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BILLIARDS BILL, 1955.

EXPLANATORY NOTE.

THE object of this Bill is to prohibit the keeping of billiard tables for hire or profit upon premises unless licenses have been issued in respect of such premises.

To this end the Bill makes provisions relating to—

- (a) the classes of premises requiring licensing;
- (b) the procedure to be followed for obtaining a license;
- (c) the fees to be paid for any license or renewal thereof;
- (d) the cancellation of licenses;
- (e) the prescription of offences in relation to the keeping of billiard tables and licensed premises;
- (f) other matters of a machinery and supplemental character.

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[CONFIDENTIAL]

(Rough Draft for Consideration Only.)

No. , 1955.

A BILL

To regulate the keeping of billiard-tables; to repeal the Billiards and Bagatelle Act, 1902; to amend the Liquor Act, 1912, the Liquor (Amendment) Act, 1916, and certain other Acts in certain respects; and for purposes connected therewith.

BE it enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of New South Wales in Parliament assembled, and by the authority of
5 the same, as follows:—

1. (1) This Act may be cited as the "Billiards Act, 1954."

Short title
and com-
mencement.

(2) This Act shall commence upon a day to be appointed by the Governor and notified by proclamation
10 published in the Gazette.

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2. (1) The Billiards and Bagatelle Act, 1902, is hereby repealed. Repeal of Act No. 38, 1902.

(2) All licenses granted under the authority of the Act hereby repealed and subsisting at the commencement of this Act shall have force and effect until the thirty-first day of December next after the commencement of this Act and shall be deemed to have been granted under this Act: Savings.

Provided that any application for renewal of a license having force and effect pursuant to the foregoing provisions of this subsection shall be deemed to be an application for a new license.

(3) The Liquor Act, 1912, as amended by subsequent Acts, is amended by inserting in subsection ten of section five after the word "them" the words "or in a licensing court, by or under this or any other Act." Amendment of Act No. 42, 1912, s. 5 (10). (Constitution of licensing courts.)

(4) The Liquor (Amendment) Act, 1916, is amended by omitting section nineteen. Repeal of s. 19 of Act No. 63, 1916.

3. In this Act, unless the context or subject matter otherwise indicates or requires— Interpretation.

"Club" includes any society, association, or body of persons corporate or unincorporate.

25 "District" means a licensing district under the Liquor Act, 1912, as amended by subsequent Acts.

"Inspector" means a district inspector or district sub-inspector appointed or holding office under the Liquor Act, 1912, as amended by subsequent Acts.

30 "License" means a license granted or deemed to have been granted under this Act.

"Licensed premises" means the premises in respect of which a license granted or deemed to have been granted under this Act is in force.

35 "Licensee" means a person holding a license granted or deemed to have been granted under this Act.

"Licensing court" means licensing court constituted under the Liquor Act, 1912, as amended by subsequent Acts.

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“Prescribed” means prescribed by this Act or by regulations made thereunder.

4. Subject to the provisions of this Act—

- 5 (a) a billiard-table shall not be kept for hire or profit by any person on any premises unless such person is the holder of a license issued in respect of such premises;
- 10 (b) a billiard-table shall not be kept in or upon the premises of any club unless a license in respect of such premises is held by some person on behalf of such club.

Billiard-table not to be kept on premises without license.

5. Section four of this Act shall not extend to or in respect of any billiard-table which is kept in or upon the premises of—

Certain clubs exempted.

- 15 (a) any School of Arts;
- (b) any club the membership of which is confined to persons who are members of or eligible to be members of The Returned Sailors, Soldiers and Airmen’s Imperial League of Australia (New South Wales Branch) or the Australian Legion of Ex-Servicemen and Women;
- 20 (c) any Fire Brigades Club;
- (d) any Railway and Tramway Institute or Club;
- 25 (e) any club registered under Part X of the Liquor Act, 1912, as amended by subsequent Acts; or
- (f) any Surf Life Saving Club affiliated with the Surf Life Saving Association of Australia.

6. (1) (a) An application for a license or for the renewal, removal or transfer thereof shall be made in the manner and in or to the effect of the form prescribed.

Procedure in relation to licenses.

