



New South Wales

# Liquor Amendment (Gaming Machines) Regulation 1997

under the

Liquor Act 1982

His Excellency the Governor, with the advice of the Executive Council, has made the following Regulation under the *Liquor Act 1982*.

J Richard Face MP  
Minister for Gaming and Racing

## Explanatory note

The object of this Regulation is to make amendments to the *Liquor Regulation 1996* as a consequence of the enactment of the *Liquor and Registered Clubs Legislation Further Amendment Act 1996*. One of the main reforms of that Act was to make provision for hotels to have no more than 30 approved gaming devices (ie poker machines as well as “approved amusement devices” which feature draw poker games), and it is the object of this Regulation to give effect to that reform.

This Regulation makes the following amendments to the *Liquor Regulation 1996*:

- (a) similar provisions to those in the *Registered Clubs Regulation 1996* relating to intra-club progressive machines and systems (ie intra-club links) are included for hotels, and this will enable the Liquor Administration Board to authorise hoteliers to install and operate progressive machines and systems in their hotels subject to strict controls,
- (b) consequential changes to gaming machine terminology are made (eg the term “approved amusement device” is replaced in most places by the term “approved gaming device” which covers both approved amusement devices and poker machines),

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- (c) provision is made for the Board not to authorise hoteliers to have certain approved gaming devices such as multi-terminal gaming machines (these can only be kept by registered clubs), although hoteliers will be able to have multi-game machines (ie devices that feature both draw poker games and standard poker machine games),
- (d) requirements relating to the display of gaming-related advertising material, and requirements relating to the location of hotel gaming rooms, are specified,
- (e) the requirements of hoteliers to keep records, and to pay prizes, in respect of approved gaming devices are clarified,
- (f) a number of additional requirements are imposed on hoteliers and gaming-related licence holders (eg they will be required to provide information when selling or disposing of gaming devices that do not conform to certain standards),
- (g) certain provisions of the *Registered Clubs Act 1976* relating to poker machines are set out (with necessary modifications) in the *Liquor Regulation 1996*, and these provisions will apply to and in respect of hotels and hoteliers in the same way as they apply to and in respect of registered clubs,
- (h) a transitional provision is included to provide for an adjustment in the assessment of duty payable under the Act for the period 1 April 1997 to 30 September 1997 (such a provision is contemplated by the amending Act to facilitate the change in the assessment of duty from a turnover basis to a profit basis).

This Regulation includes certain provisions relating to "X" standard gaming machines. In defining what is meant by such a machine, this Regulation refers to a document issued by the Liquor Administration Board called *Technical Standards for Gaming Machines and Subsidiary Equipment in New South Wales*.

This Regulation is made under the *Liquor Act 1982*, including section 156 (the general regulation making power) and the sections referred to in this Regulation.

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## **Liquor Amendment (Gaming Machines) Regulation 1997**

### **1 Name of Regulation**

This Regulation is the *Liquor Amendment (Gaming Machines) Regulation 1997*.

### **2 Commencement**

- (1) This Regulation commences on 1 April 1997, except as provided by subclause (2).
- (2) Schedule 1 [21], and clause 3 in relation to that item, commence on 1 March 1997.

### **3 Amendment of Liquor Regulation 1996**

The Liquor Regulation 1996 is amended as set out in Schedule 1.

### **4 Notes**

The explanatory note does not form part of this Regulation.

## **Schedule 1      Amendments**

(Clause 3)

### **[1]      Part 5, heading**

Omit “**amusement**”. Insert instead “**gaming**”.

### **[2]      Clause 39 Definitions**

Insert in alphabetical order:

*authorised progressive machine* means a progressive machine which the Board has authorised a hotelier to install on the licensed premises.

*authorised progressive system* means a progressive system which the Board has authorised a hotelier to install on the licensed premises.

*instalment period* means an instalment period referred to in Division 4 of Part 5 of the Act.

*progressive machine* means a device that:

- (a) contributes a percentage of the money wagered on it to a separate progressive jackpot pool, and
- (b) complies with the guidelines for progressive machines issued by the Board, and
- (c) is specially approved by the Board for the purposes of Division 6, and
- (d) has not been declared by the Board as having ceased to be a progressive machine.

*progressive system* means 2 or more devices that:

- (a) are linked electronically to contribute a percentage of the money wagered on them to a separate progressive jackpot pool, and

- (b) comply with the guidelines for linked progressive systems of devices issued by the Board, and
- (c) are specially approved by the Board for the purposes of Division 6, or are within a class of linked progressive systems of devices specially approved by the Board for the purposes of that Division, and
- (d) have not been declared by the Board as having ceased to be a progressive system.

**[3] Clause 39, definitions of “dealer”, “device”, “seller” and “technician”**

Omit the definitions. Insert instead:

***dealer*** means the holder of

- (a) an amusement device dealer's licence, or
- (b) a poker machine dealer's licence granted under the *Registered Clubs Act 1976*.

***device*** means an approved gaming device.

***seller*** means the holder of

- (a) an amusement device seller's licence, or
- (b) a poker machine seller's licence granted under the *Registered Clubs Act 1976*.

***technician*** means the holder of:

- (a) an amusement device technician's licence, or
- (b) a poker machine technician's licence granted under the *Registered Clubs Act 1976*.

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#### [4] Clause 39, definition of “X” standard gaming machine

Insert in alphabetical order:

“X” *standard gaming machine* means a device that:

- (a) in the opinion of the Board, conforms to the standards set out in the document called *Technical Standards for Gaming Machines and Subsidiary Equipment in New South Wales*, issued by the Board and effective as from 1 July 1995, and
- (b) is commonly known as an “X” standard gaming machine in the gaming machine industry.

#### [5] Clause 39A

Insert after clause 39:

#### 39A Application of provisions of Registered Clubs Act 1976 relating to poker machines

Schedules 4 and 5 have effect.

#### [6] Clause 41 Allocation of serial numbers for devices

Omit “amusement” from clause 41 (4).

Insert instead “gaming”.

#### [7] Clauses 45A and 45B

Insert after clause 45:

#### 45A Replacement of malfunctioning meters

A technician must not, except with the approval of the Board, remove and replace any meter that has been installed in respect of a device unless the meter is not working properly.

Maximum penalty: 20 penalty units.

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**45B Reading of meters when device is installed**

- (1) Any technician who installs a device in a hotel must, at the time of installing the device, read and immediately record all the meter readings of the device.
- (2) The record:
  - (a) must be made and kept in the manner and form approved by the Board, and
  - (b) be made available to the hotelier to enable the hotelier to comply with clause 49 (4).

Maximum penalty (subclauses (1)-(2)): 20 penalty units.

**[8] Clause 46**

Omit the clause. Insert instead:

**46 Types of devices in hotels**

- (1) The following types of approved gaming devices cannot be authorised by the Board to be kept, used or operated in a hotel:
  - (a) a device that is a multi-terminal gaming machine within the meaning of the *Registered Clubs Act 1976*,
  - (b) a device that is fitted with a book jackpot wins meter,
  - (c) a device that is not fitted with electronic meters and electro-mechanical meters.
- (2) A hotelier must not install or keep a device referred to in subclause (1) on the licensed premises.

Maximum penalty: 50 penalty units.

- (3) The Board may authorise devices that are multi-game machines (ie gaming devices that feature standard poker machine games and the draw poker game) to be kept, used and operated in a hotel. Any such device is taken to be (and accordingly counted as) an approved poker machine for the purposes of the Act.

