



New South Wales

Gaming Machines Amendment (Gambling Harm Minimisation) Regulation 2020

under the

Gaming Machines Act 2001

[The following enacting formula will be included if this Regulation is made—]

Her Excellency the Governor, with the advice of the Executive Council, has made the following Regulation under the *Gaming Machines Act 2001*.

Minister for Customer Service

Explanatory note

[This draft Regulation is related to the proposed *Gaming Machines Amendment (Gambling Harm Minimisation) Bill 2020* and should be read in conjunction with that Bill.]

Gaming Machines Amendment (Gambling Harm Minimisation) Regulation 2020 [NSW]

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1 Name of Regulation

This Regulation is the *Gaming Machines Amendment (Gambling Harm Minimisation) Regulation 2020*.

2 Commencement

This Regulation commences on the commencement of the *Gaming Machines Amendment (Gambling Harm Minimisation) Act 2020* and is required to be published on the NSW legislation website.

Schedule 1 Amendment of Gaming Machines Regulation 2019

[1] Part 3, Division 3A

Insert after Division 3—

Division 3A Exclusion of persons from hotels and clubs

40A Self-exclusion arrangements—general

- (1) A self-exclusion arrangement may be entered into—
 - (a) by using the Online Exclusion Portal, whether at a venue or elsewhere, or
 - (b) by any other means made available by a hotelier or club.
- (2) A self-exclusion arrangement must be signed or otherwise authenticated by the excluded person.

40B Self-exclusion arrangements—exclusion periods

- (1) A self-exclusion arrangement must specify the period that the arrangement is to be in force (the *exclusion period*).
- (2) The exclusion period—
 - (a) for an excluded person's first self-exclusion arrangement in relation to a venue—must be not less than 6 months, and
 - (b) for an excluded person's second or subsequent self-exclusion arrangement in relation to a venue—may be for any period.
- (3) The excluded person may extend the exclusion period on or before its expiration.
- (4) The exclusion period may be extended on more than 1 occasion.
- (5) An extension of the exclusion period must be for at least 1 month.

40C Self-exclusion arrangements—relevant exclusion areas

- (1) A self-exclusion arrangement must specify the relevant exclusion area.
Note. Under section 42B of the Act a self-exclusion arrangement may relate to more than 1 venue.
- (2) The excluded person may, during the exclusion period, do either or both of the following—
 - (a) add further areas or venues to the relevant exclusion area,
 - (b) vary the relevant exclusion area so that it includes only the gaming area of a venue instead of a whole venue.
- (3) However, the excluded person cannot reduce the number of venues that the excluded person has undertaken to be excluded from during the exclusion period.

40D Self-exclusion arrangements—additional requirements for hoteliers and clubs

- (1) A hotelier or club must, if a person enters into a self-exclusion arrangement that relates to, or varies a self-exclusion arrangement so that it relates to, more than 1 venue, ensure that the hotelier or club for each of the other venues is notified of the arrangement.

- (2) A hotelier or club must, if a self-exclusion arrangement applies in relation to the venue, ensure that each responsible person for the hotel or the club can readily identify the excluded person, whether by means of access to a recent photograph of the person or otherwise.

40E Exclusion applications—general

- (1) An exclusion application must identify the family member's concerns about the gambling behaviour of the relevant person.
- (2) An exclusion application may include other information that the family member considers relevant.

Note. An exclusion order may also be made at the hotelier's or club's own initiative under section 42C of the Act.

40F Exclusion applications—procedure for considering and deciding

- (1) The procedure specified in this clause must be complied with if an exclusion application is made by a family member.

Note. An exclusion order may also be made at the hotelier's or club's own initiative under section 42C of the Act.