(b) The existing license shall be attached to the form of application for the renewal, removal or transfer of such license.

(2) (a) Every application for a new license or for the removal of a license shall be accompanied by a sketch plan of the premises for which the license is required, or to which it is desired to remove the license, as the case may be.

(b)

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(b) The sketch plan shall indicate the limits of the premises proposed to be licensed.

(3) Every application under this Act shall be lodged with the clerk of the licensing court of the district within which the premises are situated, and, except as provided in subsection six of this section, shall be heard by the licensing court.

(4) (a) Upon receipt of an application under this Act, the clerk shall forthwith notify the inspector who shall inquire into and report upon such application.

(b) It shall be the duty of the inspector to report as to the character of every applicant and of any proposed transferee, and also, having regard to the safety, health and convenience of the public, as to the suitability of premises proposed to be licensed.

(5) Upon the hearing of any application for a new license or for the removal or transfer of a license the applicant shall attend personally unless prevented by sickness or infirmity.

(6) Where no objection is lodged to the grant of an application for renewal of a license, the clerk with whom the application was lodged shall, on payment to him of the prescribed fee, issue the license.

(7) Where an objection is lodged to the grant of any application under this Act—

(a) the clerk of the licensing court shall notify the applicant that the grant of his application will be objected to, and shall set out in the notice the nature of the objection proposed to be made and the day upon which and the hour at which the application will be heard;

(b) the hearing of such application shall not take place until after the expiration of seven days after the lodging of the application.

(8) Except in the provisions of subsection six of this section every application shall be heard in open court and the consideration of the application shall be deemed a judicial proceeding.

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(9) (a) It shall be the duty of the licensing court to refuse the grant, renewal, or transfer of a license to any person who is of bad or doubtful character.

(b) Upon the hearing of an application for a new license, or for the removal of a license, the licensing court, where it considers the premises for which the license is sought are unsuitable to be licensed, may refuse to grant the application.

7. (1) Upon the hearing of any application under this Act any objection whatsoever (not being a frivolous or vexatious objection) may be made by any person. Objections.

(2) Any applicant, upon an objection (not being a frivolous or vexatious objection) of which previous notice has not been given to him being raised at the hearing, shall be entitled to an adjournment thereof.

8. (1) Where the licensing court grants an application for a license or renewal of a license the clerk of the court shall, on payment to him of the appropriate license fee, issue the license. Issue of licenses.

20 Every such fee shall be paid within one month of the grant of the application for the license or renewal of the license, as the case may be, and unless and until such fee is paid the license shall, for the purposes of section four of this Act, be deemed not to be held by any person.

25 (2) Where the licensing court is satisfied that a license has been lost or destroyed or cannot be produced the court may issue a duplicate or substitute license upon payment of the fee of one pound.

9. (1) A license may be transferred or removed by endorsement by or on behalf of the licensing court. Transfer or removal of license.

(2) Where a licensee has been legally evicted from any licensed premises or where the owner of such premises has come into legal possession to the exclusion of the licensee the licensing court may, notwithstanding the non-production of the license therefor, grant on the application in writing of the owner of the premises and the proposed transferee a transfer of such license to such transferee. cf. Act No. 42, 1912, ss. 37, 38.

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transferee in the manner and in or to the effect of the form prescribed and such transferee shall until the end of the period for which the license has been granted possess all the rights of the original licensee and shall be liable to 5 the same duties, obligations, and penalties as if such license had been originally granted to him.

(3) For every such endorsement or grant of transfer a fee of one pound shall be paid.

10 **10.** (1) Any person desirous of obtaining a new license in respect of premises proposed to be erected, or in respect of premises already erected but requiring additions or alterations to make them suitable to be licensed under this Act may, before building such new premises or making such additions or alterations to 15 premises already erected, make a conditional application in or to the effect of the form prescribed.

Conditional application in respect of premises to be erected or altered. cf. Act No. 42, 1912, s. 27.

20 (2) The applicant shall submit with his application a sketch plan and specifications of the premises proposed to be erected or of the proposed additions or alterations to existing premises, indicating upon such plan the limits of the premises proposed to be licensed.

(3) Where the licensing court grants a conditional application the clerk of the court shall retain the plan submitted.

