

REGISTERED CLUBS (AMENDMENT) ACT 1986 No. 78

NEW SOUTH WALES



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REGISTERED CLUBS (AMENDMENT) ACT 1986 No. 78

NEW SOUTH WALES



Act No. 78, 1986

An Act to amend the Registered Clubs Act 1976 to provide for the licensing of persons associated with the manufacture, sale and servicing of poker machines; to regulate the acquisition, keeping and disposal of poker machines by clubs; and for other purposes. [Assented to, 21 May 1986]

See also Gaming and Betting (Amendment) Act 1986; Gaming and Betting (Poker Machines) Taxation Amendment Act 1986; Liquor (Amusement Devices) Amendment Act 1986.

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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

1. This Act may be cited as the "Registered Clubs (Amendment) Act 1986".

Commencement

2. (1) Sections 1, 2, 3 and 5 and Schedule 3 shall commence on the date of assent to this Act.

(2) Section 4, in its application to a provision of Schedules 1 and 2, shall commence on the day on which the provision commences.

(3) Except as provided by subsections (1) and (2), the several provisions of this Act shall commence on such day or days as may be appointed by the Governor and notified by proclamation published in the Gazette.

Principal Act

3. The Registered Clubs Act 1976 is referred to in this Act as the Principal Act.

Amendment of Act No. 31, 1976

4. The Principal Act is amended in the manner set forth in Schedules 1 and 2.

Transitional provisions

5. Schedule 3 has effect.

Registered Clubs (Amendment) 1986

SCHEDULE 1

(Sec. 4)

AMENDMENTS TO THE PRINCIPAL ACT RELATING TO POKER
MACHINES(1) Section 4 (**Interpretation**)—

(a) Section 4 (1), definition of “approved poker machine”—

After the definition of “address”, insert:

“approved poker machine” means a poker machine that—

- (a) is approved by the Board or is within a class of poker machines approved by the Board; and
- (b) has not been prescribed as having ceased to be an approved poker machine;

(b) Section 4 (1), definition of “authorised poker machine”—

After the definition of “assessment period”, insert:

“authorised poker machine”, in relation to a club, means a poker machine that is the subject of an authorisation in force under section 79;

(c) Section 4 (1), definition of “established poker machine”—

After the definition of “certificate of registration”, insert:

“established poker machine” means a poker machine that—

- (a) immediately before the commencement of Division 1 of Part X was the subject of a licence under Part IIIA of the Gaming and Betting Act 1912 as then in force; and
- (b) has not, since that commencement, been prescribed as having ceased to be an established poker machine;

(d) Section 4 (1), definition of “poker machine”—

After the definition of “ordinary member”, insert:

“poker machine” means a device that is designed—

- (a) for the playing of a game of chance or a game that is partly a game of chance and partly a game requiring skill; and

SCHEDULE 1—*continued*AMENDMENT TO THE PRINCIPAL ACT RELATING TO POKER
MACHINES—*continued*

- (b) for paying out money or tokens or of registering a right to an amount of money or money's worth available to be paid out or claimed;

- (e) Section 4 (1), definition of "this Act"—

After the definition of "temporary member", insert:

"this Act" includes regulations.

- (f) Section 4 (6) , (7)—

After section 4 (5), insert:

(6) In this Act, a reference to the keeping of a poker machine includes a reference to permitting the poker machine to be operated.

(7) In this Act, a reference to a poker machine includes a reference to any component of a poker machine other than a prescribed component.

- (2) Section 9A (Conditions relating to certificate of registration)—

Section 9A (3)–(6)—

After section 9A (2), insert:

(3) The certificate of registration of a club is subject to such conditions relating to the keeping of a poker machine by the club as are imposed by the Board—

- (a) when authorising the keeping of the poker machine; or
- (b) at any subsequent time on the application of the Principal Registrar or a licensing inspector,

if the club has first been given an opportunity to make submissions in relation to the proposed condition.

(4) The Board may revoke or vary a condition referred to in subsection (3) on the application of the Principal Registrar, a licensing inspector or the club.

Registered Clubs (Amendment) 1986

SCHEDULE 1—*continued*AMENDMENT TO THE PRINCIPAL ACT RELATING TO POKER
MACHINES—*continued*

(5) The certificate of registration of a club is subject to a condition requiring the club to comply with the provisions of Divisions 1 and 2 of Part X whether or not the club, the secretary of the club, or a member of the governing body of the club, has been convicted of an offence against any of those provisions.

(6) The regulations may prescribe conditions to which the certificate of registration of a club is to be subject.

(3) Section 73 (**Regulations**)—

(a) Section 73 (1)—

After “with respect to”, insert “any matter that by this Act is required or permitted to be prescribed or that is necessary or convenient to be prescribed for carrying out or giving effect to this Act and, in particular, for or with respect to”.

(b) Section 73 (1) (k)—

Omit “and”.

(c) Section 73 (1) (l)–(y)—

Omit section 73 (1) (l), insert instead:

(l) the manufacture of approved poker machines;

(m) the supply, offering to supply, sale, acquisition, ownership, possession, keeping, operation, control, management, servicing, repair, maintenance or disposal of approved poker machines and established poker machines;

(n) the design and construction of approved poker machines;

(o) the means of identification or appearance of approved poker machines or established poker machines;

(p) the terms and conditions of acquisition, ownership and disposal of approved poker machines and established poker machines including the prices at which those poker machines may be acquired;

SCHEDULE 1—*continued*AMENDMENT TO THE PRINCIPAL ACT RELATING TO POKER
MACHINES—*continued*

- (q) the offering and provision of prizes relating to the use of authorised poker machines and the calculation and determination of those prizes;
 - (r) the keeping of records relating to approved poker machines and established poker machines and the inspection, and obtaining of copies of, those records;
 - (s) the lodging with the Board of periodic and other returns relating to approved poker machines and established poker machines;
 - (t) tampering or interfering with authorised poker machines;
 - (u) the examination and inspection of approved poker machines and established poker machines;
 - (v) the issuing of defect notices in respect of authorised poker machines;
 - (w) the display in a registered club of specified notices or reports relating to authorised poker machines;
 - (x) the exemption (whether or not subject to specified conditions or in specified circumstances) of any class of persons, premises or poker machines from the operation of a provision of the regulations; or
 - (y) the duties and functions of a registered club.
- (d) Section 73 (2)—
- Omit the subsection, insert instead:
- (2) A provision of a regulation may—
 - (a) apply generally or be limited in its application by reference to specified exceptions or factors;
 - (b) apply differently according to different factors of a specified kind; or
 - (c) authorise any matter or thing to be determined, applied or regulated from time to time by a specified person or body.

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SCHEDULE 1—*continued*AMENDMENT TO THE PRINCIPAL ACT RELATING TO POKER
MACHINES—*continued*

(e) Section 73 (3)—

Omit the subsection, insert instead:

(3) A regulation may impose a penalty not exceeding \$1,000 for a contravention of the regulation.

(4) Parts X, XI—

After Part IX, insert:

PART X

KEEPING AND TAXATION OF POKER MACHINES

DIVISION 1—*Keeping of poker machines***Lawful keeping, etc., of poker machine**

77. (1) This section has effect notwithstanding anything in the Lotteries and Art Unions Act 1901, the Gaming and Betting Act 1912 or any other Act except this Act, or any law.

(2) Subject to this Act and the conditions to which the certificate of registration of a registered club is subject, it is lawful—

(a) to keep an authorised poker machine on the defined premises of the club; and

(b) to operate such a poker machine so kept.

(3) Neither the keeping of a poker machine by a registered club, nor its operation, is a ground for a complaint under section 17 unless the keeping or operation is unlawful.

Keeping, acquisition and disposal of poker machine

78. A registered club shall not—

(a) keep a poker machine that is not an authorised poker machine;

SCHEDULE 1—*continued*AMENDMENT TO THE PRINCIPAL ACT RELATING TO POKER
MACHINES—*continued*

- (b) acquire a poker machine without the authority of the Board or without complying with any conditions imposed by the Board in relation to the acquisition of the poker machine; or
- (c) dispose of a poker machine without the authority of the Board or without complying with any conditions imposed by the Board in relation to the disposal of the poker machine.

Penalty: \$2,000.

