

GAMING AND BETTING (POKER MACHINES) ACT.

Act No. 17, 1956.

Elizabeth II, An Act to make provision in relation to the keeping and using of poker machines in non-proprietary clubs; for this and other purposes to amend the Gaming and Betting Act, 1912-1953, and certain other Acts; and for purposes connected therewith.
[Assented to, 19th September, 1956.]

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 the same, as follows:—

**Short title
and
citation.**

1. (1) This Act may be cited as the "Gaming and Betting (Poker Machines) Act, 1956."

(2) The Gaming and Betting Act, 1912, as amended by subsequent Acts and by this Act, may be cited as the Gaming and Betting Act, 1912-1956.

**Amendment
of Act
No. 25,
1912.**

**Sec. 1.
(Short
title.)**

2. The Gaming and Betting Act, 1912-1953, is amended by inserting in section one next after the matter relating to Part III the following new matter:—

PART IIIA.—POKER MACHINES—ss. 50A-50R.

DIVISION 1.—*Preliminary*—s. 50A.

DIVISION 2.—*The keeping, use and operation of
poker machines*—ss. 50B, 50C.

DIVISION 3.—*Licensing of poker machines*—ss.
50D-50F.

DIVISION 4.—*Registration of clubs not licensed
under Liquor Act, 1912, as amended*—ss.
50G-50Q.

DIVISION 5.—*General*—s. 50R.

3. The Gaming and Betting Act, 1912-1953, is further No. 17, 1956.
amended by inserting next after section fifty the following new Part:—

PART IIIA.
POKER MACHINES.

DIVISION 1.—*Preliminary.*

50A. In this Part of this Act unless the context or *Interpretation.*
subject matter otherwise indicates or requires—

“Poker machine” means any machine instrument or device kept, used or operated, or intended or designed for use or operation, or capable of being used or operated for the purpose of gaming, and the use or operation of which depends upon the insertion in the machine, instrument or device of an Australian coin within the meaning of the Coinage Act 1909-1947 of the Parliament of the Commonwealth of Australia.

“Secretary” includes any officer or other person performing the duties of secretary of a club.

DIVISION 2.—*The keeping, use and operation of poker machines.*

50B. (1) This section shall apply to any club—

- (a) registered under Part X of the Liquor Act, 1912, as amended by subsequent Acts, or registered under this Part of this Act, and
- (b) which is licensed under this Part of this Act to keep, use and operate poker machines.

(2) The keeping, use or operation of poker machines by any club to which this section applies under and in accordance with the provisions of this Part of this Act and the terms and conditions of the license issued to such club shall, notwithstanding anything contained in this Act, the Vagrancy Act, 1902, the Liquor Act, 1912, the Lotteries and Art Unions Act 1901, or any other Act or any law to the contrary, be lawful. (3)

Further
amendment
of Act
No. 25,
1912.
New Part
IIIA.

No. 17, 1956.

(3) Where the keeping, use or operation of poker machines by any club to which this section applies is lawful under subsection two of this section such club, the secretary, committee, servants and members of such club and persons invited by and in the company of any such members shall, in respect of the keeping, use or operation upon the premises of such club of poker machines the keeping, use or operation of which is authorised by subsection two of this section, be freed and discharged from all penalties, suits, prosecutions and liabilities to which by law such club, secretary, committee, servants, members or persons would be liable but for this Part of this Act as being concerned in an unlawful game, or gaming, wagering or betting, or as offending against any provision of this Act, the Vagrancy Act, 1902, the Liquor Act, 1912, the Lotteries and Art Unions Act 1901, or any other Act or any other law.

(4) The keeping, use or operation by any club of poker machines which by subsection two of this section is lawful and the use and operation of any poker machines as provided by subsection three of this section by any member of the club or any other person to whom the provisions of the said subsection three apply shall, in the case of any club to which this section applies, not be a ground upon which objection may be taken to the renewal of a certificate of registration issued under Part X of the Liquor Act, 1912, as amended by subsequent Acts, or a ground for cancellation of a certificate of registration issued under that Part or under Division 4 of this Part of this Act.