25 (4) The granting of a conditional application shall remain in force until the completion of the premises, additions or alterations, provided such completion is effected within the period prescribed by the licensing court, which period may be extended upon application 30 as prescribed if the licensing court thinks fit.

(5) Upon completion of the premises, additions or alterations within the prescribed period or any extension thereof, an inspector for the district in which the premises so completed, added to or altered are 35 situated shall, after examination of the premises, certify whether or not the premises, additions or alterations are completed in accordance with the plan submitted, and if

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he certifies in the affirmative the clerk of the court shall issue the license upon payment of the appropriate license fee.

11. (1) Any owner or licensee of premises licensed Alterations or additions to licensed premises. cf. *Ibid.* s. 40 (2).
5 under this Act, who is desirous of making any material alterations or additions to such licensed premises shall make application in writing to the licensing court for the district for permission to do so.

(2) The application shall be accompanied by a
10 plan and specifications of the proposed alterations or additions. Such plan shall indicate thereon any proposed alteration of the limits of the licensed premises.

A fee of one pound shall be payable on lodgment of the application.

15 (3) Where any material alteration or addition to licensed premises has been made—

(a) in accordance with the provisions of this section the license issued in respect of such premises
20 may be endorsed by or on behalf of the licensing court in such manner as may be necessary to meet the case; or

(b) without permission as herein required the license issued in respect of such premises shall be liable to cancellation.

25 12. No person under the age of twenty-one years shall be capable of holding a license under this Act. Infants.

13. (1) Every license shall be in or to the effect of the form prescribed and shall remain in force from the date thereof until the thirty-first day of December
30 next following, and shall be renewed annually. Form and duration of license.

(2) The annual license fee shall be—

(a) in the case of a license to keep not more than five billiard-tables, the sum calculated at the rate of two pounds two shillings for each billiard-table;

35 (b) in the case of a license to keep six or more of such tables, a sum of twelve pounds twelve shillings.

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(3) In the case of a license granted after the first day of July in any year, the fee shall be one-half the annual fee payable in respect of such license.

14. A license shall authorise the licensee therein named to keep in respect of the premises therein specified such number of tables, as may therein be specified, for playing the game of billiards and to allow such tables to be used during the prescribed hours. Effect of license. cf. Act No. 38, 1902, s. 8.

15. (1) Except where a license is otherwise endorsed as hereinafter in this section provided, the prescribed hours shall be between the hours of nine o'clock in the morning and eleven o'clock at night. Prescribed hours.

(2) The licensing court may, upon the grant of an application for a license, or on application made as prescribed in respect of a current license, order that the license be endorsed to the effect that the licensee may in respect of the premises therein specified allow the billiard-tables therein to be used between the hours to be stated in the endorsement as well as between the hours referred to in subsection one of this section, and in any such case the prescribed hours in respect of such premises shall be the hours referred to in subsection one of this section and the hours as so endorsed on the license.

(3) For the purposes of this section the court may in respect of any license order the endorsement of different hours in respect of separate days in any or every week or in respect of different periods of any year.

(4) The power conferred by subsection two of this section on the court may be exercised only in respect of a license granted or held in respect of the premises of an authorised club by some person on behalf of such club.

(5) No club shall for the purposes of this section be an authorised club unless all the following conditions exist with respect to it, namely:—

- (a) The club must be a bona-fide association or company of not less than sixty persons in the case of a club established at any place within a radius

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radius of fifteen miles from the General Post Office in Sydney, and not less than thirty persons in the case of a club established elsewhere.

- 5 (b) The club must be a body, association, or company associated together for social, literary, political, sporting, athletic, or other lawful purpose.
- 10 (c) All billiard-tables and equipment used in connection with play upon the billiard-tables must be provided and maintained from the joint funds of the club, must be the sole property of the members of the club, must not be held on hire or hire-purchase or be subject to any encumbrance whatsoever, and must be maintained at
15 all times upon premises of which such association or company are the bona-fide occupiers.
- 20 (d) No persons must be entitled under its rules to derive any profit, benefit, or advantage from the club which is not shared equally by every member thereof.
- 25 (e) The premises of the club shall contain accommodation appropriate for the purposes of the club.
- 30 (f) No payment or part payment of any secretary, manager, or other officer or servant of the club shall be made by way of commission or allowance from or upon the receipts of the club for the use of billiard-tables.
- 35 (g) A register of members of the club for the time being shall be kept on the club's premises as hereinafter required.
- 40 (h) The club shall be a non-proprietary club.