Application to keep or dispose of poker machine

79. (1) An application to the Board for authority—

- (a) to acquire and keep an approved poker machine or an established poker machine; or
- (b) to dispose of a poker machine,

shall be in a form approved by the Board that is accompanied by documents as required by the form.

(2) Where, before a decision is made on an application, there is a change in the information provided in or accompanying the application (including information provided under this subsection) the applicant club shall forthwith provide the Board with full particulars of the change.

Penalty: \$2,000.

(3) The Board may, from time to time before making a decision on an application, require the applicant club to provide, or require the applicant club to authorise another person to provide, the Board with such further information in relation to the application as is specified by the Board and, until the information is provided, may defer consideration of the application.

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SCHEDULE 1—*continued*AMENDMENT TO THE PRINCIPAL ACT RELATING TO POKER
MACHINES—*continued*

(4) The Board—

- (a) may approve an application form that requires the information provided by completing the form to be verified by statutory declaration; and
- (b) may require information or particulars provided by an applicant to be verified by statutory declaration.

(5) A registered club shall not acquire a poker machine unless—

- (a) the property in the poker machine passes to the club unconditionally and free from encumbrances after being paid for in full by the club without the club having obtained financial accommodation in order to make the payment; or
- (b) the poker machine is acquired in accordance with financial and other arrangements approved by the Board,

under a written contract that includes prescribed terms and conditions.

Penalty: \$2,000.

(6) Any change in the financial or other arrangements under which a registered club acquires a poker machine is void without the prior written consent of the Board.

(7) Where, at the commencement of this Division, a registered club is keeping an established poker machine, the Board shall be deemed to have, at that commencement, authorised the keeping of the poker machine.

(8) An authorisation granted under this section or referred to in subsection (7) ceases to have effect—

- (a) if it is suspended or cancelled by the Board; or

SCHEDULE 1—*continued*
AMENDMENT TO THE PRINCIPAL ACT RELATING TO POKER
MACHINES—*continued*

- (b) it relates to a poker machine prescribed as having ceased to be an approved poker machine or an established poker machine.

Sharing of receipts from poker machines prohibited

80. A registered club shall not—

- (a) share any receipts arising from the operation of a poker machine; or
- (b) make any payment or part payment by way of commission or allowance from or upon any such receipts.

Penalty: \$2,000.

Keeping of old poker machine

81. A registered club shall not keep a poker machine after the expiration of the prescribed period that next succeeds the date of manufacture of the machine.

Penalty: \$2,000.

Operation of defective poker machines

82. (1) A registered club shall not permit the operation of a poker machine that does not function properly.

Penalty: \$2,000.

(2) It is a defence to a prosecution for an offence under subsection (1) if it is proved—

- (a) that the operation of the poker machine was for testing or maintenance purposes; or
- (b) that the secretary or other person for the time being in charge of the club—
 - (i) had taken all reasonable precautions to ensure that the poker machine was functioning properly; and

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SCHEDULE 1—*continued*AMENDMENT TO THE PRINCIPAL ACT RELATING TO POKER
MACHINES—*continued*

- (ii) at the time of the alleged offence did not know, and had no reason to know, that the poker machine was not functioning properly.

Unlawful interference with poker machine

83. (1) A person on the premises of a registered club shall not, without reasonable cause (proof of which lies on the person)—

- (a) have in his or her possession an article made or adapted, or intended by the person to be used, for interfering with the normal operation of a poker machine; or
- (b) interfere, or attempt to interfere, with the normal operation of a poker machine.

Penalty: \$2,000 or imprisonment for 2 years or both.

(2) For the purposes of subsection (1), but without limiting its operation—

- (a) the reference to the premises of a registered club includes a reference to a car-parking area under the control of the club or its governing body; and
- (b) a reference to interfering with the normal operation of a poker machine includes a reference to maliciously damaging the poker machine or inserting, or causing to be inserted, in the poker machine anything other than an Australian coin or other object of the kind intended for use in operating the machine.

Illegal possession of poker machine by club

84. Except to the extent that may be otherwise prescribed, a registered club shall not be in possession of a poker machine that is not an authorised poker machine.

Penalty: \$2,000.

SCHEDULE 1—*continued*AMENDMENT TO THE PRINCIPAL ACT RELATING TO POKER
MACHINES—*continued*DIVISION 2—*Taxation***Taxation of club keeping poker machines**

85. (1) A registered club shall—

- (a) on or before the date that is 3 months later than the date on which an authorised poker machine was or is acquired by the club; and
- (b) where the club is keeping an authorised poker machine on any 1 July—on or before 1 October next succeeding that 1 July,

pay to the Board the annual tax for the poker machine payable under the Gaming and Betting (Poker Machines) Taxation Act 1956.

(2) A registered club shall—

- (a) on or before each 21 June—pay to the Board the supplementary tax, and the additional supplementary tax, payable by the club under the Gaming and Betting (Poker Machines) Taxation Act 1956; and
- (b) on or before each 21 December—pay to the Board the supplementary tax payable by the club under that Act.

(3) Regulations may be made providing penalties for late payment of a tax payable under this Division.

(4) Where, before any 21 June or later day allowed by the Board, a registered club satisfies the Board that the aggregate net revenue from poker machines derived by the club in respect of the period of 12 months ending on the next succeeding 30 November will probably be less than \$65,000, the Board may, wholly or except in relation to a specified amount, defer until not later than the next succeeding 21 December any liability of the club to pay supplementary tax in respect of the period of 6 months that ended on the last preceding 31 May.

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SCHEDULE 1—*continued*AMENDMENT TO THE PRINCIPAL ACT RELATING TO POKER
MACHINES—*continued*

(5) Where a specified amount of supplementary tax is excepted from a deferment of liability under subsection (4), the club shall pay that amount of supplementary tax to the Board not later than 21 days after being notified of the deferment.

(6) An amount of annual tax, supplementary tax, or additional supplementary tax, due and unpaid by a registered club may be recovered in a court of competent jurisdiction as a debt due by the club to the Crown.

(7) Any amount paid to the Board under this section shall be paid by the Board to the Consolidated Fund.

(8) There shall, without further appropriation than this Act, be paid from the Consolidated Fund in the year ending on 30 June 1987 and in each succeeding year—

(a) to the Housing Account established under the Housing Act 1912 (by such instalments, and at such times, as are determined by the Treasurer)—an amount of \$1,000,000 to be applied towards the provision of homes for the aged; and

(b) to the Hospitals Fund established under the Public Hospitals Act 1929 (at intervals of not more than 3 months)—the balance of the amount paid under subsection (7) after allowing for refunds of taxation payable under the Gaming and Betting (Poker Machines) Taxation Act 1956.

Records and returns

86. (1) A registered club shall keep such records relating to poker machines as may be directed by the Board.

(2) A registered club shall—

(a) at or before the time at which the club pays annual tax, supplementary tax or additional supplementary tax; or

SCHEDULE 1—*continued*AMENDMENT TO THE PRINCIPAL ACT RELATING TO POKER
MACHINES—*continued*

- (b) at or before the time at which the club applies for deferment under section 85 (4) of a liability to pay supplementary tax,

lodge with the Board—

- (c) returns in a form approved by the Board;
- (d) an auditor's report in a form approved by the Board; and
- (e) a statutory declaration by the secretary of the club made in a form approved by the Board.

(3) A club shall not, under subsection (2), lodge with the Board a return that is false or misleading in a material particular.

Penalty: \$2,000.

(4) Proceedings for an offence under subsection (3) may be commenced at any time within the period of 3 years that next succeeds commission of the offence.

Tax refund for welfare expenditure

87. (1) A reference in this section—

- (a) to an amount of money disbursed by a registered club for an approved welfare purpose does not include a reference to an amount of money—
 - (i) collected by the club by way of donations or the proceeds of donations; or
 - (ii) comprising the proceeds of any special fund-raising activity conducted by the club;
- (b) to an approved welfare purpose is a reference to a purpose approved by the Board for the purposes of this section as a purpose promoting community welfare, whether the approval is given generally or in a particular case;
- (c) to a taxation period is a reference to any period of 12 months ending on 30 November; and

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SCHEDULE 1—*continued*AMENDMENT TO THE PRINCIPAL ACT RELATING TO POKER
MACHINES—*continued*

(d) to the relevant proportion of the aggregate net revenue from poker machines is a reference to the relevant proportion of the aggregate net revenue from poker machines within the meaning of the Gaming and Betting (Poker Machines) Taxation Act 1956.