**[9]    Clauses 46A–46C**

Insert after clause 46:

**46A Requirements relating to display of gaming-related advertising material**

- (1) For the purposes of section 92 of the Act, the following requirements are prescribed with respect to the displaying of gaming-related advertising material:
  - (a) any such material must not promote irresponsible gaming or gaming practices,
  - (b) any sign, poster or other thing comprising externally visible gaming-related advertising material must not be more than 6 square metres in area,
  - (c) the form and content of any externally visible gaming-related advertising material, and the manner in which it is presented, must conform with such guidelines as may be approved from time to time by the Minister in consultation with the Australian Hotels Association (NSW),
  - (d) except as provided by paragraph (e), any externally visible gaming-related advertising material that is not located inside the licensed premises must be permanently attached to the premises,
  - (e) if the building line of the licensed premises is set back more than 6 metres from the street frontage, the hotelier may display gaming-related advertising material on a pole or similar structure situated outside (or in the vicinity of) the licensed premises,
  - (f) any externally visible gaming-related advertising material must not be displayed in the form of a banner or flag or similar type of fold-up sign that is of a temporary nature.

- (2) These requirements do not apply in relation to any gaming-related advertising material that was first displayed before 1 April 1997 until such time as the material is replaced or its form and contents are changed, or until 1 July 1997 (whichever is the earlier).
- (3) For the purposes of this clause, gaming-related advertising material that is displayed on the interior or exterior of licensed premises is *externally visible* if the material is capable of being seen from the street or footpath adjacent to the premises.

**46B Location of approved gaming devices in hotel gaming room—section 161 (11) of Act**

- (1) In accordance with section 161 (11) of the Act, this clause only applies in respect of a hotelier's licence if more than 10 approved gaming devices are used and operated in the hotel concerned.
- (2) If, because of section 161 (11) of the Act, a hotelier is required to locate approved gaming devices in an area of the hotel (referred to in this clause as a *gaming room*) other than the general bar area, the gaming room must conform to the following requirements:
  - (a) the gaming room must be located in a restricted area of the hotel, and it must not be in a part of the hotel in respect of which a minors function authority under section 111A of the Act, or an authorisation under section 112 of the Act, is in force,
  - (b) the gaming room must be physically separated from the general bar area by a permanent floor to ceiling wall with at least the bottom half of such wall being constructed of opaque material, and any building approval for any work that is required to be done must be obtained before the additional devices are kept in the hotel,

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- (c) patrons must not be compelled to pass through the gaming room in order to enter or leave the hotel or in order to gain access to another part of the hotel,
- (d) entry to the gaming room must be provided free of charge,
- (e) any approved gaming device in the gaming room must be situated so that it cannot be seen from the street or footpath adjacent to the hotel,
- (f) all devices in the gaming room must be suitably spaced in order to facilitate access to the devices,
- (g) the gaming room must at all times be supervised by the licensee or an employee of the licensee by way of electronic means or physical presence, or both,
- (h) any signs relating to gaming that are approved by the Minister must be displayed in the gaming room.

(3) The requirement under subclause (2) (b) for a gaming room to be physically separated from the general bar area of a hotel does not:

- (a) prevent the provision of a doorway or space to facilitate access by patrons to and from the gaming room, and
- (b) operate so as to require the permanent wall to extend beyond any counter that is designed to serve patrons in both the gaming room and the general bar area.

(4) More than one gaming room may be provided by a hotelier in the hotel.

#### 46C Location of approved poker machines in hotels

It is a condition of a hotelier's licence that any approved poker machine kept by the hotelier on the licensed premises must be located in a restricted area of the hotel.

**[10] Clause 47A**

Insert after clause 47:

**47A Keys**

A hotelier must comply with such directions or instructions as may be determined from time to time by the Board in relation to the custody of the keys of devices kept by the hotelier on the licensed premises.

Maximum penalty: 20 penalty units.

**[11] Clause 49 Reading of meters and recording requirements**

Omit “quarter for which duty is payable” from clause 49 (1).  
Insert instead “instalment period”.

**[12] Clause 49 (2)**

Omit the subclause. Insert instead:

(2) The record required under subclause (1) must be kept in a manner and form approved by the Board and show the following particulars for each device:

- (a) turnover meter reading,
- (b) total wins meter reading,
- (c) money to sash box meter reading,
- (d) cancelled credit payments meter reading,
- (e) money in meter reading (if fitted),
- (f) money out meter reading (if fitted),
- (g) cash in meter reading (if fitted),
- (h) cash out meter reading (if fitted),

Maximum penalty: 20 penalty units.

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#### [13] Clause 49 (3)–(5)

Omit the subclauses. Insert instead:

- (3) A hotelier must, at the end of each instalment period, compare the incrementation of the electronic meter readings of each device kept on the licensed premises with the incrementation of the electro-mechanical meter readings of the device. If there is a difference in the incremental values of either the turnover or total wins meters, the hotelier must:
  - (a) determine which meter reading the hotelier believes to be the correct reading after completion of a meter consistency test that is in accordance with the test approved by the Board, and
  - (b) use that reading as the basis for the calculation of duty in respect of the device.
- (4) At the time a device is installed in a hotel, the hotelier must (in a form approved by the Board) report the information contained in the record referred to in clause 45B to the Board within 21 days after the end of each instalment period.
- (5) A hotelier must, immediately before the hotelier disposes of any device kept by the hotelier on the licensed premises, read and immediately record all the meter readings of the device. The record must be made and kept in the manner and form approved by the Board.

Maximum penalty (subclauses (3)–(5)):20 penalty units.

#### [14] Clause 49A

Insert after clause 49:

#### **49A Special requirements in relation to meter reconciliations for non “X” standard gaming machines**

- (1) This clause applies to any device kept by a hotelier on the licensed premises that is not an “X” standard gaming machine and that is fitted with a hopper.

(2) A hotelier must keep a written record, in a form approved by the Board, of each refill of a device to which this clause applies. The record must be made and kept in the manner and form approved by the Board, and contain the following particulars:

- (a) the date of the refill,
- (b) the value of the coin in the refill,
- (c) the serial number of the device refilled,
- (d) the names and signatures of the nominees of the hotelier who refilled the device certifying that the record made in accordance with this clause is correct in all details.

(3) At the end of each instalment period, a hotelier must record the value of the coin in the hopper of each device to which this clause applies at the time of the recording. The record must be made and kept in the manner and form approved by the Board.

(4) The hotelier must report the information contained in any record required under this clause to the Board in a form approved by the Board within 21 days after the end of the instalment period concerned.

Maximum penalty (subclauses (2)–(4)): 20 penalty units.

### **[15] Clause 50 Returns**

Omit “clause 49” from clause 50 (1).

Insert instead “clauses 49 and 49A”.

### **[16] Clause 52 Prizes**

Insert before clause 52 (1):

(IA) It is a condition of a hotelier’s licence that the hotelier must pay all prizes that are won from the playing of devices kept by the hotelier to the players who are entitled to such prizes.

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#### [17] Clause 52 (1)

Omit “to a value of \$6 or more”.  
Insert instead “from playing a device”.

#### [18] Clause 52 (4) and (5)

Omit the subclauses. Insert instead:

- (4) A hotelier must not, except with the Board’s approval, vary the prize schedules of devices kept by the hotelier on the licensed premises.
- (5) A hotelier must not permit a device that is kept by the hotelier on the licensed premises to be used or operated unless the device has been adjusted so that the value of the prizes won by players of the device is not less than 85% of the total money invested by the players of the device.

Maximum penalty: (subclauses (4) and (5)): 50 penalty units.

#### [19] Clauses 53A and 53B

Insert after clause 53:

#### **53A Limitation on Board’s approval of certain gaming machines**

- (1) The only type of gaming machine that the Board may approve as an approved amusement device is one by means of which player interactive draw poker, or some player interactive game derived from draw poker, is the only game that can be played.
- (2) This clause does not prevent the Board from authorising the use or operation of an approved amusement device with features supplementary to a draw poker game, or a game derived from the draw poker game.

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**53B Requirement to provide certain information when disposing of non "X" standard gaming machines**

Every licence under the Act is subject to a condition that the licensee must, before the licensee sells or otherwise disposes of an approved gaming device that is not an "X" standard gaming machine, inform the person in writing who is intending to acquire the device that the device is not an "X" standard gaming machine. The licensee is not required to do so if the person acquiring the device is a dealer or the employee of a dealer.