For the purposes of this paragraph a non-proprietary club means a club the rules of which—

- (i) provide for the application of profits, if any, and other income of the club, to the promotion of the purposes for which its members are associated together; and
- (ii)

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(ii) prohibit the payment of any dividends or distribution of profits or income to or amongst the members of the club.

5 (i) No person other than the club or its members shall directly or indirectly derive any profit or advantage from the fact that a license to keep billiard-tables is held in respect of the club or from any added value which may accrue, because of such license, to the land upon which
10 the club's premises are situated.

In particular and without prejudice to the generality of the provisions of this paragraph some person other than the club or its members shall be deemed to derive a profit or advantage
15 in contravention of this paragraph if—

(i) where the club premises are held under a lease or other form of tenancy or under a license, the occupation fee payable annually by the club exceeds ten per centum of the total sum which
20 comprises the unimproved capital value of the land (excluding any added value attributable to the fact that a license to keep billiard-tables is held in respect of the club) and the value of the improvements on the land;
25

(ii) where the club premises are held in fee simple by the club or by trustees for the club, interest is payable by the club or the trustees upon securities aggregating more than two-thirds of the total sum which comprises the unimproved capital value of the land (excluding any added value attributable to the fact that a license to keep
30 billiard-tables is held in respect of the club) and the value of the improvements on the land;
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unless it is established to the satisfaction of the court that the occupation fee or the interest
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payable is reasonable and proper having regard to the particular circumstances existing in relation to the club.

5 For the purposes of this paragraph the expression "occupation fee" means the amount paid or payable by the club, whether as rent or hire or otherwise in respect of the occupancy of the premises.

10 And where the club is by the terms of the lease, tenancy, or license or by any other agreement expressly made liable, in addition to the amount so paid or payable, for rates, taxes, maintenance, upkeep or repairs, or for payment
15 of any premium or fine in respect of the lease, tenancy or license, then the following sums shall be added to and deemed to be part of the occupation fee payable annually by the club, that is to say—

20 (i) a sum equivalent to the amount for which the club is so liable annually in respect of rates and taxes;

(ii) a sum equivalent to the estimated
25 annual cost of repairs, upkeep and maintenance for which the club is so liable; and

(iii) a sum equivalent to the apportioned
part of any premium or fine for which the club is so liable.

30 (6) In order that any club may be an authorised club the rules of the club shall provide that—

(a) the business and affairs of the club shall be under the management of a committee elected annually by the general body of members;

35 (b) the committee shall hold periodical meetings, and minutes of all resolutions and proceedings of such committee shall be entered in a book to be provided for that purpose;

(c)

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- 5 (c) the names and addresses of persons proposed as ordinary members of the club shall be displayed in a conspicuous place in the club premises for at least a week before their election, and an interval of not less than two weeks shall elapse between nomination and election of ordinary members;
- 10 (d) all members shall be elected by the general body of members, or by a general or an election committee, at a meeting or meetings duly convened, and a record shall be kept by the secretary of the club of the names of the members present and voting at such meetings;
- 15 (e) there shall be a defined subscription of not less than one pound per annum payable by members quarterly, half-yearly, or annually in advance;
- 20 (f) correct accounts and books shall be kept, showing the financial affairs of the club and the particulars usually shown in books of account of a like nature;
- 25 (g) a visitor shall not be allowed to play at billiard-tables in the club premises unless on invitation and with a member;
- 30 (h) no persons shall be allowed to become honorary or temporary members of the club or be relieved of the payment of the regular subscription, except those possessing certain qualifications defined in the rules and subject to conditions and regulations prescribed therein;
- 35 (i) no person under twenty-one years of age shall be admitted a member of the club: Provided that where the club is primarily devoted to some athletic purpose, there shall be no limitation of the age of a member of the club:

35 Provided that in the case of a club primarily devoted to some athletic purpose, the management of which is vested in trustees appointed by the Governor, such club shall, if the Governor so declares by proclamation in the Gazette,

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Gazette, be exempted from compliance with the provisions of paragraphs (a), (c), and (d) of this subsection and of paragraph (c) of subsection five of this section, and the trustees shall for the purposes of this Act be deemed
 5 the elected committee of the club.