(2) Where the Board is satisfied that the amount disbursed by a registered club during a taxation period for approved welfare purposes was not less than the relevant proportion of the aggregate net revenue from poker machines derived by the club during that taxation period, a refund of so much of the taxes paid by the club under this Division as is the lesser of—

- (a) an amount equal to the prescribed proportion of the amount that the Board is satisfied was so disbursed; and
- (b) the amount of the taxes payable under this Division in respect of that taxation period,

shall be paid to the club out of money provided by Parliament if application for the payment is made to the Board not later than 21 December next following that taxation period or before such later date as the Board may allow.

PART XI

MANUFACTURE, SALE, ETC., OF POKER MACHINES

DIVISION 1—*Preliminary***Interpretation**

88. In this Part—

“adviser’s licence” means a poker machine adviser’s licence in force under this Division;

SCHEDULE 1—*continued*AMENDMENT TO THE PRINCIPAL ACT RELATING TO POKER
MACHINES—*continued*

“dealer’s licence” means a poker machine dealer’s licence in force under this Division;

“licence” means—

- (a) a dealer’s licence;
- (b) a seller’s licence;
- (c) a technician’s licence; or
- (d) an adviser’s licence;

“licence fee” means the fee payable under section 105 for a licence;

“manufacture”, in relation to an approved poker machine, includes manufacture—

- (a) by assembling an approved poker machine; and
- (b) by rebuilding or modifying a poker machine so that it is an approved poker machine;

“poker machine adviser” means a person who, under a contract of service or a contract for services, advises other persons, or issues analyses or reports, concerning poker machines but who is not a solicitor or accountant in public practice as such whose giving of the advice, or issuing or publishing of the analyses or reports, is solely incidental to the practice of his or her profession;

“record” includes a book, account, document, paper or other source of information compiled, recorded or stored in written or illustrated form, or on microfilm, or by electronic process, or in any other manner or by any other means;

“sell” includes—

- (a) barter or exchange;
- (b) offer, agree or attempt to sell;

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SCHEDULE 1—*continued*AMENDMENT TO THE PRINCIPAL ACT RELATING TO POKER
MACHINES—*continued*

(c) expose, send, forward or deliver for sale; and

(d) cause or permit to be sold or offered for sale;

“seller’s licence” means a poker machine seller’s licence in force under this Division;

“technician’s licence” means a poker machine technician’s licence in force under this Division.

Production of records

89. A requirement under this Part to produce a record is, where the record is not written, or is not written in the English language, a requirement to produce a statement, written in the English language, setting forth such of the information in the record as is not written or is not written in the English language.

DIVISION 2—*Licensing of dealers, sellers, technicians and advisers***Granting of licences**

90. (1) The Licensing Court may, upon application made in a form approved by the Board, grant—

- (a) a poker machine dealer’s licence;
- (b) a poker machine seller’s licence;
- (c) a poker machine technician’s licence; or
- (d) a poker machine adviser’s licence.

(2) For the purposes of this section, the Board may—

- (a) approve a form of licence for each class or description of licence; and
- (b) in a case where more than one licence may be held by the same person—approve a form in which the licences may be granted or held at the same time.

SCHEDULE 1—*continued*AMENDMENT TO THE PRINCIPAL ACT RELATING TO POKER
MACHINES—*continued*

(3) The Licensing Court is not bound to deal with applications for licences, whether of the same kind or of different kinds, in the order in which they are lodged.

(4) Except in so far as the Licensing Court otherwise directs either generally or in a particular case, the jurisdiction of the Licensing Court to grant an application under this Division may, in the case of an application to which, after investigation, there is no objection, be exercised by the Principal Registrar.

Authority conferred by licence

91. (1) A poker machine dealer's licence authorises the licensee, subject to this Act and any conditions to which the licence is subject—

- (a) to manufacture approved poker machines in the place or places specified in the licence;
- (b) to sell, or negotiate the sale of, approved poker machines and established poker machines;
- (c) to service, repair and maintain poker machines; and
- (d) to act as a poker machine adviser.

(2) A poker machine seller's licence authorises the licensee, subject to this Act and any conditions to which the licence is subject—

- (a) as an employee of a holder of a dealer's licence, seller's licence or adviser's licence—to negotiate on behalf of the employer the sale of approved poker machines and established poker machines; and
- (b) as principal or agent—to sell approved poker machines and established poker machines.

(3) A poker machine technician's licence authorises the licensee, subject to this Act and any conditions to which the licence is subject, to service, repair and maintain poker machines.

Registered Clubs (Amendment) 1986

SCHEDULE 1—*continued*AMENDMENT TO THE PRINCIPAL ACT RELATING TO POKER
MACHINES—*continued*

(4) A poker machine adviser's licence authorises the licensee, subject to this Act and any conditions to which the licence is subject—

- (a) to act as a poker machine adviser; and
- (b) to exercise the authority conferred by a seller's licence.

(5) The Licensing Court may, on the application of the licensee holding a poker machine dealer's licence, vary by endorsement on the licence the place or places referred to in subsection (1) (a).

Application for licence

92. (1) An application for a licence shall be advertised as prescribed.

(2) An application for a licence may not be made by—

- (a) a person who has not attained the age of 18 years;
- (b) a person who is disqualified under section 109 from holding a licence; or
- (c) a person who is the holder of a suspended licence.

(3) An application for a licence of a particular kind—

- (a) may be made only by persons of a prescribed class; or
- (b) may not be made by persons of a prescribed class,

if the regulations so provide in relation to that kind of licence.

Disclosure of interested parties

93. (1) An application for a licence (other than an application to be licensed as an employee) shall be accompanied by an affidavit by a person having knowledge of the facts stating—

- (a) whether or not there are any persons who will be directly or indirectly interested in the application or in the business, or the profits of the business, to be carried on as authorised by the licence if the application is granted; and

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SCHEDULE 1—*continued*

AMENDMENT TO THE PRINCIPAL ACT RELATING TO POKER
MACHINES—*continued*

(b) if there are any persons so interested—

(i) their names and dates of birth; and

(ii) where any such person is a proprietary company—
the names of the directors and shareholders.

(2) If the name of a person is specified in an affidavit under subsection (1), the application shall also be accompanied by an agreement between the applicant and each person whose name is so specified, being an agreement evidencing—

(a) that the applicant will have the full, free and unfettered control of the conduct of the business to be carried on as authorised by the licence if the application is granted; and

(b) that no payment or part payment will be made to the applicant by way of commission or allowance from or upon the receipts of that business.

Updating of application

94. Where, before an application for a licence is granted or refused, a change occurs in the information provided in, or in connection with, the application (including information provided under this section) or in the documents lodged with the application, the applicant shall forthwith give the Principal Registrar a notice in writing specifying particulars of the change.

Penalty: \$2,000.

Board may require further information

95. (1) The Board may, by notice in writing, require an applicant for a licence—

(a) to provide, in accordance with directions in the notice, such information relevant to investigation of the application as is specified in the notice;

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SCHEDULE 1—*continued*AMENDMENT TO THE PRINCIPAL ACT RELATING TO POKER
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- (b) to produce, in accordance with directions in the notice, such records relevant to investigation of the application as are specified in the notice and to permit the taking of extracts from, and the making of copies of, the records; or
- (c) to authorise a person associated with the applicant and specified in the notice to comply with a specified requirement of the kind referred to in paragraphs (a) and (b).

(2) The Board may require information provided under this section to be verified by statutory declaration.

Expenses of investigation of application

96. (1) Where, in the opinion of the Superintendent of Licences, the investigation of an application for a licence is likely to require expenditure outside New South Wales, a licensing inspector may apply to the Licensing Court for an order requiring the applicant to pay to the Board a specified amount towards defraying that expenditure and the travelling expenses involved in the investigation.

(2) The Licensing Court may order payment of an amount not greater than the amount applied for but shall not do so unless—

- (a) the applicant has been given an opportunity to be heard; and
- (b) the Court is satisfied as to the necessity for the application and the expenditure.

(3) Upon the completion of an investigation in respect of which a payment is made under subsection (1), the Superintendent of Licences shall account to the Board for any expenditure from the payment and the Board shall refund any balance to the applicant.