- (2) The gambling contact officer for the hotel or club must consider the following—
- (a) information provided by the family member in or with the application,
 - (b) other information the hotel or club has in relation to the relevant person.
- (3) Without limiting the information the gambling contact officer must consider, other information the hotel or club has in relation to the relevant person includes the following—
- (a) observations of, or interactions with, the relevant person by staff of the hotel or club,
 - (b) incidents involving the relevant person that are recorded in the gambling incident register of the hotel or club,
 - (c) information, of a kind referred to in section 45B of the Act, about the relevant person held by the club.
- (4) The gambling contact officer must engage with the relevant person about undertaking counselling and entering into a self-exclusion arrangement.
- (5) If the relevant person chooses not to enter into a self-exclusion arrangement, the gambling contact officer must recommend—
- (a) if the gambling contact officer believes on reasonable grounds that the relevant person is at risk of harm, or is at risk of causing harm to a family member, because of gambling—that the hotelier or club should make an exclusion order in relation to the relevant person,
 - (b) in all other cases—that the hotelier or club should not make an exclusion order in relation to the relevant person.
- (6) If the gambling contact officer recommends that the hotelier or club should make an exclusion order, the gambling contact officer must—
- (a) provide the relevant person the reasons for making the recommendation, and
 - (b) give the relevant person the opportunity to make representations to the hotelier or club on the matter.

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Gaming Machines Amendment (Gambling Harm Minimisation) Regulation 2020 [NSW]
Schedule 1 Amendment of Gaming Machines Regulation 2019

- (7) In deciding whether to make an exclusion order, the hotelier or club must consider the following—
 - (a) the recommendation by the gambling contact officer,
 - (b) the information provided by the family member,
 - (c) representations made by the relevant person.
- (8) The hotelier or club must make an exclusion order if the hotelier or club believes on reasonable grounds that the relevant person is at risk of harm, or is at risk of causing harm to a family member, because of gambling.

40G Independent advice

- (1) A hotelier or club may, on application in the form approved by the Secretary and payment to the Secretary of the fee specified in subclause (3), obtain an independent adviser's opinion on whether a proposed decision to make or not make an exclusion order is, in a particular case, reasonable.
- (2) The independent adviser is, after considering the information provided by the hotelier or club, to provide the hotelier or club the independent adviser's opinion.
- (3) The fee payable for use of an independent adviser is—
 - (a) \$200, or
 - (b) for a case that is, in the opinion of the Secretary, complicated—\$400.

40H Registering and giving notice of exclusion order

- (1) If a hotelier or club makes an exclusion order, the hotelier or club must—
 - (a) within 24 hours, make a record of the order in the State-wide Exclusion Register, including the information specified in subclause (2), and
 - (b) as soon as reasonably practicable, and no later than the next occasion on which the excluded person attends the venue, give the excluded person notice of the making of the order, including the information specified in subclause (3), in the manner, if applicable, specified in subclause (4).

Maximum penalty—50 penalty units.
- (2) The record in the State-wide Exclusion Register must—
 - (a) contain the name and address of the excluded person, and
 - (b) specify the exclusion period, and
 - (c) include a recent photograph of the excluded person, if the hotelier or club has one.
- (3) The notice to the excluded person must—
 - (a) contain information about gambling counselling services, including the name and contact details of a gambling counselling service provider, and
 - (b) contain information about the operation and effect of the order, including its duration, the excluded person's obligations under the order and provisions relating to forfeiture of prizes from the playing of gaming machines that the person is prohibited from playing, and
 - (c) advise the excluded person of the right to a review by the Authority under clause 40I.
- (4) The notice to the excluded person must be by email if the hotelier or club has the excluded person's email address.

40I Review by Authority

- (1) A person who is aggrieved by the decision of a hotelier or club to make, or not to make, an exclusion order (the *reviewable decision*) may apply in writing to the Authority for a review of the decision.
- (2) An application for review must be made—
 - (a) by an excluded person—within 14 days of being given notice of the exclusion order, and
 - (b) by a family member—within 14 days of being informed of a decision not to make an exclusion order.
- (3) An application for review does not operate to stay the reviewable decision.
- (4) The Authority is to consider any relevant material submitted by the applicant for review and any information that was made available to, or relied on by, the hotelier or club in making the reviewable decision.
- (5) The Authority may also have regard to any other information that it considers relevant.
- (6) In determining an application under this clause, the Authority may—
 - (a) confirm the reviewable decision, or
 - (b) overturn the decision not to make an exclusion order and direct the hotelier or club to make an exclusion order, or
 - (c) overturn the decision to make an exclusion order and direct the hotelier or club to revoke the order.
- (7) The Authority is to notify, as applicable, the following of its decision under this clause—
 - (a) the relevant person or excluded person,
 - (b) the family member who made the relevant exclusion application.
- (8) A hotelier or club must comply with a direction of the Authority under subclause (6).
Maximum penalty—50 penalty units.