**Savings as
to existing
clubs.**

50c. The keeping, use or operation of poker machines before the appointed day by any club making application for the grant of a certificate of registration under Part X of the Liquor Act, 1912, as amended by subsequent Acts, or Division 4 of this Part of this Act, and the use or operation of poker machines upon the premises of any such club by any persons before the appointed day shall not be a ground upon which objection may be taken to the grant of any such certificate of registration.

In

In this section "appointed day" means a day to No. 17, 1956. be appointed by the Governor and notified by proclamation published in the Gazette.

DIVISION 3.—*Licensing of poker machines.*

50D. (1) Subject to the provisions of this Part of **Licenses.** this Act the Minister may issue to any club registered under Part X of the Liquor Act, 1912, as amended by subsequent Acts, and to any club registered under this Part of this Act a license for the keeping, use and operation by such club of poker machines upon the club premises specified in such license.

(2) A license so issued shall—

- (a) unless sooner suspended or cancelled, be in force until the thirtieth day of June next following the date of issue, and may be renewed from time to time for a period of twelve months;
- (b) state the name and address of the club and the class or classes of poker machines and the number of each such class the keeping, use and operation of which are authorised upon the club premises;
- (c) specify the terms and conditions subject to which such poker machines may be kept, used and operated.

(3) (a) A license so issued may be suspended by the Minister for such period as he may deem fit or may be cancelled by the Minister.

(b) Where a certificate of registration of a club issued under Part X of the Liquor Act, 1912, as amended by subsequent Acts, or under this Part of this Act, is suspended or cancelled any license issued to such club under this Part of this Act shall be deemed to be suspended for the period for which such certificate of registration was so suspended or to be cancelled, as the case may require.

(4)

No. 17, 1956.

(4) (a) No license shall be issued under this Part of this Act for the keeping, use or operation of poker machines by a club unless such machines are owned by such club or are being acquired by such club on reasonable terms and conditions.

(b) A license so issued to a club shall be cancelled by the Minister if any poker machine kept, used or operated by such club in pursuance of such license ceases to be owned by such club or is not a poker machine being acquired by such club on reasonable terms and conditions.

(c) A club shall upon making application for a license under this Part of this Act and at any time subsequent to the issue of any such license when so required by the Minister furnish him with such information as may be prescribed or as may be required by the Minister as to the ownership of any poker machines, or the terms and conditions upon which any poker machines are being acquired, by the club for keeping, using and operating by such club.

Any such information shall be verified by statutory declaration.

(d) The determination of the Minister as to whether or not any poker machine is being acquired by a club on reasonable terms and conditions shall be final.

**Annual
license
taxes.**

50E. (1) A club licensed under this Part of this Act shall within three months after the date from which the license and each renewal thereof takes effect pay to the Minister license tax upon each poker machine kept, used or operated by such club at the rate imposed thereon by the Gaming and Betting (Poker Machines) Taxation Act, 1956.

The license tax so payable shall be a debt due from such club to Her Majesty and shall be recoverable in any court of competent jurisdiction.

(2) All such license taxes shall be paid into an account in the Special Deposits Account established at the Treasury to be called the Gaming and Betting (Poker Machines) Account. The

The balance to the credit of such Account shall, No. 17, 1956. at intervals not exceeding three months, be transferred to the Hospital Fund under the Public Hospitals Act, 1929, as amended by subsequent Acts.

50F. (1) Any member of the police force of or Inspection. above the rank of sergeant and any member of the police force for the time being in charge of a police station or any person authorised either specially or generally in that behalf by the Minister may at any time of the day or night enter the premises of any club licensed under this Part of this Act and may examine every room and part of such premises and the register of members of the club and all books, records and documents therein with a view to ascertaining whether the provisions of this Part of this Act and the regulations thereunder or the terms and conditions of any license issued to such club under this Part of this Act are being or have been complied with.