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SCHEDULE 1—*continued*AMENDMENT TO THE PRINCIPAL ACT RELATING TO POKER
MACHINES—*continued*DIVISION 3—*Objections to applications***Who may object**

97. (1) An objection to the granting by the Licensing Court of an application under this Act may, as prescribed, be taken—

- (a) by a licensing inspector or a person authorised by the Superintendent of Licences;
- (b) by the Principal Registrar;
- (c) except in the case of an application to be licensed as an employee—by the council of the city (including the City of Sydney) municipality or shire within the boundaries of which are situated the premises on or from which it is proposed to carry on the business to which the application relates; or
- (d) by any other person with the leave of the Court.

(2) An objection may not be taken by a person referred to in subsection (1) (d) unless it is accompanied by an affidavit by the objector stating—

- (a) whether the objector has any direct or indirect pecuniary interest in the refusal of the application or any expectation of such an interest; and
- (b) whether any person other than the objector is interested in the lodging of the objection and, if so—
 - (i) the name of each such person; and
 - (ii) where such a person is a proprietary company—the names of the directors and shareholders.

Grounds of objection

98. (1) Objection to the grant of an application for a licence may be taken on one or more of the following grounds:

- (a) that the applicant is not a suitable person to be the holder of a licence;

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SCHEDULE 1—*continued*AMENDMENT TO THE PRINCIPAL ACT RELATING TO POKER
MACHINES—*continued*

- (b) except in the case of an application to be licensed as an employee—that a person directly or indirectly interested in the application or in the business, or the profits of the business, to be carried on under the licence if the application is granted is not a suitable person to be so interested;
- (c) that the applicant is closely associated with a specified person and, by reason of that association, is not a suitable person to be the holder of a licence,

and, where any such objection is taken, the onus is on the applicant to rebut the objection.

(2) In addition to, or instead of, a ground specified in subsection (1), objection to the grant of an application for a licence may be taken on one or more of the following grounds:

- (a) that, during the period of 12 months that last preceded the making of the application, the applicant was convicted of carrying on an activity without being the holder of a licence required for the lawful carrying on of that activity;
- (b) that a licence held by the applicant was cancelled during that period of 12 months;
- (c) that section 94, a notice under section 95, or an order under section 96, has not been complied with;
- (d) that, for other reasons specified in the objection (not being reasons based on the unsuitability of a person for any purpose) it would not be in the public interest to grant the application.

(3) Objection to the grant of an application by the Licensing Court (other than an application for a licence) may be taken on the ground that, for specified reasons, it would not be in the public interest to grant the application.

SCHEDULE 1—*continued*AMENDMENT TO THE PRINCIPAL ACT RELATING TO POKER
MACHINES—*continued***Taking of objection**

99. (1) An objection under section 98 may be taken only by a written notice of objection that—

- (a) is signed by each objector and specifies, in each case, the address of the objector; and
- (b) where the objection is based on the unsuitability of a person for any purpose, specifies the reasons why the objector considers that the person is not a suitable person for that purpose.

(2) Except as provided by subsection (3), an objection may not be heard and determined unless a copy of the notice of objection has been given to the applicant and the registrar at least 3 clear days before the hearing of the application.

(3) The Licensing Court may, in a proper case and subject to compliance with any conditions imposed by the Court, hear and determine an objection to the grant of an application taken at the hearing of the application subject to the hearing, if the applicant so requests, being adjourned for such period of not less than 3 clear days as the Court thinks fit.

Discretionary powers of Licensing Court

100. (1) Notwithstanding that an objection to the grant of an application for a licence has not been taken or, if taken, has not been made out, the Licensing Court may refuse the application if it finds, after subsection (2) has been complied with, that reasons exist upon which an objection could have been grounded and made out.

(2) A finding under subsection (1) may be made only if—

- (a) the applicant has been made aware of the reasons for the possibility of such a finding;
- (b) the applicant has been given an opportunity to make submissions, and adduce evidence, related to those reasons; and

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SCHEDULE 1—*continued*AMENDMENT TO THE PRINCIPAL ACT RELATING TO POKER
MACHINES—*continued*

(c) those reasons are, or include, the reasons for the finding.

(3) Notwithstanding a finding by the Licensing Court that an objection to the grant of an application for a licence on a ground other than a ground based on unsuitability or the public interest has been made out, the Court has a discretion to grant the application.

DIVISION 4—*Conditions, issue and duration of licences***Conditions of licences**

101. (1) The Licensing Court may—

- (a) on the hearing of an application for the grant of a licence or of any matter relating to a licence—of its own motion or on the application of a party to the hearing, the Principal Registrar or a licensing inspector; or
- (b) at any other time—on the application of the Principal Registrar or a licensing inspector,

impose a condition not inconsistent with this Act without prior compliance with which the grant does not take effect or to which the licence is to be subject.

(2) A licence is subject to—

- (a) a prescribed condition;
- (b) a condition imposed under subsection (1);
- (c) a condition imposed by the Licensing Court on the hearing of a complaint under section 108; and
- (d) any other condition the Court is authorised by this Act to impose,

whether or not the condition is endorsed on the licence.

SCHEDULE 1—*continued*AMENDMENT TO THE PRINCIPAL ACT RELATING TO POKER
MACHINES—*continued*

(3) Where a licence is subject to a condition, the licensee shall comply with the condition.

Penalty: \$2,000.

(4) The Licensing Court may vary or revoke a condition (other than a prescribed condition) of a licence—

- (a) at any time on the application of the licensee, the Principal Registrar or a licensing inspector; or
- (b) at any time of its own motion, whether or not on the hearing of any matter relating to the licence.

Condition of licence on and from 1 January 1990

102. (1) The Licensing Court may, on application by the holder of a dealer's licence, impose a condition of the licence prohibiting the licensee from using specified parts in the manufacture of an approved poker machine by the licensee after 31 December 1989 unless the parts are made in Australia.

(2) A condition may specify such parts as the Licensing Court thinks fit, whether or not they are, or include, the parts to which the application relates.

(3) A licence that, immediately before 1 January 1990, is not subject to a condition referred to in subsection (1) is suspended on and from that date until it is subject to such a condition.

Issue of licence

103. (1) Where the Licensing Court or the Principal Registrar grants an application for a licence, the licence shall not be issued unless the prescribed fee for the grant of the licence has been paid to the Principal Registrar and any condition without prior compliance with which the grant does not have effect has been complied with.

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SCHEDULE 1—*continued*AMENDMENT TO THE PRINCIPAL ACT RELATING TO POKER
MACHINES—*continued*

(2) The Licensing Court may stay the issue of a licence—

- (a) until the expiration of the period within which an appeal against the adjudication granting the licence may be made or the expiration of the period of 1 month that next succeeds the adjudication, whichever is the later; and
- (b) where such an appeal is lodged—until the appeal is heard and determined or otherwise disposed of,

and may at any time terminate such a stay.

(3) A grant of an application for a licence does not have effect while the issue of the licence is prohibited by, or stayed under, this section.

Duration of licence

104. Except during any period of suspension, a licence remains in force until its surrender in writing is accepted by the Board or it is sooner cancelled.

DIVISION 5—*Licence fees and periodic statements***Periodic licence fee**

105. (1) A fee is payable to the Board for a licence while the licence is in force or under suspension and is so payable in respect of each period prescribed for the purposes of this section.

(2) Regulations may be made prescribing the amounts for licence fees and for and with respect to the times for payment of licence fees, the payment of those fees by instalments, penalties for late payment of those fees or instalments, the suspension or cancellation of a licence after a failure to pay the licence fee or any part of the licence fee and the circumstances in which a licence fee, or a proportion of a licence fee, may be refunded.

SCHEDULE 1—*continued***AMENDMENT TO THE PRINCIPAL ACT RELATING TO POKER
MACHINES—*continued*****Periodic provision of information by licensee**

106. (1) A person who is or was a licensee during a prescribed period or part of a prescribed period shall, not later than 1 month after the end of the prescribed period, lodge with the Board a return that—

- (a) is in a form approved by the Board;
- (b) is accompanied by the prescribed documents; and
- (c) is signed—
 - (i) where the licensee is a corporation—by at least 2 directors of the corporation; or
 - (ii) in any other case—by the licensee.

(2) A person shall not make a false or misleading statement in a return under subsection (1).

