act will relax previous restrictions on the amalgamation of registered clubs and allows for an increased number of amalgamations between registered clubs. The maximum number of amalgamations will be increased from 4 to 10. This means that a registered club may be the subject of up to 10 amalgamations with other registered clubs.

Procedures are being introduced to ensure that amalgamations proceed only when they are in the best interests of the community and that community facilities are preserved.

Proposed amalgamations will be subject to preparation of community impact statements and memoranda of understanding between clubs proposing amalgamations.

Pending amalgamations will be unaffected by these changes.

## ***Election of Registered Clubs' Governing Bodies***

In the case of a club with more than 10,000 full members (i.e. members who are entitled to vote), the election of the governing body of that club must be conducted by a person or body approved by the Office of Liquor, Gaming and Racing ("OLGR"). Approximately 175 NSW clubs currently fall into this category.

In relation to clubs with less than 10,000 full members, the election of the governing body of the club will have to be conducted in the manner determined by regulations made under the Act.

A person will not be eligible to stand for election as a member of the governing body of a club unless that person has received education and training material (approved by the OLGR) which relates to the responsibilities and duties of club directors.

## ***Financial Reporting Requirements***

The Amendment Act will introduce consolidated financial reporting requirements which are intended to streamline the reporting process whilst not impacting on the accountability or transparency of the reporting process.

The main changes that came into force on 22 December 2006 are:

## ***Determination by Governing Body***

The previous requirement that the governing body of the club be elected by a majority of full members has been relaxed. It is now possible for 25% of the full members of a club to make this election.

## ***Club Property***

The Amendment Act introduces the concept of "core property" of a club. Essentially, this will create a distinction between a club's core property (for example, its defined premises and facilities used by it) and its non-core property (for example, any other real property, such as investment property, owned by the club).

A club's members (by a majority in general meeting) will determine what other club property is core property and non-core property.

Any disposal of core property will require club member approval, a valuation being obtained and disclosure of the parties, price, property and valuation to members prior to the relevant vote of members.

Some dealings with a club's core property will be exempt from these requirements, such as leases and licences of core property with a term not exceeding 6 years which are supported by a valuation.

Previously, all club property was effectively core property and the disposal requirements in the Act had to be followed. These required an independent valuation, public auction or open tender process and the approval of club members. The Amendment Act provides that property designated as non-core property can be sold directly to a third party by private treaty, without the necessity for approval from the club's members and the previous disposal requirements under the Act.

### ***The Five Kilometre Residency Rule***

The Amendment Act makes it possible for clubs to seek exemption from the five kilometre residency rule by application to the OLGR. It is intended that this will assist clubs whose location makes application of the rule problematic.

### ***“For the Information of Members and their Guests”***

The Amendment Act provides that it will no longer be a requirement for clubs to print this statement on promotional and advertising material relating to club facilities.

### ***Defence Force Personnel Honorary Membership***

The Amendment Act provides that any serving member of the Australian Defence Force will be admitted as an Honorary Member of any RSL or Services Club on each day that person attends the club's premises and that a separate register is to be kept by the club of Defence Force Personnel admitted on that day as Honorary Members.

### ***Other Minor or Consequential Amendments***

The Amendment Act introduces a number of other minor or consequential amendments, for example:

1. an amendment to the definition of “Top Executive” to ensure that club employees who are not involved in the management of a club are no longer captured by the definition;
2. the manner in which clubs are required to give notice when amendments are made to the club's rules; and
3. extension of the general defence available to the Secretary of a club for an offence in relation to the club to the appointed Manager of any premises of the club.

### **Gaming Machine Amendment (Retail Shopping Centres) Regulation 2006**

The Gaming Machine Amendment (Retail Shopping Centres) Regulation 2006 ("Regulation") received assent on 20 December 2006. The Regulation came into force on 22 December 2006 and amends the Gaming Machines Act (NSW) 2001 ("Gaming Machines Act").

The Gaming Machines Act governs the operation and licensing of electronic gaming machines with the goal of harm minimisation. The aim of the Regulation is to give clubs a broader range of possible revenue sources by allowing clubs to operate small scale shopping complexes. This allows clubs to source a greater percentage of their revenue from non-gaming enterprise, which is particularly useful for clubs in light of the taxation on gaming revenue.

The main change that came into force on 22 December is:

## ***Entitlement to Operate a Retail Shopping Centre***

A registered club may now extend its premises to include retail shopping premises without losing its authorisation to operate gaming machines. Any club wishing to do so must ensure that:

1. the shopping centre has less than forty (40) shops;
2. the shopping centre and the club have separate entrances with no direct thoroughfare between the club and shopping centre; and
3. the shopping centre is directly adjacent to the club's existing premises.

The club's premises may not move from their original location, and clubs wishing to take advantage of the Regulation may not increase the number of authorised gaming machines in connection with any retail shopping centre development.

This will, for most clubs, bring gaming machines much closer to automated teller machines and facilities to make drawings on credit card balances. It may also allow clubs to promote both their gaming and non-gaming services to new markets not normally in the vicinity of traditional free-standing clubs.

## **New Opportunities for NSW Registered Clubs**

Both the Amendment Act and the Regulation have altered, and will continue to alter, the legislative framework of registered clubs. These changes not only directly affect the way that clubs must operate in order to maintain their competitive advantage, but also provide significant opportunities for growth and expansion. Clubs now have an unprecedented freedom to explore new methods of operation and marketing and to seek new income streams.

If you would like any further information on the Act, Amendment Act, Gaming Machines Act or Regulation or would like an assessment of how these changes may be utilised to your club's advantage, please do not hesitate to contact us.

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