(2) If any manager, secretary, or other person in charge of any club licensed under this Part of this Act refuses or fails to admit any such member of the police force or authorised person demanding to enter any premises in pursuance of this section, or obstructs or causes or permits any such member of the police force or other authorised person to be obstructed or delayed in the discharge of his duty, such manager, secretary or other person shall be liable to a penalty not exceeding one hundred pounds.

DIVISION 4.—Registration of clubs not licensed under Liquor Act, 1912, as amended.

50G. In this Division of this Part of this Act, Definitions. unless the context or subject matter otherwise indicates or requires—

“Court” means licensing court constituted under the Liquor Act, 1912, as amended by subsequent Acts.

“Inspector”

No. 17, 1956.

“Inspector” means any member of the police force of or above the rank of sergeant or any member of the police force in charge of a police station.

“Licensing district” means a licensing district under the Liquor Act, 1912, as amended by subsequent Acts.

“Registered club” means club registered under this Division of this Part of this Act.

“Register of members” means register of members of a registered club prescribed by this Division of this Part of this Act to be kept.

Conditions of
registration
of clubs.
cf. Act No.
42, 1912,
s. 184.

50H. No club shall be or continue to be registered under this Division of this Part of this Act 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 of fifteen miles from the General Post Office in Sydney and not less than thirty persons in the case of a club established elsewhere.
- (b) The club must be a body, association, or company associated together for social, literary, political, sporting, athletic, or other lawful purpose.
- (c) The club must be established for the purpose of providing according to the objects of the club adequate and appropriate facilities and amenities for the members thereof and their guests, upon premises of which such association or company are the bona fide occupiers.

(d)

- (d) The facilities and amenities must be provided and maintained from the joint funds of the club, and 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.
- (e) The premises of the club shall have facilities and amenities adequate and appropriate for the purposes of the club.
- (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 from the keeping, use and operation of poker machines.
- (g) A register of members of the club for the time being shall be kept on the club's premises.
- (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) prohibit the payment of any dividends or distribution of profits or income to or amongst the members of the club.
- (i) No person other than the club or its members shall directly or indirectly derive any profit or advantage from the fact that the club is registered under this Division of this Part of this Act or from any added value which may accrue, because of such registration, to the land upon which the club's premises are situated.

In

No. 17, 1956.

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 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 comprises the unimproved capital value of the land (excluding any added value attributable to the fact that the club is registered) and the value of the improvements on the land;
- (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 the club is registered) and the value of the improvements on the land;

unless it is established to the satisfaction of the court that the occupation fee or the interest payable is reasonable and proper having regard to the particular circumstances existing in relation to the club.

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.

And

And where the club is by the terms of No. 17, 1956. 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 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—

- (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 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.

501. (1) In order that any club may be eligible to Provisions to be made in rules of clubs. be registered under this Division of this Part of this Act, 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;
- (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) 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;
- (d)

No. 17, 1956.

- (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;
- (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;
- (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;
- (g) 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;
- (h) 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;
- (i) no person under twenty-one years of age shall use or operate or be allowed to use or operate poker machines in the club premises:

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, be exempted from compliance with the provisions of paragraphs (a), (c), and (d) of this subsection and of paragraph (c) of section 50H of this Act, and such trustees shall for the purposes of this Part of this Act be deemed the elected committee of the club. (2)

(2) In order that any club may be eligible to **No. 17, 1956.**
be registered under this Division of this Part of this
Act the rules of the club shall also make provision
ensuring that the club is a non-proprietary club as
defined in section 50II of this Act.

50J. Where the rules of a registered club are **Amendment**
amended, copies of the amendments, certified as **of rules,**
correct under the hand of the secretary, shall be **cf. Act**
No. 42, forwarded to the clerk of the court for the licensing **1912,**
district in which the premises of the club are situate **s. 135A.**
and to the inspector at the police station nearest
to the said court within fourteen days after the
amendments have been made.