**[20] Clause 57A**

Insert after clause 57:

**57A Transitional provision—assessment of duty for period 1 April 1997 to 30 September 1997**

- (1) In accordance with clause 51 of Schedule 1 to the Act, the duty payable for the period commencing on 1 April 1997 and ending on 30 September 1997 is assessed as follows:
  - (a) If the profits from all approved gaming devices kept by the hotelier in that period do not exceed \$12,500, duty is payable on the profits at the rate of 15%.
  - (b) If the profits from all approved gaming devices kept by the hotelier in that period exceed \$12,500 but do not exceed \$200,000, duty is payable:
    - (i) in the sum of \$1,875, and
    - (ii) on so much of the profits as exceed \$12,500 but does not exceed \$200,000—at the rate of 25%.
  - (c) If the profits from all approved gaming devices kept by the hotelier in that period exceed \$200,000 but do not exceed \$500,000, duty is payable:

- (i) in the sum of \$48,750, and
- (ii) on so much of the profits as exceed \$200,000 but does not exceed \$500,000—at the rate of 35%.
- (d) If the profits from all approved gaming devices kept by the hotelier in that period exceed \$500,000, duty is payable:
  - (i) in the sum of \$153,750, and
  - (ii) on so much of the profits as exceed \$500,000—at the rate of 40%.
- (2) Section 86KB of the Act applies to and in respect of the period referred to in subclause (1). However, the comparison made under that section of the duty payable in respect of the 6 month duty period concerned is to be made with the total of the 2 relevant quarterly instalments payable for that period.

**[21] Clause 57AA**

Insert before clause 58:

**57AA Transitional provision—hoteliers authorised to keep approved poker machines (and additional machines) before 1 April 1997**

- (1) The purpose of this clause is to enable approved poker machines and additional devices to be installed in hotels before 1 April 1997 so as to facilitate the use and operation of such devices on or after that date.
- (2) Subject to this clause, and despite any other law, it is lawful for a hotelier to keep, on the licensed premises before 1 April 1997:
  - (a) a device that is a poker machine, or
  - (b) a total of more than 10 (but less than 30) devices, but only if the Board has authorised the device (or the additional devices) to be used and operated on the licensed premises on or after that date.

(3) The Board's authorisation is subject to the following conditions, and the failure to comply with those conditions operates to make the keeping of the device or the additional devices by the hotelier before 1 April 1997 unlawful:

- (a) the device or additional devices must not be used or operated in the hotel before that date,
- (b) the logic board of the device (or of each additional device) must be removed from the device before it is installed,
- (c) the logic board of the device (or of each additional device) must not be placed back in the device before 1 April 1997,
- (d) while it is removed, the logic board must not be kept by the hotelier at the hotel, and it must be kept by a dealer, seller or technician.

**[22] Part 5, Division 6**

Insert after Division 5:

**Division 6      Progressive machines and intra-hotel progressive systems**

**58A Keeping of progressive machines and progressive systems**

A hotelier must not:

- (a) keep a progressive machine that is not an authorised progressive machine, or
- (b) keep a progressive system that is not an authorised progressive system, or
- (c) dispose of an authorised progressive machine or authorised progressive system without the authority of the Board or without complying with clauses 58J and 58K, or
- (d) deliberately remove from play an authorised progressive machine or authorised progressive system thereby denying players the opportunity to win existing progressive jackpots (unless removed under clause 58C).

Maximum penalty: 50 penalty units.

**58B Records and requirements relating to prizewinners**

- (1) A hotelier must keep or cause to be kept a written record, with respect to the payment of each progressive jackpot prize won on an authorised progressive machine, or on an authorised progressive system, kept by the hotelier (other than payments released directly by the machine or system), containing the following particulars:
  - (a) the date of the payment,
  - (b) the serial number of the device on which the payment was made,
  - (c) the prize-winning combination,
  - (d) the amount of the prize,
  - (e) the name, address and signature of the person to whom the payment was made,
  - (f) the names and signatures of 2 nominees of the hotelier certifying that each of them has seen the prize-winning combination and that the record made in accordance with this clause is correct in all details.
- (2) A hotelier must, before paying a progressive jackpot prize of more than \$100 that has been won on an authorised progressive machine that is not an “X” standard gaming machine, or that has been won on an authorised progressive system that consists of any device that is not an “X” standard gaming machine:
  - (a) require the prizewinner to produce documentary evidence of the prizewinner’s identity, and
  - (b) record the nature and identifying numbers or letters of that document in a form approved by the Board.
- (3) The hotelier must pay any prize referred to in subclause (2) by cheque only.

Maximum penalty (subclauses (1)–(3)):50 penalty units.

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**58C Malfunction of progressive machines or progressive systems**

(1) A hotelier must not permit the operation of an authorised progressive machine or authorised progressive system that does not function properly. In the event of malfunction, the hotelier must cause the machine or system to be removed from play immediately and be repaired as soon as practicable.

Maximum penalty: 50 penalty units.

(2) If a turnover or progressive meter of a device which is an authorised progressive machine or is linked to an authorised progressive system operated by the hotelier ceases to function or malfunctions, the hotelier must cause the device to be removed from play immediately and be repaired as soon as practicable.

Maximum penalty: 50 penalty units.

**58D Authorised progressive machines (“X” standard)—reading and recording of meters and jackpot reconciliations**

(1) This clause applies to authorised progressive machines that are “X” standard gaming machines.

(2) A hotelier must cause to be read and recorded in a form and manner approved by the Board:

- (a) monthly, the turnover meters (both electro-mechanical and electronic) of all authorised progressive machines to which this clause applies that are operated by the hotelier on the licensed premises, and
- (b) monthly, the amount shown on all progressive meters on all such authorised progressive machines operated by the hotelier on the licensed premises, and
- (c) the amount shown on the progressive meter of an authorised progressive machine to which this clause applies at the time the progressive jackpot is won.

- (3) A hotelier must carry out a monthly progressive jackpot reconciliation in respect of all authorised progressive machines to which this clause applies that are operated by the hotelier on the licensed premises.
- (4) A record of the progressive jackpot reconciliation must be made and kept by the hotelier in a form approved by the Board.
- (5) If the reconciliation referred to in subclause (3) indicates that a malfunction has occurred with the machine, the Board may determine and direct the hotelier to adjust the progressive jackpot amount and pay an additional amount to a jackpot recipient, if applicable. The hotelier must comply with any such direction.
- (6) The information contained in a record referred to in subclause (4) must be reported by the hotelier to the Board in the form approved by the Board within 21 days after the end of each instalment period.

Maximum penalty (subclauses (2)–(6)):50 penalty units.

**58E Authorised progressive machines (non “X” standard)—  
reading and recording of meters and jackpot  
reconciliations**

- (1) This clause applies to authorised progressive machines that are not “X” standard gaming machines.
- (2) A hotelier must cause to be read and recorded:
  - (a) weekly, the turnover meters (both electro-mechanical and electronic) of all authorised progressive machines to which this clause applies that are operated by the hotelier on the licensed premises, and
  - (b) weekly, the amount shown on all progressive meters on all such authorised progressive machines operated by the hotelier on the licensed premises, and
  - (c) the amount shown on the progressive meter of an authorised progressive machine to which this clause applies at the time the progressive jackpot is won.

- (3) A hotelier must keep or cause to be kept a weekly written record of the readings made under subclause (2) (a) and (b) in a form approved by the Board and containing the following particulars:
  - (a) the serial number of the device,
  - (b) the date of the reading,
  - (c) the turnover meter reading,
  - (d) the amount shown on the progressive meters.
- (4) A hotelier must carry out a weekly progressive jackpot reconciliation in respect of all authorised progressive machines to which this clause applies that are operated by the hotelier on the licensed premises.
- (5) A record of each such progressive jackpot reconciliation must be made and kept by the hotelier in a form approved by the Board.
- (6) If the reconciliation referred to in subclause (4) indicates that a malfunction has occurred with the machine, the Board may determine and direct the hotelier to adjust the progressive jackpot amount and pay an additional amount to a jackpot recipient, if applicable. The hotelier must comply with any such direction.
- (7) The information contained in a record referred to in subclause (5) must be reported by the hotelier to the Board in a form approved by the Board within 21 days after the end of each instalment period.