40J Protection of identity of family members

A responsible person for a hotel or club or a gambling contact officer for a venue must not disclose the identity or personal details of a family member who makes an exclusion application unless the disclosure—

- (a) is made, in the course of exercising the person's or officer's duties, to another responsible person for the hotel or club or to another gambling contact officer for the venue, or
- (b) is made with the consent of the family member, or
- (c) is ordered by a court, or another body or person exercising judicial functions, for the purposes of the hearing or determination by the court, body or person of any matter, or
- (d) is authorised or required by or under the Act or any other law.

Maximum penalty—50 penalty units.

40K Protection of information in State-wide Exclusion Register

- (1) A person must not access or disclose information about an excluded person recorded on the State-wide Exclusion Register unless the person is an authorised person and the access or disclosure—

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Gaming Machines Amendment (Gambling Harm Minimisation) Regulation 2020 [NSW]
Schedule 1 Amendment of Gaming Machines Regulation 2019

- (a) is made in the course of exercising the authorised person's duties, or
 - (b) is made with the consent of the excluded person, or
 - (c) is ordered by a court, or another body or person exercising judicial functions, for the purposes of the hearing or determination by the court, body or person of any matter, or
 - (d) is authorised or required by or under the Act or any other law.
- Maximum penalty—50 penalty units.

(2) In this clause—

authorised person means—

- (a) a responsible person for a hotel or club, or
- (b) a personal gambling counsellor, or
- (c) a Public Service employee engaged in the administration of the gaming and liquor legislation within the meaning of the *Gaming and Liquor Administration Act 2007*.

40L Return of funds to excluded person

- (1) A hotelier or club must, as soon as reasonably practicable after a person becomes an excluded person in relation to the venue, return to the person—
- (a) funds in a player account opened by the person with the hotelier or club, and
 - (b) credit stored on a Smartcard issued to the person by the hotelier or club.
- Maximum penalty—50 penalty units.

Note. An exclusion order prohibits the excluded person from entering or remaining in the whole of each venue, within 5 kilometres of the venue of the hotelier or club that made the order, in which approved gaming machines are located. Accordingly, the person is an excluded person in relation to each of the other venues. See section 42E of the Act.

- (2) In this clause, **player account** and **Smartcard** have the same meaning as in section 45B of the Act.

40M Gambling counselling service providers

For the purposes of the definition of **gambling counselling service provider** in section 42A of the Act, the following bodies are prescribed—

- (a) Australian Hotels Association (NSW),
- (b) ClubsNSW,
- (c) BetSafe,
- (d) any other body that receives funding from the Responsible Gambling Fund under the *Casino Control Act 1992* for the specific purpose of providing gambling-related counselling or treatment services.

[2] Clause 41 Gaming machine advertising and signs—exclusions

Omit clause 41(4)(g).

[3] Clause 44

Omit clauses 44 and 45. Insert instead—

44 Personal gambling counsellors to provide gambling counselling services

- (1) Personal gambling counsellors are to provide gambling counselling services as referred to in section 46 of the Act.

public consultation draft

Gaming Machines Amendment (Gambling Harm Minimisation) Regulation 2020 [NSW]
Schedule 1 Amendment of Gaming Machines Regulation 2019

- (2) A hotelier or club must—
- (a) make available at all times to the patrons of the hotel or club, including on request, the name and contact details of a gambling counselling service made available by or through a gambling counselling service provider, and
 - (b) display in each gaming area of the hotel or club a notice containing the name and contact details of the gambling counselling service.

Maximum penalty (subclause (2))—50 penalty units.

- (3) In this clause—
- gambling counselling service provider*** has the same meaning as in Part 4, Division 2A of the Act.
- Note.** See clause 40M.
- personal gambling counsellor*** has the same meaning as in Part 4, Division 2A of the Act.

[4] Clause 46 Provision of gambling contact cards

Omit “problem” from paragraph (b) of the definition of ***gambling contact card*** in clause 46(2).