(7) In order that any club may be an authorised club the rules of the club shall also make provision ensuring that the club is a non-proprietary club as defined in subsection five of this section.

10 (8) Where the rules of a club whose license is endorsed pursuant to subsection two of this section are amended, copies of the amendments, certified as correct under the hand of the secretary, shall be forwarded to the clerk of the licensing court and to the district
 15 inspector within fourteen days after the amendments have been made.

16. (1) Upon the complaint of an inspector, any justice of the peace may summon any licensee to appear before a licensing court and show cause why his license
 20 should not be cancelled.

Cancellation of licenses.
 cf. Act No. 42, 1912, s. 123.

(2) Upon the appearance of such licensee, or in his absence after being duly summoned, such court shall proceed to hear and determine the matter of such complaint and if it appears that the circumstances justify
 25 such course may adjudge such license to be cancelled.

(3) Every such summons shall be served personally upon the licensee not less than fourteen days before the day appointed for the hearing of the complaint, or if such licensee evades service thereof, or if personal service
 30 cannot conveniently be effected, it shall be sufficient if the summons is posted up in a conspicuous place on his licensed premises not less than seven days before the day so appointed.

17. Licensed premises under this Act shall be deemed
 35 to be licensed premises within the meaning and for the purposes of sections one hundred and twenty-two, one hundred and fifty-six, and one hundred and sixty-six of the Liquor Act, 1912, as amended by subsequent Acts.

Application of provisions of Liquor Act, 1912.
 cf. Act No. 33, 1902, s. 13.

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18. (1) Every licensee, not being the holder of a license on behalf of a club, shall have and keep painted in letters at least two inches long on the front of his premises, or, in case he occupies a portion only of a building, on the front or entrance door of every room in which such licensee keeps a billiard-table, his name in full, with the words "Licensed to keep billiard-tables."

Licensed premises to have name of licensee, etc., painted thereon.
cf. *Ibid.* s. 14.

(2) Any such licensee who neglects to comply with the requirements of this section shall, for the first offence, be liable to a penalty not exceeding five pounds, and for any subsequent offence to a penalty not exceeding twenty pounds.

19. Any licensee who—

(a) permits or allows a billiard-table on the licensed premises to be used at any other time than during the prescribed hours applicable to such licensed premises, or upon Sunday, Christmas Day, or Good Friday; or

(b) knowingly permits any person under the age of eighteen years to frequent the licensed premises, or to play at any such table,

shall, for the first offence, be liable to a penalty not exceeding twenty pounds, and for any subsequent offence to a penalty not exceeding fifty pounds.

Offences by licensees.
cf. Act No. 38, 1902, s. 15.

20. (1) Any person who keeps any billiard-table for hire or profit on any premises in contravention of paragraph (a) of section four of this Act, shall, for the first offence, be liable to a penalty not exceeding fifty pounds, and for any subsequent offence to a penalty not exceeding one hundred pounds.

Penalty for keeping billiard-tables without license.

(2) Where a billiard-table is kept in or upon the premises of any club, not being a proprietary club, in contravention of paragraph (b) of section four of this Act, the secretary of the club, and every person who is for the time being in charge or apparently in charge of such billiard-table, shall severally be liable, for the first offence, to a penalty not exceeding fifty pounds, and for any subsequent offence to a penalty not exceeding one hundred pounds.

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(3) The proprietor of a proprietary club in or upon the premises of which a billiard-table is kept in contravention of paragraph (b) of section four of this Act shall be liable to a penalty not exceeding one hundred pounds and in addition thereto to a penalty of two pounds for each day during which such billiard-table is so kept.

21. Any licensee who without the permission of the licensing court sublets the licensed premises or any part thereof shall be guilty of an offence against this Act, and shall be liable to a penalty not exceeding fifty pounds.

Subletting
licensed
premises.