50K. (1) The secretary of any club desirous of **Notice of**
obtaining a certificate of the registration of the club **application**
under this Division of this Part of this Act shall—
for regis- tration.

(a) at least fourteen days before applying for **cf. Act No.**
42, 1912, the same deliver to the clerk of the court **s. 136.**
for the licensing district in which the
premises of the club are situate a notice in
writing, and in duplicate, signed by the
secretary, in the form prescribed, together
with a properly drawn plan of the premises
in respect of which the application is to be
made;

(b) publish a copy of such notice in a newspaper
circulating in the licensing district at least
seven days before he so applies.

(2) Such application shall be accompanied
by the following documents, namely:—

(a) Two printed copies of all rules of the club,
certified as correct under the hand of the
secretary.

(b) A statement, verified by statutory declara-
tion of the names and addresses of bona
fide members of the club at the date of the
application.

No. 17, 1956.

Copy of application to be furnished to inspector.
 cf. Act No. 42, 1912, s. 138.

50L. (1) Where application is made for the grant of any such certificate, the clerk of the court shall forthwith forward such application to the inspector at the police station nearest to the said court for inquiry and report; and on receipt from any person other than such inspector of notice of any objection which may lawfully be taken as hereinafter in this Division of this Part of this Act provided shall forward a copy of the same to such inspector for inquiry and report.

(2) Such inspector, for the purposes of making any inquiry and report as aforesaid, shall inspect the premises of the club and the register of its members, and satisfy himself by proper inquiries that the particulars contained in the application are correct.

Application—how dealt with.
 cf. Act No. 42, 1912, s. 139.

50M. (1) Subject to subsection two of this section where application is made for the grant of any such certificate the court shall hear and determine the matter of the application and before granting the application shall satisfy itself that—

- (a) the objections, if any, to the application have not been sustained;
- (b) the purpose for which the members of the club are associated together is a purpose mentioned in paragraph (b) of section 50H of this Act;
- (c) the rules of the club contain the provisions specified in section 50I of this Act;
- (d) the facilities and amenities provided in the club premises are adequate and appropriate for the purposes of the club;
- (e) the club and its premises comply with all the conditions imposed by this Division of this Part of this Act in relation to the registration of a club.

If the court decides to grant the application it shall authorise the issue by the clerk of the court of a certificate of registration.

(2)

(2) On the hearing of any application for ^{No. 17, 1956.} the grant of a certificate of registration, to the granting of which objection has been taken under this Division of this Part of this Act, the court may order payment to the successful party of such sum as it deems proper to meet his reasonable costs and expenses in the matter.

50N. (1) Upon any application for the grant of ^{Objections which may be taken to grant of certificate. cf. Act No. 42, 1912, s. 140.} any such certificate objections may be taken by any corporation or person mentioned in section 50o of this Act, upon one or more of the following grounds:—

- (a) That the application made by the club, or the rules of the club, or any of them, are in any respect specified in such objection not in conformity with this Division of this Part of this Act.
- (b) That the club has ceased to exist, or that the number of members is less than the number applicable thereto.
- (c) That it is not conducted in good faith as a club, or that it is kept or habitually used for any unlawful purpose.
- (d) That the club is conducted in a disorderly manner.
- (e) That the keeping, use or operation of poker machines on the club premises is not under the control of members of the committee appointed by the members.
- (f) That any of the rules of the club are habitually broken.
- (g) That the rules have been so changed as not to be in conformity with the provisions required by this Division of this Part of this Act to be embodied in the rules.
- (h) That the premises in respect of which the application is made are not suitable to be registered under this Division of this Part of this Act or that the facilities or amenities provided are inadequate or inappropriate for the purposes of the club.

(2)

No. 17, 1956.

(2) For the purpose of determining whether a club is conducted in good faith as a club, the court shall have regard to the nature of the premises occupied by the club.