Penalty: \$2,000.

DIVISION 6—*Disciplinary action***Interpretation**

107. In this Division—

“licensee” includes a former licensee.

Summons to show cause against taking of disciplinary action

108. (1) A complaint in relation to a licensee is an authorised complaint if it is made in writing by—

- (a) the Principal Registrar;
- (b) a licensing inspector;
- (c) a registered club; or

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SCHEDULE 1—*continued*AMENDMENT TO THE PRINCIPAL ACT RELATING TO POKER
MACHINES—*continued*

- (d) a person authorised by the regulations to make the complaint,

and specifies as its grounds one or more of the grounds referred to in subsection (2).

(2) The grounds upon which an authorised complaint may be made are—

- (a) that the licensee has, while holding the licence, been convicted—
- (i) of an offence against this Act specified in the complaint; or
 - (ii) of an offence prescribed for the purposes of this subsection;
- (b) that the licensee has, while holding the licence, failed to comply with a specified condition of the licence;
- (c) that the licensee has, while holding the licence, failed to comply with a specified order or direction of the Licensing Court or the Board;
- (d) that the licensee has failed to make due payment of a fee, or of a penalty for late payment of a fee, in accordance with this Act;
- (e) that the licensee is not a suitable person to be the holder of the licence;
- (f) that the licensee is associated with a specified person and the association results in the licensee not being a suitable person to be the holder of the licence;
- (g) that a specified person named in an affidavit under section 93 or 112 is not a suitable person to be interested in the licence, or in the business or the profits of the business, carried on pursuant to the licence;
- (h) that the licence has not been exercised in the public interest;

SCHEDULE 1—*continued*AMENDMENT TO THE PRINCIPAL ACT RELATING TO POKER
MACHINES—*continued*

- (i) that the continuation of the licence is not in the public interest.

(3) Upon the making of an authorised complaint, a licensing or other Magistrate may summon the licensee to whom the complaint relates to appear before the Licensing Court to answer the complaint and show cause why disciplinary action should not be taken under section 109.

- (4) A summons under subsection (3)—

- (a) shall specify the grounds of the complaint upon which the summons was issued;
- (b) where a ground of complaint is based on the unsuitability of a person for any purpose or based on the public interest—shall specify the reasons given by the complainant for making the complaint on that ground; and
- (c) shall be served on the licensee personally or in any other prescribed manner.

(5) Where an authorised complaint has been made in relation to a licensee, the complainant shall cause a copy of the complaint to be served by post on each person named—

- (a) in the affidavit referred to in section 93 that accompanied the application for the licence; and
- (b) in any affidavit produced to the Principal Registrar by the licensee in accordance with section 112,

at the address of the person to be served last known to the Board and each person so named may, at the hearing of the complaint, be represented and be heard.

(6) A particular failure to comply with a condition of a licence may not be the subject both of an authorised complaint and proceedings for an offence.

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SCHEDULE 1—*continued*AMENDMENT TO THE PRINCIPAL ACT RELATING TO POKER
MACHINES—*continued***Disciplinary powers of Court**

109. (1) Upon the appearance of a licensee in response to a summons under section 108 or in the absence of the licensee after being duly summoned, the Licensing Court shall proceed to hear and determine the matter of the complaint to which the summons relates and, if it is satisfied that the ground upon which the complaint was made has been made out, may do any one or more of the following:

- (a) reprimand the licensee;
- (b) order the licensee to pay to the Crown a monetary penalty not exceeding \$5,000;
- (c) impose a condition to which the licence is to be subject, or revoke or vary a condition to which the licence is subject;
- (d) suspend the licence for such period, not exceeding 12 months, as the Licensing Court thinks fit;
- (e) cancel the licence;
- (f) disqualify the licensee from holding a licence for such period, not exceeding 3 years, as the Licensing Court thinks fit.

(2) Where, under subsection (1), the Licensing Court hears and determines the matter of a complaint made by the Principal Registrar or a licensing inspector, the Court may, in its discretion, order—

- (a) that the licensee against whom the complaint was made pay the complainant's reasonable costs and expenses incurred in making the complaint, or a specified part of those costs and expenses; or
- (b) that the complainant pay to the licensee the licensee's reasonable costs and expenses incurred in answering the complaint, or a specified part of those costs and expenses.

SCHEDULE 1—*continued*AMENDMENT TO THE PRINCIPAL ACT RELATING TO POKER
MACHINES—*continued*

(3) Where an order for the payment of money is made under this section and the prescribed documents are filed in the office of a Local Court having jurisdiction under the Local Courts (Civil Claims) Act 1970, the order may be enforced as if it were a judgment of that Local Court for the payment of the money in accordance with the order.

DIVISION 7—*General***Functions of the Board**

110. The Board—

- (a) shall keep under constant review the operation of Part X and this Part and make such recommendations to the Minister as it thinks fit in relation to such a review;
- (b) shall, upon being directed by the Minister so to do, inquire into, and make a report and recommendations upon, any matter connected with the administration of this Part or the keeping or operation of poker machines; and
- (c) may receive submissions or reports from any person with respect to the operation of this Part or the manufacture, assembly, supply, sale, acquisition, servicing, disposal, keeping or operation of poker machines.

Keeping of records

111. (1) Where the holder of a licence is a corporation, it is a condition of the licence that the licensee keep the prescribed records relating to the business carried on under the licence at the registered or principal office of the corporation under section 216, 507 or 513 of the Companies (New South Wales) Code.

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SCHEDULE 1—*continued*AMENDMENT TO THE PRINCIPAL ACT RELATING TO POKER
MACHINES—*continued*

(2) Where the holder of a licence is not a corporation or an employee, it is a condition of the licence that the licensee maintain at least one place of business in the State and keep the prescribed records relating to the business carried on under the licence—

- (a) if only one place of business is maintained in the State—
at that place; or
- (b) if more than one place of business is maintained in that State—at the principal such place.

Control of licensed business

112. Except in the case of a licence held as an employee, it is a condition of a licence that, where a person other than the licensee becomes directly or indirectly interested in the business, or the profits of the business, carried on under the licence, the licensee shall, within 14 days after the other person becoming so interested, produce to the Principal Registrar—

- (a) an affidavit stating in respect of all persons so interested—
 - (i) their names and dates of birth; and
 - (ii) where any such person is a proprietary company—the names of the directors and shareholders; and
- (b) an agreement between the licensee and all persons so interested, being an agreement evidencing—
 - (i) that the licensee will have the full, free and unfettered control of the business carried on pursuant to the licence; and
 - (ii) that no payment or part payment will be made to the licensee by way of commission or allowance from or upon the receipt of that business.

SCHEDULE 1—*continued*AMENDMENT TO THE PRINCIPAL ACT RELATING TO POKER
MACHINES—*continued***Competence**

113. Regulations may be made for and with respect to standards of competence to be established or attained by an applicant for, or holder of, a licence of a specified class.

Lost or destroyed licence

114. The Principal Registrar may, upon being satisfied that a licence has been lost or destroyed and upon payment of the prescribed fee, issue a duplicate of the licence.

Investigation of certain devices

115. (1) The holder of a dealer's licence may apply to the Board for declaration of a device as an approved poker machine.

(2) An applicant shall be deemed to have agreed to pay to the Board an amount determined by the Board as the cost of investigation of the application having regard to—

- (a) disbursements made by the Board;
- (b) time spent by the Board and the Superintendent of Licences, and persons subject to their direction and control; and
- (c) such other matters as the Board considers to be relevant.

(3) The Board shall not proceed with an investigation unless the applicant pays to the Board so much of the estimated cost of the investigation as the Board requires.

(4) The Board may—

- (a) require the applicant for an investigation to provide such information or such further information in relation to the application as the Board thinks fit; and
- (b) delay commencement of, or discontinue, the investigation pending receipt of the information.