Maximum penalty (subclauses (2)–(7)): 50 penalty units.

**58F Authorised progressive systems (“X” standard)—reading and recording of meters and jackpot reconciliations**

- (1) This clause applies to authorised progressive systems that consist of devices that are “X” standard gaming machines only.

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- (2) A hotelier must cause to be read and recorded in a form and manner approved by the Board:
  - (a) monthly, the turnover meters (both electro-mechanical and electronic) of all authorised progressive systems to which this clause applies that are operated by the hotelier on the licensed premises, and
  - (b) monthly, the amount shown on all progressive meters on all such authorised progressive systems operated by the hotelier on the licensed premises, and
  - (c) the amount shown on the progressive meter of an authorised progressive system to which this clause applies at the time the progressive jackpot is won.
- (3) A hotelier must carry out a monthly progressive jackpot reconciliation in respect of all authorised progressive systems to which this clause applies that are operated by the hotelier on the licensed premises.
- (4) A record of each such progressive jackpot reconciliation must be made and kept by the hotelier in a form approved by the Board.
- (5) On installation of a variation of any authorised progressive system to which this clause applies, reconciliations of the jackpots accumulated as at the close of business on the first day of operation in the hotel must be carried out by the hotelier on or by the next day on which the hotel is open for business. In addition, the first jackpots of each type paid and subsequent start-up values must be fully reconciled and accord with the characteristics of the system as approved and authorised by the Board.
- (6) If the reconciliation referred to in subclause (3) indicates that a malfunction has occurred with the system, the Board may determine and direct the hotelier to adjust the progressive jackpot amount and pay an additional amount to a jackpot recipient, if applicable. The hotelier must comply with any such direction.

(7) The information contained in a record referred to in subclause (4) must be reported by the hotelier to the Board in a form approved by the Board within 21 days after the end of each instalment period.

Maximum penalty (subclauses (2)–(7)):50 penalty units.

**58G Authorised progressive systems (non “X” standard)—reading and recording of meters and jackpot reconciliations**

(1) This clause applies to authorised progressive systems other than those to which clause 58F applies.

(2) A hotelier must cause to be read and recorded:

- (a) daily, the turnover meters (both electro-mechanical and electronic) of all devices on all authorised progressive systems to which this clause applies that are operated by the hotelier on the licensed premises, and
- (b) daily, the amount shown on all progressive meters on all such authorised progressive systems operated by the hotelier on the licensed premises, and
- (c) the amount shown on the progressive meter of an authorised progressive system to which this clause applies at the time the progressive jackpot is won.

(3) The hotelier must keep or cause to be kept a daily written record of the readings made under subclause (2) (a) and (b) in a form approved by the Board containing the following particulars:

- (a) the serial number of the device,
- (b) the date of the reading,
- (c) the turnover meter reading,
- (d) the amount shown on the progressive meters.

(4) A hotelier must carry out a daily progressive jackpot reconciliation in respect of all authorised progressive systems to which this clause applies that are operated by the hotelier on the licensed premises.

Maximum penalty (subclauses (2)–(4)):50 penalty units.

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- (5) The functions in subclauses (2)–(4) which are required to be performed daily may be performed weekly if:
  - (a) the authorised progressive system is one which specifically limits the maximum jackpot generated and paid on the system to not more than \$2,000, or
  - (b) the meter reading for every unwon progressive jackpot on the system does not currently exceed \$2,000.
- (6) The progressive jackpot reconciliation must be in or to the effect of a form approved for the purpose by the Board and must be retained by the hotelier for not less than 5 years after the reconciliation is carried out.
- (7) On installation of a variation of any authorised progressive system to which this clause applies, reconciliations of the jackpots accumulated as at the close of business on the first day of operation in the hotel must be carried out by the hotelier on or by the next day on which the hotel is open for business. In addition, the first jackpots of each type paid and subsequent start-up values must be fully reconciled and accord with the characteristics of the system as approved and authorised by the Board.
- (8) If the reconciliation referred to in subclause (4) indicates that a malfunction has occurred with the system, the Board may determine and direct the hotelier to adjust the progressive jackpot amount and pay an additional amount to a jackpot recipient, if applicable. The hotelier must comply with any such direction.
- (9) The information contained in a record referred to in subclause (6) must be reported by the hotelier to the Board in a form approved by the Board within 21 days after the end of each instalment period.

Maximum penalty (subclauses (6)–(9)):50 penalty units.

**58H Guarantee of prize payments from authorised progressive machines and systems**

- (1) If the prize pool on an authorised progressive machine, or an authorised progressive system, operated by a hotelier on the licensed premises is capable of exceeding \$10,000, the hotelier must:
  - (a) when the total value of the prize pool exceeds \$10,000, establish with a financial institution a special account which is to have, at the time of each progressive jackpot reconciliation that is required under this Division, a balance equal to or greater than the total value of the progressive meters on each such authorised progressive machine and system, or
  - (b) obtain, on the installation of the authorised progressive machine or system, a formal guarantee from a financial institution, or from a person or body approved by the Board, for an amount equal to the maximum jackpot on each such machine or system, or
  - (c) enter into such other arrangements, as may be approved by the Board, in order to guarantee the payment of prizes.
- (2) A hotelier must keep a written record, in a form approved by the Board, of:
  - (a) any special account established under subclause (1) (a), or
  - (b) any guarantee obtained under subclause (1) (b), or
  - (c) any arrangement entered into under subclause (1) (c).
- (3) The information contained in a record referred to in subclause (2) must be reported by the hotelier to the Board in a form approved by the Board within 21 days after the end of each instalment period.

Maximum penalty (subclauses (1)–(3)):50 penalty units.

**58I Access to authorised progressive machines or systems**

- (1) A hotelier must not permit a person to access an authorised progressive machine or authorised progressive system to correct minor faults, clear money or carry out any of the other functions required by or under any Act or regulation unless that person:
  - (a) has been nominated by the hotelier, or
  - (b) is a technician, or
  - (c) is a special inspector, or
  - (d) has the prior written approval of the Board to do so.
- (2) A hotelier must keep a record where such access to the authorised progressive machine or authorised progressive system necessitates the breaking of any security seal. The record must include the date and time of and reason for the access, the name and qualification of the person accessing the machine or system and the number of the replacement seal.

Maximum penalty (subclauses (1) and (2)): 50 penalty units.

**58J Disposal of authorised progressive machines or systems**

- (1) A hotelier must not:
  - (a) dispose of an authorised progressive machine, or
  - (b) dispose of an authorised progressive system, or
  - (c) dispose of any accumulated progressive jackpot amounts on any such machine or system, or
  - (d) make alternative use of any such progressive jackpot amounts,

unless the hotelier has received the Board's written approval to do so.

(2) A hotelier must not dispose of an authorised progressive machine unless:

- (a) all progressive jackpot amounts accumulated on the machine have been won, or
- (b) any accumulated progressive jackpot amounts are to be transferred to another authorised progressive machine, or to an authorised progressive system, on the licensed premises so that those amounts can be used as additional prizes to the progressive prizes won on that other machine or system, or
- (c) the Board, in exceptional circumstances, approves of an alternative proposal to use any accumulated progressive jackpot amounts and those amounts are to be used in accordance with that proposal.

(3) A hotelier must not dispose of an authorised progressive system unless:

- (a) all progressive jackpot amounts accumulated on the system have been won, or
- (b) any accumulated progressive jackpot amounts are to be transferred to another authorised progressive system, or to an authorised progressive machine, on the licensed premises so that those amounts can be used as additional prizes to the progressive prizes won on that other system or machine, or
- (c) the Board, in exceptional circumstances, approves of an alternative proposal to use any accumulated progressive jackpot amounts and those amounts are to be used in accordance with that proposal.