22. If a licensee suffers any gaming for stakes or any unlawful game to be carried on in the licensed premises; or if he or any servant or person in charge of a billiard-table in or upon such premises permits or allows or connives at the playing of any such game therein or in the appurtenances thereof; or if any licensee or servant or person in charge of a billiard-table in or upon the licensed premises uses or permits or allows or connives at the use of the licensed premises in contravention of the Gaming and Betting Act, 1912, or of any Act amending or replacing the same, every such person so offending shall, for the first offence, be liable to a penalty not exceeding twenty pounds, and for any subsequent offence to a penalty not exceeding one hundred pounds.

Gaming
prohibited
in licensed
premises.
cf. Act No.
42, 1912,
s. 44.

23. (1) Every licensee shall—
(a) cause the licensed premises to be furnished with proper sanitary appliances sufficient for persons resorting to the premises; and
(b) maintain such appliances and any room or place in which they are in a good sanitary condition; and
(c) keep the licensed premises free from offensive or unwholesome matters.

Require-
ments as to
sanitary
appliances
on licensed
premises.

(2) Any licensee who fails to carry out any of the provisions of this section shall be liable to a penalty not exceeding twenty pounds.

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24. All penalties imposed by this Act or the regula-
 tions made thereunder may be recovered in a summary
 way before the licensing court of the licensing district in
 which the offence was committed, or before a stipendiary
 5 magistrate or two or more justices.

*Recovery
 of penalties,
 etc.*

25. (1) Any person dissatisfied with any adjudication
 of a licensing court under this Act may appeal from such
 adjudication to a court of quarter sessions. The pro-
 visions of Part V of the Justices Act, 1902, or of any Act
 10 amending the same, shall, save as is hereinafter provided,
 apply, mutatis mutandis, to appeals under this section
 from any such adjudication.

*Appeals.
 Act No. 42,
 1912, s. 170.*

(2) Any person appealing against the cancellation
 or the refusal of a renewal of a license shall, at the time
 15 he gives notice of his intention to appeal, lodge with the
 clerk of the licensing court the sum of five pounds as
 security for costs, and in the case of a refusal of a
 renewal, a further sum equal to the prescribed license
 fee; and in each such case the license shall thereupon be
 20 deemed to be in force until the hearing of the appeal.

If, at the hearing of the appeal against the refusal of a
 renewal of a license, the matter is determined against the
 appellant, the further sum above referred to shall be
 applied in paying a proportionate part of the license fee
 25 for the time after the expiration of the former license,
 and the balance shall be refunded to the appellant.

26. (1) In any proceedings under this Act against any
 person alleged to be the holder of a license in respect of
 any premises, the averment in the information or com-
 30 plaint that such person is the holder of a license in respect
 of such premises shall be prima facie evidence thereof.

*Proof of
 license.*

(2) In any proceedings under this Act against
 any person alleged not to be the holder of a license, such
 person for all purposes connected with such proceedings
 35 shall be deemed and taken to be unlicensed, unless he
 produces such license or other satisfactory proof of his
 being duly licensed.

*cf. Ibid.
 s. 174 (2).*

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27. (1) (a) The Governor may make regulations **Regulations** prescribing all matters which by this Act are required or permitted to be prescribed, or which are necessary or convenient to be prescribed for carrying out or giving **5** effect to the provisions of this Act.

(b) Without prejudice to the generality of the foregoing provisions the Governor may make such regulations as he may deem necessary for and with respect to the keeping of billiard-tables upon any **10** premises where the licensee or the person holding a license on behalf of a club in respect of such premises has died or become an insane person or patient or an incapable person within the meaning of the Lunacy Act, of 1898, as amended by subsequent Acts.

15 (2) The regulations shall—

(a) be published in the Gazette;

16 (b) take effect from the date of such publication or **from a later date to be specified in the regulations;** and

20 (c) be laid before both Houses of Parliament within fourteen sitting days after the publication thereof if Parliament is then in session, and, if not, then within fourteen sitting days after the commencement of the next session.

25 (3) If either House of Parliament passes a resolution of which notice has been given at any time within **15** fifteen sitting days after such regulations have been laid before such House disallowing any regulation or part thereof such regulation or part shall thereupon cease to **30** have effect.
