

**1994—No. 612**

**REGISTERED CLUBS ACT 1976—REGULATION**

(Relating to deferrals and exemptions from poker machine duty)

NEW SOUTH WALES



*[Published in Gazette No. 156 of 25 November 1994]*

HIS Excellency the Governor, with the advice of the Executive Council and with the consent of the Treasurer, and in pursuance of the Registered Clubs Act 1976, has been pleased to make the Regulation set forth hereunder.

Anne Cohen  
Chief Secretary.

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**Commencement**

**1.** This Regulation commences on 1 December 1994.

**Amendment**

**2.** The Registered Clubs Regulation 1983 is amended by inserting after Division 2 of Part 4A the following Division:

**Division 3—Duty deferrals and exemptions in cases of hardship**

**Definition**

20M. In this Division, “**the Committee**” means the Committee provided for by clause 20R.

**Exemption and deferral of duty in certain cases of hardship**

20N. The Committee may by order in writing exempt a club from its liability to pay, or defer for a specified period a club’s liability to pay, the whole or part of an instalment of duty payable by the club under Part 10 of the Act, but only if the Committee is satisfied that:

- (a) a casino was in operation (under the Casino Control Act 1992) during the whole or part of the instalment period concerned and the whole or any part of that casino was within 10 kilometres of any part of the defined premises of the club; and

- (b) the club first became registered under the Act before 23 April 1993; and
- (c) the club is suffering serious financial hardship as a result of a reduction in the profits from poker machines kept by the club during that period; and
- (d) that reduction in profits is reasonably attributable to the availability of poker machines in the casino during that period; and
- (e) the exemption or deferral is necessary to alleviate or assist in the alleviation of that hardship.

**Interest on deferred duty**

**20O. (1)** Interest is payable by a club on any amount of duty the payment of which is deferred under this Division.

**(2)** Interest is payable from the time the duty concerned would have become due and payable (had payment not been deferred) on so much of the deferred duty as from time to time remains unpaid.

**(3)** The rate of interest is to be the rate offered from time to time on 10-year bonds issued by the Treasury Corporation. A certificate given by the Treasurer as to the rate of interest applying under this clause at a particular time or during a particular period is evidence of the matter certified.

**(4)** Interest payable on deferred duty is payable as duty.

**(5)** This Division applies to interest on deferred duty in the same way as it applies to the deferred duty itself (so as to enable the Committee to exempt a club from its liability to pay, or defer for a specified period a club's liability to pay, the whole or part of that interest).

**Conditions, amendment etc. of exemption or deferral**

**20P. (1)** The details of an exemption or deferral of duty or interest are to be notified in writing to the club concerned.

**(2)** The Committee may impose such conditions as it thinks fit on a deferral of duty or interest.

**(3)** An exemption or deferral granted by the Committee operates in accordance with its terms to exempt from or defer the liability to which it relates.

**(4)** A deferral of duty or interest (and any conditions to which it is subject) may be revoked, amended or extended by the Committee at any time by a further order in writing, notice of which is given to the club concerned.

**(5)** The effect of the revocation of a deferral of duty or interest is that the duty or interest deferred becomes immediately due and payable.

**Application for exemption or deferral**

**20Q. (1)** An exemption or deferral under this Division can only be granted on application by the club concerned. An application (and any exemption or deferral granted on the application) can relate to one instalment of duty only. Further applications can be made.

**(2)** The application is to be in writing and accompanied by:

- (a) a copy of the income and expenditure statement and balance sheet for the club in respect of the 3 financial years immediately preceding the application; and
- (b) such other information and documentation as the Committee may request, being information and documentation that it reasonably requires to determine the application.

**(3)** The Committee may require an application and the details and information accompanying an application to be verified by statutory declaration.

**The Committee**

**20R. (1)** There is to be a Committee for the purposes of this Division consisting of:

- (a) the Auditor-General or a senior officer of the Auditor-General's Office appointed by the Auditor-General; and
- (b) the Secretary of the Treasury or a senior officer of the Treasury appointed by the Secretary; and
- (c) the Secretary of the Chief Secretary's Department or a senior officer of the Department appointed by the Secretary; and
- (d) a person appointed by the Club Industry Advisory Council established by the Minister.

**(2)** If a person is not appointed for the purposes of subclause (1) (d), the Minister may appoint a person of his or her own choosing to be a member of the Committee for the purposes of that paragraph.

**(3)** A member of the Committee may appoint a person to act in the place of that member at meetings of the committee.

**(4)** Each member of the Committee has a deliberative vote and, in the event of an equality of votes, the member referred to in subclause (1) (a) has a second or casting vote.

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**(5)** The procedure for the calling of meetings of the Committee and the conduct of business at those meetings is to be as determined by the Committee. The Minister may call the first meeting of the Committee.

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**EXPLANATORY NOTE**

The object of this Regulation is to amend the Registered Clubs Regulation 1983 to provide for the grant of exemptions from or deferral of payment of poker machine duty by a registered club in the event that the club suffers serious financial hardship because of a reduction in poker machine revenue which is attributable to the availability of poker machines in a casino under the Casino Control Act 1992.

Such an exemption or deferral will only be available in respect of clubs that are within 10 kilometres of the casino and that were in existence before 23 April 1993 (the date of the Government's announcement of this scheme).

The Regulation also provides for the following:

- (a) the payment of interest on deferred duty at the Treasury Corporation's 10-year bond rate (interest can also be the subject of an exemption or deferral);
- (b) the making of applications for exemptions or deferrals;
- (c) the establishment of a Committee to consider and determine applications for exemptions and deferrals.

This Regulation is made under section 85 of the Registered Clubs Act 1996.

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