(4) Any application of accumulated progressive jackpot amounts in accordance with subclause (2) (b) or (3) (b) is subject to the following requirements:

- (a) the hotelier may deduct from the value of the accumulated jackpot prize the amount provided by the hotelier to initially start up the prize offered,
- (b) the hotelier must ensure that adequate safeguards exist to control any scheme devised (in particular, that there must be no double deduction of prizes so paid for the purposes of calculation of duty),

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(c) the hotelier must include information as to the method of dispersing accumulated progressive jackpot amounts from the prize pool of the authorised progressive machine or authorised progressive system being disposed of with the records required to be reported to the Board in accordance with this Division.

Maximum penalty (subclauses (1)–(4)):50 penalty units.

#### **58K Details to be provided to Board in connection with the disposal of authorised progressive machines or systems**

- (1) When seeking approval to dispose of an authorised progressive machine or authorised progressive system, or for an alternative proposal for use of accumulated progressive jackpot amounts, a hotelier must submit details of each proposal to the Board.
- (2) Any application by a hotelier to dispose of an authorised progressive machine or authorised progressive system and disperse accumulated progressive jackpot amounts must clearly indicate the proposed method of dispersing the amounts and include a time frame for the dispersal. The time frame is to be within 6 months of the disposal of the machine or system.
- (3) When seeking approval for an alternative proposal for use of accumulated progressive jackpot amounts, a hotelier must also describe the nature of any exceptional circumstances on which basis the proposal is made.

Maximum penalty (subclauses (1)–(3)):50 penalty units.

#### **[23] Schedules 4 and 5**

Insert after Schedule 3:

#### **Schedule 4      Provisions of Registered Clubs Act 1976 relating to poker machines**

(Clause 39A)

##### **1 Excluded provisions**

In accordance with section 182A (1) (b) of the *Liquor Act 1982*, the following provisions of the *Registered*

*Clubs Act 1976* relating to poker machines do not apply to and in respect of hotels:

- any provision relating to an established poker machine within the meaning of that Act,
- sections 22A (6) (d), 23AA (2) (a), 25 (7) (a), 30 (2) (h), 43, 43A (1) (b), 50A, 50B (1), 51 (1) (e), 54 and 73 (1A) (r).

**2 Application to hotels of provisions of Registered Clubs Act 1976 relating to poker machines**

- (1) The provisions of the *Registered Clubs Act 1976* relating to poker machines that are set out in Schedule 5 (modified in accordance with section 182A (1)(b) of the *Liquor Act 1982* to read in the manner as set out in that Schedule) apply to and in respect of hotels. Those provisions are referred to in this clause and in the heading to Schedule 5 as the applied provisions.
- (2) Expressions used in the applied provisions which are defined in the *Registered Clubs Act 1976* have, for the purposes of their application to and in respect of hotels, the same meanings as set out in that Act (except that any reference in those definitions to a registered club is to be read as a reference to a hotelier or a hotel, as the case requires).
- (3) For the avoidance of any doubt:
  - (a) any reference in the applied provisions to this Act is a reference to the *Registered Clubs Act 1976*, and
  - (b) an offence against any of the applied provisions is an offence arising under the *Registered Clubs Act 1976*.
- (4) However, sections 69F-69H of the *Liquor Act 1982* continue to apply to and in respect of an offence arising under the applied provisions.

## **Schedule 5      The applied provisions**

(Clause 39A)

### **4 Definitions**

In this Act:

**hotel** means the premises to which a hotelier's licence relates.

**hotelier** means the holder of a hotelier's licence in force under the *Liquor Act 1982*.

### **9A Conditions of hotelier's licence**

(3) A hotelier's licence is subject to such conditions relating to the keeping of poker machines by the hotelier as may be 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, the Director or the Commissioner of Police,

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

(5A) It is a condition of a hotelier's licence that the hotelier is not to provide a cash advance in the hotel, or permit or suffer a cash advance to be provided in the hotel on behalf of the hotelier, otherwise than as a prize won as a direct or indirect consequence of operating a poker machine in accordance with this Act and the *Liquor Act 1982* and the other conditions to which the licence is subject.

### **51 Operation of poker machines by persons under 18 years**

(1) A person under the age of 18 years shall not use or operate a poker machine in a hotel.

Maximum penalty: 5 penalty units.

(2) It is a defence to a prosecution for an offence arising under this section if it is proved that the person who used or operated the poker machine did so under the supervision of the holder of a technician's licence for the purpose only of receiving training and instruction in respect of the servicing, repair or maintenance of poker machines.

### **63 Evidentiary provisions**

(1A) In any legal proceedings, any one or more of the following allegations is taken to be proved unless the contrary is proved:

- (a) that a specified machine is, or is not, an approved poker machine,
- (b) that a specified poker machine is, or is not, an authorised poker machine,
- (c) that a specified hotelier is, or is not, authorised to keep, and to permit the use and operation of, a specified poker machine or a specified number of poker machines,
- (d) that a specified person is the Principal Registrar,
- (e) that a specified person is the holder of a gaming-related licence or a specified kind of gaming-related licence,
- (f) that a specified person is not the holder of a gaming-related licence or a specified kind of gaming-related licence,
- (g) that a specified gaming-related licence has been suspended,
- (h) that a specified person is a special inspector.

(3) In any proceedings under this Act, an allegation in an information that, at a specified time, a person was under the age of 18 years is evidence of the truth of the allegation unless, as prescribed, the defendant denies the allegation.

**65A Additional penalties**

In addition to any other penalty it may impose for an offence committed by a hotelier under this Act, the Licensing Court may, if it thinks appropriate, do any one or more of the following:

- (a) reprimand the hotelier,
- (b) impose a condition to which the hotelier's licence is to be subject or revoke or vary a condition to which the licence is subject,
- (c) suspend the licence for such period, not exceeding 12 months, as the court thinks fit,
- (d) cancel the licence,
- (e) disqualify the hotelier from holding a hotelier's licence for such period as the court thinks fit,
- (f) give such directions as to the exercise of the licence as the court thinks fit.

**77 Lawful keeping etc of poker machines in hotels**

Despite anything in the *Lotteries and Art Unions Act 1901*, the *Gaming and Betting Act 1912* or any other Act except this Act, and despite any law, it is lawful:

- (a) to keep and operate an authorised poker machine in a hotel, and
- (b) to pay or present prizes and bonuses won as a direct or indirect consequence of operating a poker machine,

if the poker machine is kept and operated, and the prizes and bonuses are paid or presented, in accordance with this Act and any conditions of the hotelier's licence.

**77A Investigation of certain devices as approved poker machines**

- (1) The holder of a dealer's licence may apply to the Board for declaration of a device as an approved poker machine and the Board may:
  - (a) investigate the application, or authorise its investigation, in order to determine whether the device is suitable for declaration, and

- (b) require the applicant to meet the cost of the investigation.
- (2) It is a condition of the licence of the applicant that the licensee is to pay to the Board, within a time allowed by the Board, such of the costs of the investigation as may be required by the Board and is to do so even if the investigation is terminated without a decision being made as to whether or not the device is to be declared to be an approved poker machine.
- (3) Costs determined by the Board for the purposes of this section are reviewable only by the Board.
- (4) This section does not:
  - (a) confer a right to have a device investigated, or
  - (b) prevent the Board from terminating at its discretion an investigation of a device.

**77B Declaration of approved poker machine**

- (1) The Board may declare that a device referred to in the declaration is an approved poker machine.
- (2) A declaration under this section:
  - (a) may refer to a device or poker machine specifically or by reference to a class or description of devices or poker machines, and
  - (b) in relation to a device, may be a temporary declaration pending final determination of an application for declaration of the device as an approved poker machine.
- (3) Without affecting the discretion of the Board to make, or refuse to make, a declaration of a device as an approved poker machine, the Board may refuse to make such a declaration if the Board considers that it would relate to a device that does not meet such technical standards as the Board considers to be necessary to ensure the integrity of gaming by use of the device.