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SCHEDULE 1—*continued*AMENDMENT TO THE PRINCIPAL ACT RELATING TO POKER
MACHINES—*continued*

- (5) On completion of an investigation, the Board shall—
- (a) where the cost of the investigation exceeded the amount already paid—require the applicant to pay the difference to the Board within a specified time; or
 - (b) in any other case—refund any difference to the applicant.
- (6) A determination by the Board of the cost of an investigation is reviewable only by the Board.
- (7) Where—
- (a) an applicant fails to pay an amount as required by the Board; and
 - (b) a certificate by the Board as to the amount required to be paid is filed, together with any other prescribed documents, in a Local Court having jurisdiction under the Local Courts (Civil Claims) Act 1970,
- the requirement may be enforced as a judgment of that Court for payment to the Board by the applicant of the amount certified (whether or not the Court is competent to give judgment for that amount).
- (8) Unless the Board otherwise directs in a particular case, a payment made as a consequence of enforcement action under subsection (7) is not a payment for the purposes of subsection (5).

Offences by unlicensed persons

116. (1) On and from a day appointed by the Board for the purposes of this section and notified in the Gazette, a person shall not—

- (a) manufacture a poker machine otherwise than in accordance with the authority conferred on the person by a dealer's licence;

SCHEDULE 1—*continued*AMENDMENT TO THE PRINCIPAL ACT RELATING TO POKER
MACHINES—*continued*

- (b) sell a poker machine, or negotiate the sale of a poker machine, otherwise than in accordance with the authority conferred on the person by a dealer's licence, a seller's licence or an adviser's licence;
- (c) service, repair or maintain a poker machine otherwise than in accordance with the authority conferred on the person by a technician's licence; or
- (d) act as a poker machine adviser otherwise than in accordance with the authority conferred on the person by an adviser's licence.

Penalty: \$5,000 or imprisonment for 12 months, or both.

(2) Subsection (1) does not apply to the holder of a dealer's licence if the Board has agreed to the making of an application by the licensee to have the poker machine declared to be an approved poker machine and the manufacture is for the purposes of the application and investigation.

(3) Subsection (1) does not apply to the sale, or to negotiation of the sale, of a poker machine where—

- (a) the sale is a sale by a club (whether or not a registered club) of a poker machine that is, or was, an authorised poker machine kept by the club; or
- (b) the sale is a sale by a mortgagee of the poker machine in the exercise of a power conferred by a mortgage within the meaning of the Credit Act 1984,

to a purchaser, at a price, and on terms and conditions, approved by the Board.

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SCHEDULE 1—*continued*AMENDMENT TO THE PRINCIPAL ACT RELATING TO POKER
MACHINES—*continued*

- (4) A person is not guilty of an offence against this Act if—
- (a) without being the holder of a technician's licence, but for the purpose only of receiving training and instruction in the servicing, repair and maintenance of poker machines, the person services, repairs or maintains an approved poker machine, or an established poker machine, under the supervision of the holder of a technician's licence; or
 - (b) the person is—
 - (i) the secretary of a registered club;
 - (ii) an employee of a registered club; or
 - (iii) a person authorised for the purpose by the governing body of a registered club,and, in the course of his or her duties as secretary, employee or authorised person, he or she corrects, or attempts to correct, a minor malfunction in an authorised poker machine.

Provision of financial assistance by licensee

117. (1) A licensee shall not enter into a transaction whereby the licensee—

- (a) provides financial assistance to a registered club;
- (b) guarantees the observance by a registered club of a term or condition on which financial assistance is provided to the club by a person other than the licensee; or
- (c) indemnifies any person against any loss suffered in relation to financial assistance provided to a registered club,

unless the transaction has received the prior written approval of the Board.

Penalty: \$2,000.

SCHEDULE 1—*continued*AMENDMENT TO THE PRINCIPAL ACT RELATING TO POKER
MACHINES—*continued*

(2) A licensee shall not, without the prior written approval of the Board, agree to a variation of a term or condition of a transaction under this section approved by the Board.

Penalty: \$2,000.

(3) Section 95 (Board may require further information) applies to an application for the approval of the Board under this section in the same way as it applies to an application for a licence.

Board to be notified of cessation of employment of licensee

118. Not later than 7 days after the termination of a contract of service, or a contract for services, to which the parties are—

(a) the holder of a seller's licence, a technician's licence or an adviser's licence; and

(b) another licensee or a registered club,

the party referred to in paragraph (b) shall give the prescribed notification to the Board.

Penalty: \$2,000.

Supply of approved or established poker machines

119. (1) Except with the approval of the Board and subject to such conditions as may be imposed by the Board when giving the approval, a person shall not supply an approved poker machine or established poker machine, otherwise than by way of sale.

(2) A person shall not purchase, or offer to purchase, an approved poker machine or established poker machine from a person who is not authorised by a licence, or by or under this Act, to sell the poker machine.

Penalty: \$5,000 or imprisonment for 12 months, or both.

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SCHEDULE 1—*continued*AMENDMENT TO THE PRINCIPAL ACT RELATING TO POKER
MACHINES—*continued***Sale of old poker machines**

120. The holder of a dealer's licence, a seller's licence or an adviser's licence shall not sell to a registered club an approved poker machine or an established poker machine that was manufactured before the commencement of the prescribed period that last preceded the date of sale.

Penalty: \$2,000.

Illegal possession of approved or established poker machines

121. (1) Except in the case of a registered club or a licensee or as may be prescribed, a person shall not be in possession of an approved poker machine or an established poker machine.

Penalty: \$5,000 or imprisonment for 12 months, or both.

(2) Subsection (1) does not apply to a club in possession of a poker machine during a period of suspension of its certificate of registration or after its certificate of registration has been cancelled if the possession has not extended beyond a reasonable time after the suspension or cancellation.

(3) Subsection (1) does not apply to a person in possession of a poker machine under a power conferred on the person by a mortgage within the meaning of the Credit Act 1984 if the possession has not extended beyond a reasonable time.

Illegal possession of other poker machines

122. (1) Except in the case of a licensee or as may be prescribed, a person shall not be in possession of a poker machine that is not an approved poker machine or an established poker machine.

Penalty: \$5,000 or imprisonment for 12 months, or both.

SCHEDULE 1—*continued*AMENDMENT TO THE PRINCIPAL ACT RELATING TO POKER
MACHINES—*continued*

(2) Subsection (1) does not apply to possession of a poker machine—

- (a) if the Board has agreed to the making of an application by the holder of a dealer's licence to have the poker machine declared by the Board to be an approved poker machine and the possession is for the purposes of the application; or
- (b) where the Board terminates an investigation of, or refuses to approve, such an application—if the possession is for the purpose of disposing of the device in a manner directed by the Board when notifying the applicant of the termination or refusal and does not extend beyond a reasonable time.

Exhibition of poker machines

123. This Part does not operate to prevent the exhibition of a poker machine, or its operation otherwise than for gaming, on the premises of a registered club or a licensee, or elsewhere, if the exhibition or operation—

- (a) is for promotional, educational or cultural purposes; and
- (b) is conducted with the prior written approval of the Board and in compliance with any conditions imposed by the Board.

Liability of management and directors of corporate licensee

124. (1) Where a licensee that is a corporation contravenes a provision of this Part, each person who is a director of the corporation or who is concerned in the management of the corporation shall, whether or not the corporation has been convicted for the contravention, be deemed to have contravened the provision unless the person satisfies the court that—

- (a) the corporation contravened the provision without the knowledge of the person;

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SCHEDULE 1—*continued*AMENDMENT TO THE PRINCIPAL ACT RELATING TO POKER
MACHINES—*continued*

- (b) the person was not in a position to influence the conduct of the corporation in relation to its contravention of the provision; or
- (c) the person, being in such a position, used all due diligence to prevent the contravention by the corporation.

(2) This section does not affect any liability imposed on a corporation for a contravention of this Part.

Liability of secretary and members of governing body

125. (1) Where a club contravenes a provision of Part X or this Part, the secretary and members of the governing body of the club shall, whether or not the club is convicted for the contravention, each be deemed to have contravened the provision unless it is proved that—

- (a) the contravention occurred without the knowledge of the person charged;
- (b) the person charged was not in a position to influence the affairs of the club in relation to the contravention; or
- (c) the person charged, being in such a position, used all due diligence to prevent the contravention.

(2) Nothing in this section affects any liability imposed on a club for a contravention of a provision of this Part.

Special inspectors

126. The Board shall cause a special inspector to be issued with an identification card and, where a person proposing to exercise the functions under this Act of a special inspector fails to produce on demand his or her identification card, the person is not authorised to exercise those functions in relation to the person making the demand.