[5] Clause 50A

Insert after clause 50—

50A Functions of gambling contact officers

Without limiting the functions conferred or imposed on gambling contact officers under Division 3A of this Part, a gambling contact officer for a venue has the following functions—

- (a) to oversee, in conjunction with the hotelier or club secretary, the gambling harm minimisation requirements under the Act and this Regulation that relate to the venue,
- (b) to promote, in conjunction with other hotel or club staff, responsible gambling best practice,
- (c) to assess the gambling behaviour of patrons,
- (d) to engage with patrons displaying or experiencing problematic gambling behaviour,
- (e) to refer patrons to support and gambling counselling services,
- (f) to facilitate the process for entering into self-exclusion arrangements,
- (g) to consider whether the hotelier or club should make exclusion orders in relation to persons on the hotelier’s or club’s own initiative.

[6] Clause 51 Definitions

Insert in alphabetical order in clause 51(1)—

advanced RCG endorsement—see clause 53(1A).

general RCG endorsement—see clause 53(1).

[7] Clause 51(1)

Insert “***approved advanced RCG training course***,” after “***approved RCG training course***,”.

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Gaming Machines Amendment (Gambling Harm Minimisation) Regulation 2020 [NSW]
Schedule 1 Amendment of Gaming Machines Regulation 2019

[8] Clause 51(1), definition of “RCG endorsement”

Omit the definition. Insert instead—

RCG endorsement means a general RCG endorsement or an advanced RCG endorsement.

[9] Clauses 52(1) and (2), 54(2)(b), 55(1) and (2) and 58(5) and (6)(a) and (c)

Insert “or approved advanced RCG training course” after “approved RCG training course” wherever occurring.

[10] Clause 53 Issue and replacement of recognised competency card with RCG endorsement

Omit “(an *RCG endorsement*)” from clause 53(1).

Insert instead “(a *general RCG endorsement*)”.

[11] Clause 53(1A)

Insert after clause 53(1)—

- (1A) The Secretary may, on the basis of an interim RCG certificate, issue a person a recognised competency card with a notation that the person has completed an approved advanced RCG training course within the previous 3 years (an *advanced RCG endorsement*).

[12] Clause 54 Expiry of RCG endorsement

Omit “An RCG endorsement” and “the RCG endorsement” wherever occurring in clause 54(1).

Insert instead “A general RCG endorsement” and “the general RCG endorsement”, respectively.

[13] Clause 54(1A)

Insert after clause 54(1)—

- (1A) An advanced RCG endorsement expires—
- (a) on the third anniversary of the issue of the interim RCG certificate that was the basis for the advanced RCG endorsement being included on the recognised competency card, or
 - (b) if the advanced RCG endorsement is renewed—on the third anniversary of the date the advanced RCG endorsement would otherwise have expired.

[14] Clause 57, heading

Insert “, **gambling contact officers**” after “**secretaries**”.

[15] Clause 57(1)–(3)

Insert “advanced” after “current” wherever occurring.

[16] Clause 57(3A) and (3B)

Insert after clause 57(3)—

- (3A) A hotelier or club must ensure that the gambling contact officer for the venue holds a recognised competency card with a current advanced RCG endorsement.
Maximum penalty—

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Gaming Machines Amendment (Gambling Harm Minimisation) Regulation 2020 [NSW]
Schedule 1 Amendment of Gaming Machines Regulation 2019

- (a) if the advanced RCG endorsement on the recognised competency card of the person has expired—25 penalty units, or
 - (b) in any other case—50 penalty units.
- (3B) A hotelier or club must ensure that the gambling contact officer for the venue completes, at least once every 3 years, an advanced RCG refresher training course—
- (a) for the management and supervision of gambling operations in venues, and
 - (b) that is provided by the Secretary.
- Maximum penalty—50 penalty units.

[17] Clause 57(4)

Omit the subclause. Insert instead—

- (4) A hotelier or registered club must not employ a person—
 - (a) whose duties are concerned in the conduct of activities involving approved gaming machines in the hotel or on the club premises, and
 - (b) who is not the gambling contact officer for the venue,unless the person holds a recognised competency card with a current general RCG endorsement.
Maximum penalty—
 - (a) if the general RCG endorsement on the recognised competency card of the person has expired—25 penalty units, or
 - (b) in any other case—50 penalty units.