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- (4) If an approved poker machine kept by a hotelier is modified in such a way that it is in the form of a different approved poker machine, it ceases to be an approved poker machine despite being in that form unless:
  - (a) the material used to effect the modification was supplied by the holder of a dealer's licence, either directly or through the holder of another gaming-related licence, and
  - (b) the modification was effected in accordance with a variation of the authority in force in relation to the poker machine under section 78A.
- (5) A minor or insignificant variation does not preclude a poker machine from being an approved poker machine if the variation does not affect its security or integrity or the manner in which the poker machine from which it varies was designed and programmed to function.
- (6) The Board may revoke a declaration in force under this section if it considers that it is necessary to do so in the public interest or if it is a temporary declaration.
- (7) If the Board revokes a declaration of a device as an approved poker machine, the revocation does not take effect until the hotelier in possession of the poker machine has been given, or served by post with, written notice of the revocation or declaration.
- (8) A poker machine ceases to be an approved poker machine if its declaration as an approved poker machine is revoked.
- (9) Neither the Board nor a member of the Board incurs any liability that but for this section might be claimed to arise from:
  - (a) declaration by the Board to the effect that a device is an approved poker machine, or
  - (b) a revocation by the Board of such a declaration.

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**77C Dealer may make representations on investigation of device or revocation of declaration**

- (1) The Board may not:
  - (a) terminate the investigation of an application by the holder of a dealer's licence for declaration of a device as an approved poker machine, or
  - (b) refuse such an application, or
  - (c) revoke the declaration of a device as an approved poker machine,unless this section is complied with before it decides to do so.
- (2) The Board must serve on the relevant holder of a dealer's licence a notice in writing that complies with subsection (3).
- (3) The notice must:
  - (a) specify the reasons why the Board is considering taking such action as is specified in the notice, and
  - (b) afford the licensee an opportunity to show cause within such period of at least 14 days as is specified in the notice why the Board should not take that action.
- (4) The licensee may, within the period allowed by the notice, arrange with the Board for the making of submissions to the Board as to why the proposed action should not be taken and the Board is to consider any submissions so made.
- (5) After considering any submissions made by the licensee, or if no such submissions are made, the Board may:
  - (a) proceed with the proposed action, or
  - (b) conditionally or unconditionally desist from taking the proposed action.
- (6) The decision of the Board takes effect when written notice of the decision is given to the licensee or on a later date specified in the notice.

**78 Keeping, acquisition and disposal of poker machine**

A hotelier must not:

- (a) keep a poker machine that is not an authorised poker machine, or
- (b) keep an authorised poker machine without complying with any conditions imposed by the Board in relation to the keeping of the poker machine, or
- (c) 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
- (d) 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.

Maximum penalty: 100 penalty units.

**79 Application to keep or dispose of poker machine**

- (1) An application to the Board by a hotelier:
  - (a) for authority to acquire and keep, or to dispose of, an approved poker machine, or
  - (b) for a variation of an authority to keep a poker machine,

is to be in a form approved by the Board and is to be accompanied by such documents as comply with the requirements of the form.

- (2) If, 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 hotelier must immediately provide the Board with full particulars of the change.

Maximum penalty: 20 penalty units.

(3) The Board may, from time to time before making a decision on an application, require the hotelier to provide, or require the hotelier 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.

(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 the hotelier to be verified by statutory declaration.

(5) A hotelier must not acquire or modify a poker machine unless:

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

under a written contract that includes such terms and conditions as may be prescribed by the regulations.

Maximum penalty: 50 penalty units.

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

(7) An authorisation granted under this section ceases to have effect:

- (a) if it is suspended or cancelled by the Board, or
- (b) if it relates to a poker machine that has, in accordance with section 77B, ceased to be an approved poker machine.

**79A Trial of poker machine**

- (1) A hotelier may, with the approval of the Board and subject to compliance with any conditions imposed by the Board, keep on the licensed premises:
  - (a) on a trial basis, and
  - (b) for a period fixed by the Board,  
a poker machine that is not an approved poker machine.
- (2) If a poker machine is kept as provided by subsection (1), the provisions of this Act (section 79 (5) and (6) excepted) and the *Liquor Act 1982* apply to the poker machine in the same way as those provisions apply to an authorised poker machine.

**80 Sharing of receipts from poker machine prohibited**

A hotelier must 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 on those receipts,

with or to any other person other than a person named for the purposes of section 163 of the *Liquor Act 1982*.

Maximum penalty: 50 penalty units.

**82 Defective poker machine**

- (1) A hotelier is guilty of an offence if a poker machine available for use in the hotel fails to function in the manner in which it was designed and programmed to function.  
Maximum penalty: 100 penalty units.
- (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 hotelier:

- (i) had taken all reasonable precautions to ensure that the poker machine was functioning properly, and
- (ii) at the time of the alleged offence did not know, and could not reasonably be expected to have known, that the poker machine was not functioning properly.

**82D Protection of sensitive areas of poker machines**

(1) It is an offence for a person (other than a specially authorised person) to do any of the following:

- (a) break a seal securing a computer cabinet or gain access to anything within a computer cabinet,
- (b) affix a seal to a computer cabinet,
- (c) remove, replace or in any way affect or interfere with the operation of a computer cabinet or anything within a computer cabinet,
- (d) break a seal protecting the integrity of the game program of a poker machine,
- (e) remove, or interfere with, any security device on a poker machine,
- (f) remove, or interfere with, the housing protecting the meters of a poker machine,
- (g) remove, disconnect or interfere with a meter of a poker machine,
- (h) interfere with information received, stored or transmitted electronically by a poker machine,
- (i) remove, or interfere with, any mark or seal affixed to a poker machine to preserve the integrity of operation of the machine.

Maximum penalty: 100 penalty units.

(2) A person (including a specially authorised person) who removes, alters or otherwise interferes with the compliance plate on a poker machine is guilty of an offence.

Maximum penalty: 100 penalty units.

(3) A person who authorises or permits another person to act in a way that is an offence under another provision of this section is also guilty of an offence.

Maximum penalty: 100 penalty units.

(4) In this section:

***computer cabinet*** means the sealable part of a poker machine that contains the game program storage medium and the random access memory.

***specially authorised person*** means a special inspector, a holder of a technician's licence, a person exercising a function under section 127 or a person appointed by the Director as a specially authorised person for the purposes of this section.

#### **82E Modification of poker machine**

(1) A person who modifies an approved poker machine in such a way that it is in the form of a different approved poker machine is guilty of an offence unless the person holds a technician's licence or the modification does not, as provided by section 77B, preclude the poker machine from being an approved poker machine.

Maximum penalty: 100 penalty units or imprisonment for 1 year, or both.

(2) A holder of a technician's licence who modifies an approved poker machine in such a way that it is in the form of a different approved poker machine is guilty of an offence unless there is returned within a reasonable time to the supplier of the materials for the conversion so much of the poker machine as ceased to form part of it after its conversion and comprised:

(a) a meter, circuit board, read-only memory device or artwork, or  
(b) a component prescribed as a restricted component.

Maximum penalty: 100 penalty units or imprisonment for 1 year, or both.

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**82F Consignment or movement of poker machines**

- (1) A holder of a dealer's licence, a seller's licence or an adviser's licence who consigns or moves a poker machine:
  - (a) to or from any place at which the licensee carries on the business authorised by the licence, or
  - (b) from outside the State to a place within the State, is to give the Director a written notification stating the particulars required by this section, and is to do so not later than 3 clear days before the consignment or movement or, in a particular case or class of cases, within a time approved by the Director.
- (2) The required particulars are:
  - (a) the number of machines, and
  - (b) the number of each type of machine, and
  - (c) the manufacturer's serial number for each of the machines, and
  - (d) the origin and destination of the machines, and
  - (e) the intended dates of transportation, and
  - (f) the intended method of transport and the name of the carrier.
- (3) The Director may, conditionally or unconditionally, grant an exemption from the operation of this section in a particular case or a particular class of cases.
- (4) A licensee who fails to comply with a requirement of this section that is applicable to the licensee is guilty of an offence.