SCHEDULE 1—*continued*AMENDMENT TO THE PRINCIPAL ACT RELATING TO POKER
MACHINES—*continued***Powers of special inspectors and others**

127. (1) An authorised person may, at any reasonable hour of the day or night, enter any part of premises where a licensee carries on business or is employed, or any part of the premises of a registered club.

(2) Where an authorised person enters premises in accordance with this section the authorised person may—

- (a) inspect, take account of, check, test, and make notes relating to, poker machines;
- (b) require a person having access to records relating to relevant matters to produce the records for examination;
- (c) make copies of, or take extracts from, records relating to relevant matters;
- (d) ask a licensee or employee of a licensee, or a director of a licensee that is a corporation, or an employee or member of the governing body of a club, to answer questions relating to relevant matters; or
- (e) for the purposes of further examination, take possession of, and remove, a poker machine or a record relating to relevant matters.

(3) A poker machine removed under subsection (2) shall be returned if the Board so directs on the application of the owner of the poker machine made not earlier than 14 days after its removal.

(4) Where a licensee or a registered club reasonably claims that a record removed under subsection (2) is necessary for the proper conduct of the club, the record shall not be retained beyond the end of the day that next succeeds the day of its removal unless the licensee or registered club is first provided with a certified copy of the record and, where such a copy is provided, it is for all purposes of equal validity to the original.

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SCHEDULE 1—*continued*AMENDMENT TO THE PRINCIPAL ACT RELATING TO POKER
MACHINES—*continued*

(5) An authorised person who enters premises in accordance with this section may take possession of, and remove, a poker machine (and money in the poker machine) that the authorised person suspects on reasonable grounds—

- (a) is in the possession of a person in contravention of this Act; or
- (b) where the premises are the premises of a registered club—
is not an authorised poker machine.

(6) If a poker machine removed under subsection (5) is not returned within 14 days together with any money that was in it when it was removed, the provisions of section 129 (4), (5) and (6) apply in relation to the poker machine and money in the same way as they apply in relation to a poker machine and money seized under a search warrant.

(7) A registered club shall, if required by a special inspector so to do—

- (a) withdraw from operation a poker machine that, in the opinion of the inspector, is not operating properly;
- (b) refrain from making available for operation a poker machine withdrawn under paragraph (a) until, in the opinion of a special inspector, it is operating properly;
- (c) refrain from making a poker machine available for operation except in accordance with such controls as are specified by the inspector in relation to the poker machine;
- (d) deliver to the Board, in writing in the English language and within such time as is specified by the inspector, such particulars relating to a poker machine kept by the club as are so specified; or

SCHEDULE 1—*continued*

AMENDMENT TO THE PRINCIPAL ACT RELATING TO POKER
MACHINES—*continued*

- (e) refrain from making available for operation a poker machine indicated by the inspector until it has been fitted with a device approved by the Board for the purposes of the secure keeping and operation of the poker machine.

Penalty: \$2,000.

- (8) A person shall not—

- (a) wilfully delay or obstruct an authorised person in the exercise of powers conferred by this section; or
- (b) being a member of the governing body, or the secretary or other employee, of a registered club—refuse to permit or refuse to assist the exercise of those powers.

Penalty: \$2,000.

- (9) In this section—

“authorised person” means—

- (a) a special inspector;
- (b) a licensing inspector;
- (c) a member of the police force of or above the rank of sergeant or in charge of a police station; or
- (d) a person prescribed by the regulations as an authorised person for the purposes of this section;

“relevant matter” means a matter relating to—

- (a) the manufacture, supply, sale, servicing, possession, keeping or operation of a poker machine; or
- (b) a transaction referred to in section 117 (Provision of financial assistance by licensee).

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SCHEDULE 1—*continued*AMENDMENT TO THE PRINCIPAL ACT RELATING TO POKER
MACHINES—*continued***Licensing Court may require production of records and giving of evidence**

128. (1) On the complaint of a special inspector, a licensing inspector or the Principal Registrar that a person has failed to comply with a requirement under section 127 to produce records of a licensee or a registered club, a licensing or other Magistrate may issue a summons requiring the licensee or registered club to produce to the Licensing Court the records to which the complaint relates.

(2) On the complaint of a special inspector, a licensing inspector or the Principal Registrar that a person has failed to comply with a requirement under section 127 to answer a question, a licensing or other Magistrate may issue a summons requiring the person to appear before the Licensing Court and give evidence in relation to the matter of the complaint.

(3) A person summoned on a complaint under this section may, on the hearing of the complaint, be represented and be heard.

Search warrants

129. (1) In this section—

“authorised justice” means—

(a) a Magistrate; or

(b) a justice of the peace employed in the Local Courts Administration, Attorney General’s Department.

(2) Upon complaint on oath before an authorised justice that there is reasonable cause to believe that, on specified premises—

(a) a poker machine is being manufactured, supplied, offered to be supplied, sold, kept or operated; or

(b) is in the possession of a person,

SCHEDULE 1—*continued*AMENDMENT TO THE PRINCIPAL ACT RELATING TO POKER
MACHINES—*continued*

in contravention of this Act, the conditions of a licence or the conditions of a certificate of registration, the justice may, by warrant, authorise and require a member of the police force to enter and search the premises.

(3) A member of the police force who enters premises under a search warrant may—

- (a) search the premises;
- (b) seize any poker machine, and any money in a poker machine, found on the premises;
- (c) seize any records that may reasonably be suspected to relate to a poker machine; and
- (d) require any person on the premises to state his or her full name and residential address.

(4) Where a poker machine is seized, a licensing or other Magistrate shall, on the application of a special inspector, a licensing inspector or a member of the police force, or of the Magistrate's own motion, issue a summons calling on the owner of the poker machine or the owner or occupier of the premises on which it was seized to appear before the Licensing Court and show how, and for what purpose, the owner or occupier came into possession of the poker machine.

(5) Upon the return of the summons and whether or not there is an appearance in response to the summons, the Licensing Court shall inquire into the matter and—

- (a) if satisfied that this Act or a condition of a licence or a certificate of registration has been contravened in relation to a poker machine—may order that the poker machine and any money found in it be forfeited to the Crown; or
- (b) if not so satisfied—may order the return of the poker machine, and any money found in it, to the person summoned in relation to the poker machine.

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SCHEDULE 1—*continued*AMENDMENT TO THE PRINCIPAL ACT RELATING TO POKER
MACHINES—*continued*

(6) Part III of the Search Warrants Act 1985 applies to a search warrant issued under this section.

Forfeiture of poker machine

130. (1) Where, in any proceedings before it other than proceedings on a summons under section 129, the Licensing Court is satisfied that this Act or a condition of a licence or a certificate of registration has been contravened in relation to a poker machine, the Licensing Court may order that the poker machine and any money found in it be forfeited to the Crown.

(2) A member of the police force may seize and carry away anything that may reasonably be suspected to be liable to forfeiture under subsection (1).

Secrecy

131. (1) In this section—

“officer” means a special inspector, licensing inspector, member of the police force or any other person engaged in the administration of this Act.

(2) An officer shall not—

- (a) while engaged in the administration of this Act, disclose to another person so engaged any information given, or the contents of a document produced, under Division 2 or section 127 without informing the other person that the information was so given, or the document so produced; or
- (b) otherwise than in the course of that administration—disclose any such information or contents to any person without the written permission of the Board given in relation to the disclosure.

Penalty: \$2,000.

SCHEDULE 1—*continued*AMENDMENT TO THE PRINCIPAL ACT RELATING TO POKER
MACHINES—*continued*

(3) A former officer shall not, without the written permission of the Board, disclose to any person any information given, or the contents of any document produced, under Division 2 or section 127 that came to his or her knowledge in the course of the administration of this Act.

Penalty: \$2,000.

(4) The permission of the Board referred to in subsections (2) and (3) may be granted only if the Board is satisfied that to do so would be in the public interest.

(5) It is not a contravention of subsection (2) or (3) if, in any legal proceedings, a person discloses information, or the contents of a document, in answering a question the person is compellable to answer in those proceedings.

Exclusion of liability

132. No liability is incurred by the Crown or a person who is—

- (a) a special inspector or a licensing inspector; or
- (b) an officer or temporary employee appointed or employed under the Public Service Act 1979,

for any act done or omitted by the person in good faith in the course of the administration of this Act.