Who may take objection.
cf. Act No. 42, 1912, s. 141.

50o. Any objection to the grant of any such certificate may be taken by—

- (a) an inspector;
- (b) the council of the municipality or other local government area within which the premises of the club are situate;
- (c) any freeholder, leaseholder, or person residing on property situate within one mile from such premises if they are situate within a municipality or within five miles from such premises if they are situate elsewhere.

The signature to any such objection when made by any person described in paragraph (c) of this section shall be witnessed by a justice of the peace or a member of the police force.

Notice of objection.
cf. Act No. 42, 1912, s. 146.

50P. No objector shall be heard against any application unless notice of the objection has been given to the clerk of the court and to the applicant at least three clear days before the time appointed for the hearing of the application to which such notice applies:

Provided that the court shall not be precluded from entertaining any objection which may arise during the hearing of an application, but the applicant shall then be entitled to an adjournment for such time, not less than three days, as the court thinks fit.

Summons to show cause against cancellation.
cf. Act No. 42, 1912, s. 148.

50Q. (1) Upon the complaint of any corporation or person mentioned in section 50o of this Act, made upon oath, a justice of the peace may issue a summons to the secretary of any registered club calling upon him to show cause at a court why the certificate

certificate of registration of the club should not be No. 17, 1956. cancelled on all or any of the grounds of objection which might have been taken as hereinbefore provided to the grant of a certificate of registration or on the ground that the provisions of section 50J of this Act have not been complied with.

(2) Such summons shall be served at least ^{Service} ten days before the day appointed for the sitting ^{of} summons. of the court at which the matter is to be heard.

If the secretary of any registered club cannot be found or if there is no secretary, such summons may be served by affixing the same upon a conspicuous part of the premises of the club.

(3) The court shall hear and determine the ^{Determina-} matter of such complaint and may— ^{tion of} ^{court.}

- (a) cancel the certificate; or
- (b) suspend the certificate until any conditions prescribed by this Part of this Act are complied with; or
- (c) dismiss the complaint.

(4) The costs of the hearing and determina- ^{Costs.} tion of every such matter shall be in the discretion of the court.

Division 5.—*General.*

50R. (1) The power to make regulations conferred ^{Regulations.} upon the Governor by section fifty-nine of this Act shall include power to make regulations for and with respect to:—

- (a) the form of application for a license under this Part of this Act and the documents and other information which shall accompany such application;
- (b) the fees to be paid upon any such application;
- (c) the form of licenses to be issued under this Part of this Act;
- (d) the submission of income and expenditure accounts and balance sheets by clubs ^{holding}

No. 17, 1956.

holding licenses under this Part of this Act and the time or times at which such shall be submitted;

- (e) the practice and procedure by and before licensing courts and licensing magistrates under this Division of this Part of this Act, the forms of applications and certificates thereunder, the duties and procedure to be observed by inspectors and other persons in respect of objections thereunder and the fees payable by applicants, objectors and other persons in licensing courts thereunder;
- (f) all matters and things which are necessary or convenient or are authorised or required to be prescribed for giving effect to this Part of this Act.

(2) Until regulations are made for and with respect to the matters referred to in paragraph (e) of subsection one of this section the provisions of Part X of the Liquor Act, 1912, as amended by subsequent Acts and the regulations thereunder shall mutatis mutandis be applicable to such matters.

(3) A penalty not exceeding fifty pounds may be imposed for any breach of such regulations.

Savings.

4. The keeping, use or operation of poker machines at any time before the thirtieth day of June, one thousand nine hundred and fifty-six, by any club which made application for a renewal of a certificate of registration under Part X of the Liquor Act, 1912, as amended by subsequent Acts, before that day and whose application for renewal of the certificate of registration under that Part was refused and the use or operation of poker machines upon the premises of any such club by any persons before that day shall not be a ground upon which any objection may be maintained upon any appeal against the refusal of such renewal.