Maximum penalty: 50 penalty units.

**83 Unlawful interference with poker machine**

- (1) A person who:
  - (a) has possession of a device made or adapted, or intended by the person to be used, for interfering with the normal operation of a poker machine in a hotel, or

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(b) does anything calculated, or likely, to interfere with the normal operation of a poker machine in a hotel, or

(c) does anything calculated to render a poker machine in a hotel incapable, even temporarily, of producing a winning combination,

is guilty of an offence.

Maximum penalty: 100 penalty units.

(2) Subsection (1) does not apply to anything done in good faith in connection with:

(a) the installation, alteration, adjustment, maintenance or repair of a poker machine by the holder of a technician's licence, or

(b) the exercise by a person of a function conferred or imposed by this Act on a specially authorised person referred to in section 82D.

(3) A person who, with intent to dishonestly obtain money or a financial advantage for himself or herself or another person, inserts in a poker machine in a hotel anything other than:

(a) a coin or token of the denomination or type displayed on the machine as that to be used to operate the machine, or

(b) a banknote of a denomination approved by the Board for use in order to operate the machine, or

(c) a card of a type approved by the Board for use in order to operate the machine,

is guilty of an offence.

Maximum penalty: 100 penalty units or imprisonment for 1 year, or both.

(4) A person who knows of any faulty or fraudulent computer programming and as a result gains, or gains for another person, an advantage in the operation of a poker machine is guilty of an offence.

Maximum penalty: 100 penalty units or imprisonment for 1 year, or both.

(5) A person who authorises or permits another person to act in a way that is an offence under another provision of this section is guilty of an offence.

Maximum penalty: 100 penalty units or imprisonment for 1 year, or both.

**83A Illegal advantage gained during design etc of poker machine**

(1) A person who, during the design, manufacture, assembly, maintenance or repair of a poker machine, dishonestly makes provision to gain an advantage (whether or not for another person) in the operation of the machine is guilty of an offence.

Maximum penalty: 100 penalty units or imprisonment for 1 year, or both.

(2) A person who, as a result of gross negligence during the design, manufacture, assembly, maintenance or repair of a poker machine, makes provision to gain an advantage (whether or not for another person) in the operation of the machine is guilty of an offence.

Maximum penalty: 100 penalty units or imprisonment for 1 year, or both.

(3) A person who does anything to a poker machine in order to conceal anything that is an offence under subsection (1) or (2) is guilty of an offence.

Maximum penalty: 100 penalty units or imprisonment for 1 year, or both.

(4) A person who authorises or permits another person to act in a way that is an offence under another provision of this section is guilty of an offence.

Maximum penalty: 100 penalty units or imprisonment for 1 year, or both.

**84 Illegal possession of poker machine by hotelier**

A hotelier must not be in possession of a poker machine that is not an authorised poker machine.

Maximum penalty: 100 penalty units.

### **88 Definitions**

In this Part:

***poker machine adviser*** means a person who, under a contract of service or 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 or, in the case of a hotelier or the manager of a hotel, is solely incidental to his or her duties as a hotelier or as manager of the hotel.

### **90 Granting of gaming-related licences**

- (1) The Licensing Court may, on application made in a form approved by the Board, grant:
  - (a) a poker machine dealer's licence, or
  - (b) a poker machine seller's licence, or
  - (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 gaming-related licence, and
  - (b) in a case where more than one gaming-related licence may be held by the same person—approve a form in which the licences may be granted or held at the same time.
- (3) The Licensing Court is not bound to deal with applications for gaming-related 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.

(5) Sections 96–99 do not apply to an application for a gaming-related licence made by a person who holds another gaming-related licence under this Act or a gaming-related licence under the *Liquor Act 1982*.

**90A Work permits**

- (1) The Principal Registrar may, pending a decision on an application for a seller's licence, technician's licence or adviser's licence, issue a work permit in a form approved by the Board.
- (2) A work permit is subject to any conditions or restrictions of which the holder of the permit is notified by the Principal Registrar when issuing the permit.
- (3) A work permit may be cancelled by the Principal Registrar at any time and, unless sooner surrendered or cancelled, ceases to have effect on approval or refusal of the application made by the holder of the permit for a gaming-related licence.
- (4) Subject to any condition or restriction imposed under subsection (2), this Act applies to the holder of a work permit in the same way as it applies to the holder of a gaming-related licence of the same kind as that applied for by the holder of the work permit.

**91 Authority conferred by gaming-related licence**

- (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 and assemble approved poker machines in the place or places specified in the licence, and
  - (b) to sell, or negotiate the sale of, approved poker machines, whether or not manufactured or assembled by the licensee, and
  - (c) to service, repair and maintain poker machines, and
  - (d) to act as a poker machine adviser.

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- (1A) The Board may impose a condition of a dealer's licence prohibiting or regulating in a specified place an activity that is, or is proposed to be, carried on by the licensee in that place in addition to the activities already authorised by the licence.
- (1B) Before deciding whether or not to impose a condition of a dealer's licence under this section, the Board is to give the licensee an opportunity to make submissions about the proposed condition.
- (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
  - (b) as principal or agent—to sell approved 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.
- (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.
- (4A) If a corporation is the holder of a poker machine dealer's licence or seller's licence, the authority conferred by this section on the corporation extends to a director or secretary of the corporation.
- (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).

**91A Director's report required before application may be granted**

- (1) An application for a gaming-related licence must not be granted by the Licensing Court unless the Licensing Court has received and considered a report by the Director as to any investigations and inquiries carried out, or reports received, under Division 2A.
- (2) However, the Licensing Court may hear and determine such an application if any investigation, inquiry or report under Division 2A has not been completed, or received by the court, within 3 months after the application was lodged.
- (3) The 3 month period may be extended by the Licensing Court on application being made by the Director before the end of the period.

**92 Application for gaming-related licence**

- (1) An application for a gaming-related licence must be advertised as prescribed.
- (2) An application for a gaming-related licence may not be made by:
  - (a) a person who is under the age of 18 years, or is within a class of persons prescribed as being ineligible to apply for a gaming-related licence, or
  - (b) a person who is disqualified under section 109 from holding a gaming-related licence, or
  - (c) a person who is the holder of a suspended gaming-related licence.
- (3) An application for a gaming-related 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 gaming-related licence.

**93 Disclosure of interested parties**

- (1) An application for a gaming-related licence (other than an application to be licensed as an employee), must be accompanied by an affidavit by a person having knowledge of the facts stating:
  - (a) that the person has made all reasonable inquiries to ascertain the information required to complete the affidavit, and
  - (b) whether there are any persons (other than financial institutions) who will be interested in the business, or the profits of the business, carried on under the licence, and
  - (c) if there are any such persons, their names and dates of birth and, in the case of a proprietary company, the names of the directors and shareholders.
- (2) For the purposes of subsection (1), a person is interested in the business, or the profits of the business, carried on under the licence if the person is entitled to receive:
  - (a) any income derived from the business, or any other financial benefit or financial advantage from the carrying on of the business (whether the entitlement arises at law or in equity or otherwise), or
  - (b) any rent, profit or other income in connection with the use or occupation of premises on which the business is to be carried on.

**94 Updating of application**

If, before an application for a gaming-related 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 must forthwith give the Principal Registrar a notice in writing specifying particulars of the change.

Maximum penalty: 20 penalty units.

**95 Principal Registrar to refer certain applications to Director**

- (1) A registrar (other than the Principal Registrar) with whom an application to the Licensing Court for a gaming-related licence is lodged is to refer the application to the Principal Registrar.
- (2) The Principal Registrar is to refer to the Director for investigation:
  - (a) each application to the Licensing Court for a gaming-related licence that is lodged with the Principal Registrar or referred to the Principal Registrar by another registrar, and
  - (b) any changes of which the Principal Registrar is notified under section 94 in relation to such an application.