Certain clubs deemed to be registered

133. Schedule 3 has effect.

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SCHEDULE 1—*continued***AMENDMENT TO THE PRINCIPAL ACT RELATING TO POKER
MACHINES—*continued*****(5) Schedule 3—**

After Schedule 2, insert:

SCHEDULE 3

(Sec. 133)

TRANSFERRED CLUBS**PART 1—REGISTRATION****Interpretation****1. In this Schedule—**

“appointed day” means the day on which Part X commences;

“transferred club” means a club that, immediately before the appointed day, was registered under Division 4 of Part IIIA of the Gaming and Betting Act 1912.

Transferred club to be registered club

2. (1) Except for the purposes of the Liquor Act 1982, the certificate of registration of a transferred club under Division 4 of Part IIIA of the Gaming and Betting Act 1912 shall be deemed to be a certificate of registration under this Act.

(2) Subclause (1) does not operate to prevent a transferred club from applying for registration under this Act as if that subclause had not been enacted and, where such an application is made by a club and granted, subclause (1) ceases to apply to the club.

(3) For any purpose related to the time for which a club has been registered under this Act, a transferred club shall be deemed to have been so registered since the time of its registration under Division 4 of Part IIIA of the Gaming and Betting Act 1912, whether the registration under this Act is conferred by subclause (1) or obtained as referred to in subclause (2).

PART 2—REGULATIONS**Modification of application of Act**

3. (1) The Governor may make regulations containing provisions amending Part 1 and having the effect of modifying the application of this Act (clause 2 excepted) in relation to transferred clubs.

SCHEDULE 1—*continued*AMENDMENT TO THE PRINCIPAL ACT RELATING TO POKER
MACHINES—*continued*

(2) The Governor may make regulations containing other provisions of a savings or transitional nature consequential upon the enactment of Part 1.

(3) A provision made under subclause (1) or (2) may be made with effect on and from the appointed day or a later date.

(4) To the extent that a provision made under subclause (1) or (2) takes effect on and from a day that is earlier than its publication in the Gazette, the provision does not operate—

(a) to affect, in a manner prejudicial to any person (other than the State or an authority of the State), the rights of that person existing before that day of publication; or

(b) to impose a liability on any person (other than the State or an authority of the State) in respect of anything done or omitted to be done before that day of publication.

SCHEDULE 2

(Sec. 4)

MISCELLANEOUS AMENDMENTS TO THE PRINCIPAL ACT

(1) Section 10 (**Requirements to be met by clubs**)—

(a) Section 10 (1)—

Omit “section 9”, insert instead “sections 9 and 17 (1) (a)”.

(b) Section 10 (1) (b)—

Omit the paragraph, insert instead:

(b) The club shall be—

(i) a company within the meaning of the Companies (New South Wales) Code; or

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SCHEDULE 2—*continued*MISCELLANEOUS AMENDMENTS TO THE PRINCIPAL ACT—
continued

- (ii) if the club was registered, or applied for registration, before the commencement of Part X—a society registered under the Co-operation Act 1923 or a corporation constituted by another Act.

(2) **Section 17 (Cancellation of certificates of registration or disqualification of clubs from holding certificates of registration)—**

(a) Section 17 (1) (a) (xii)—

Omit “or” where secondly occurring:

(b) Section 17 (1) (a) (xiii), (xiv)—

At the end of section 17 (1) (a) (xiii), insert:

; or

- (xiv) the club has failed to comply with a condition to which its certificate of registration is subject;

(c) Section 17 (2) (c)—

Omit “or”.

(d) Section 17 (2) (d), (e)—

Omit section 17 (2) (d), insert instead:

- (d) subject the certificate of registration of the club to a specified condition; or
- (e) bydismiss the complaint.

(3) **Section 32 (Registered club to have only one secretary)—**

(a) Section 32 (1)—

After “secretary”, insert “who shall be the chief executive officer of the club”.

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SCHEDULE 2—*continued*MISCELLANEOUS AMENDMENTS TO THE PRINCIPAL ACT—
continued

(b) Section 32 (3)—

After section 32 (2), insert:

(3) Not later than 7 days after a person ceases to be secretary of a registered club, the club shall cause the Board to be given the prescribed notification in writing in a form approved by the Board.

Penalty—subsection (3): \$1,000.

(4) Section 33 (**Approval of secretary of registered club**)—

Section 33 (5)—

Omit “or if, at the expiration of 1 month after the application was delivered to the registrar, the licensing inspector has not taken an objection to the granting of the application”.

(5) Section 35 (**Complaint against secretary or member of governing body**)—

Section 35 (1)—

After “inspector”, insert “or Principal Registrar”.

(6) Section 41A—

After section 41, insert:

Appointment of temporary administrator

41A. (1) Where an appointment referred to in section 41 has not been made but the governing body of a registered club has, in the opinion of the Licensing Court, ceased to be effective as a governing body, the Licensing Court may appoint a person to administer the affairs of the club.

(2) A person appointed under subsection (1) has, to the exclusion of any other person or body of persons, the functions of the governing body of the club until—

(a) an appointment referred to in section 41 is made; or

(b) the Licensing Court orders otherwise,

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SCHEDULE 2—*continued*MISCELLANEOUS AMENDMENTS TO THE PRINCIPAL ACT—
continued

whichever first occurs.

(3) An application for the making of an appointment under subsection (1) may be made by a member of the club, the Principal Registrar or a licensing inspector.

(7) Section 56 (Defence of secretary of registered club to prosecutions)—

(a) Section 56 (1) (a)—

After “committed;”, insert “or”.

(b) Section 56 (1) (b)—

Omit “offence; or”, insert instead “offence.”.

(c) Section 56 (1) (c)—

Omit the paragraph.

(d) Section 56 (2)—

Omit the subsection.

SCHEDULE 3

(Sec. 5)

TRANSITIONAL PROVISIONS

Interpretation

1. (1) In this Schedule—

“amended Act” means the Principal Act as amended by this Act;

“appointed day” means the day appointed under section 116 of the amended Act.

(2) Other words and expressions used in this Schedule have the same meaning as they have in Parts X and XI of the amended Act.

Registered Clubs (Amendment) 1986

SCHEDULE 3—*continued*TRANSITIONAL PROVISIONS—*continued***Grant or refusal of application for licence**

2. Where an application for a licence is made, but not determined, before the appointed day, the applicant shall, between the commencement of that day and—

- (a) where the application is refused—the time the applicant is notified of the refusal by posting advice of the refusal to the address of the applicant last known to the Board; or
- (b) where the application is granted—the expiration of 14 days after the applicant is, in the same way, notified of the granting of the licence,

be deemed to be the holder of a licence of the kind applied for.

Licensing Court may give directions

3. If the Licensing Court, upon cause shown, so directs, clause 2 ceases to apply to a specified applicant to whom or to which, but for this clause and the direction, it would apply.

Certain poker machines deemed to be established poker machines

4. (1) Subject to any directions given by the Board to a particular licensee, or to licensees of a particular class of licensees, a reference in the amended Act to an established poker machine includes a reference to a poker machine (not being an approved poker machine)—

- (a) that, immediately before the appointed day, was in the possession of a person who, on the appointed day is, or is deemed to be, a licensee;
- (b) that is manufactured on or after the appointed day by a person who, at the time of the manufacture is, or is deemed to be, the holder of a dealer's licence; or
- (c) that, on or after the appointed day, is the subject of a contract—
 - (i) entered into by any person before the appointed day; or
 - (ii) entered into on or after the appointed day by a person who is, or is deemed to be, a licensee.

(2) The Board may, by notification in the Gazette, terminate the operation of this clause.

Regulations

5. (1) The regulations under the Principal Act may contain other provisions of a savings or transitional nature consequent on the enactment of this Act.

(2) A provision referred to in subclause (1) may, if the regulations so provide, take effect on and from the date of assent to this Act or a later date.

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SCHEDULE 3—*continued*TRANSITIONAL PROVISIONS—*continued*

(3) To the extent that a provision referred to in subclause (1) takes effect on and from a date that is earlier than the date of its publication in the Gazette, the provision does not operate—

- (a) to affect, in a manner prejudicial to any person (other than the State or an authority of the State), the rights of that person existing before the date of its publication therein; or
 - (b) to impose liabilities on any person (other than the State or an authority of the State) in respect of anything done or omitted to be done before the date of its publication therein.
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