**95A Investigations by Director**

- (1) On receiving for investigation an application for a gaming-related licence, the Director must carry out all such investigations and inquiries in relation to the applicant as are considered by the Director to be necessary for a proper consideration of the application and is to complete those investigations and inquiries within 6 months after the application was lodged.
- (2) In particular, the Director must refer to the Commissioner of Police details of the applicant together with any supporting information in relation to the applicant that the Director considers to be appropriate for referral to the Commissioner.
- (3) The Commissioner of Police is to inquire into, and report to the Director on, such matters concerning the applicant as the Director may request.
- (4) An application is to proceed to be dealt with even if any investigation, inquiry or report under this section in relation to the applicant has not been completed within 6 months after the application was lodged.

**95B Director may require further information**

- (1) The Director may, by notice in writing, require a person whose application for a gaming-related licence has been referred to the Director, or may require a close associate of any such person, to do one or more of the following things:
  - (a) provide, in accordance with directions in the notice, such information verified by statutory declaration as is relevant to the investigation of the application and is specified in the notice,
  - (b) produce, in accordance with directions in the notice, such records as are relevant to the investigation of the application and permit examination of the records, the taking of extracts from them and the making of copies of them,
  - (c) authorise a person described in the notice to comply with a requirement of the kind referred to in paragraph (a) or (b),
  - (d) furnish to the Director such authorities and consents as the Director requires for the purpose of enabling the Director to obtain information (including financial and other confidential information) from other persons concerning the person and his or her associates.
- (2) A person who complies with a requirement of a notice under this section does not on that account incur a liability to another person.
- (3) The Licensing Court may refuse to grant an application if a requirement made under this section in relation to the application is not complied with.

**96 Expenses of investigation of application**

- (1) The Licensing Court may, on the application of the Director or the Commissioner of Police, order an applicant for a gaming-related licence to pay to the Board within a stated time the amount required by this section.

- (2) The amount required is a specified amount towards defraying the cost of anticipated expenditure outside the State, and anticipated travelling expenses (whether within or outside the State), involved in investigating the application for the licence.
- (3) If an applicant for a gaming-related licence is required to make a payment under this section and fails to make the payment:
  - (a) the Director may refuse to proceed with investigation of the application, and
  - (b) the Licensing Court may refuse to hear the application and may dismiss it.

**97 Who may object**

- (1) An objection to the granting by the Licensing Court of an application under this Act may, as prescribed, be taken:
  - (a) by the Commissioner of Police, or
  - (b) by the Director, or
  - (c) except in the case of an application to be licensed as an employee—by the local consent authority in relation to 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.

**98 Grounds of objection**

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

- (a) that the applicant is not a fit and proper person to be the holder of a gaming-related licence,
- (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 gaming-related licence if the application is granted is not a fit and proper person to be so interested,
- (c) that a person who is, was or will be a close associate of the applicant is not a fit and proper person to be a close associate of the holder of a gaming-related 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 gaming-related 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 gaming-related licence required for the lawful carrying on of that activity,
- (b) that a gaming-related licence held by the applicant was cancelled during that period of 12 months,
- (c) that section 94, a requirement of the Director under Division 2A, 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 gaming-related licence) may be taken on the ground that, for specified reasons, it would not be in the public interest to grant the application.

**99 Taking of objection**

(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) if the objection is on the basis that a person is not a fit and proper person for a particular purpose, specifies the reasons why the objector considers that the person is not a fit and proper 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.

(4) When hearing and determining an objection, the Licensing Court must admit into evidence and consider any relevant findings of a court, a tribunal or a Royal Commission, the Independent Commission Against Corruption or other commission of inquiry or a coroner in any investigation, inquiry or other proceeding if those findings have been publicly released and are brought to the attention of the Court.

**100 Discretionary powers of Licensing Court**

- (1) Notwithstanding that an objection to the grant of an application for a gaming-related 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, and
  - (b) the applicant has been given an opportunity to make submissions, and adduce evidence, related to those reasons, and
  - (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 gaming-related licence on a ground other than a ground based on the unsuitability of the applicant, the public interest or a failure to comply with a requirement of the Director under Division 2A has been made out, the Court has a discretion to grant the application.
- (4) The Licensing Court may grant an application even though an objection to the grant of the application has been made out on the ground of a failure to comply with a requirement of the Director under Division 2A, but only if the Court is satisfied that reasonable cause has been shown for the failure to comply with the requirement.

**101 Conditions of gaming-related licences**

- (1) The Licensing Court may:
  - (a) on the hearing of an application for the grant of a gaming-related licence or of any matter relating to a gaming-related licence—of its own motion or on the application of a party to the hearing, the Director or the Commissioner of Police, or

(b) at any other time—on the application of the Director or the Commissioner of Police, 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 gaming-related licence is subject to:

- (a) a prescribed condition,
- (b) a condition imposed under subsection (1),
- (c) a condition imposed by the Licensing Court or 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.

(3) Where a gaming-related licence is subject to a condition, the licensee must comply with the condition. Maximum penalty: 100 penalty units.

(4) The Licensing Court may vary or revoke a condition (other than a prescribed condition) of a gaming-related licence:

- (a) at any time on the application of the licensee, the Director or the Commissioner of Police, or
- (b) at any time of its own motion, whether or not on the hearing of any matter relating to the licence.

**102 Condition of dealer's licence from 1 January 1990**

(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 dealer's 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.

**102A Board may require dealer to alter certain poker machines**

(1) The Board may require the holder of a dealer's licence to arrange, at the expense of the dealer and within a specified time (or within such further time as the Board may allow), for a specified alteration to be made to an approved poker machine that is to be, or has been, supplied by the licensee to a hotelier after the commencement of this section.

(2) It is a condition of a dealer's licence that the licensee is to comply with any requirement made of the licensee under this section.

(3) It is a condition of a hotelier's licence that the hotelier is to allow the holder of a dealer's licence or a technician's licence such access to a poker machine in the hotel as may be required to enable the holder of the dealer's licence to comply with a requirement of the Board under this section.

**103 Issue of gaming-related licence**

(1) Where the Licensing Court or the Principal Registrar grants an application for a gaming-related licence, the licence is not to 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.

(2) The Licensing Court may stay the issue of a gaming-related 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 gaming-related licence does not have effect while the issue of the licence is prohibited by, or stayed under, this section.

**104 Duration of gaming-related licence**

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

**106 Periodic returns by gaming-related licensees**

(1) Within the period of 1 month after the expiration of each period prescribed for the purposes of section 105, the holder of a gaming-related licence is to lodge with the Director a return that:

- (a) is in a form approved by the Director, and
- (b) is accompanied by such documents as may be prescribed, and
- (c) is signed by the licensee or, if the licensee is a corporation, by at least 2 directors of the corporation.

(2) The form of return approved by the Director may be in the form of a statutory declaration.

(3) Compliance with this section is a condition of a gaming-related licence.

**107 Application of Division to former holders of gaming-related licences**

This Division applies to a former holder of a gaming-related licence in the same way as it applies to a holder for the time being of a gaming-related licence.

**107A Director may investigate holders of gaming-related licences and others**

- (1) The Director may at any time carry out all such investigations and inquiries as are considered by the Director to be necessary in order to ascertain whether a complaint should be made under section 108 against the holder of a gaming-related licence or a close associate of the holder of a gaming-related licence.
- (2) The Commissioner of Police is to inquire into, and report to the Director on, such matters as the Director may request concerning the licensee to whom the complaint, if made, would relate.
- (3) The Director may, by notice in writing, require a licensee or a close associate who is the subject of an investigation under this section, or may require a close associate of any such licensee, to do one or more of the following things:
  - (a) provide, in accordance with directions in the notice, such information verified by statutory declaration as is relevant to the investigation and is specified in the notice,
  - (b) produce, in accordance with directions in the notice, such records as are relevant to the investigation and permit examination of the records, the taking of extracts from them and the making of copies of them,
  - (c) authorise a person described in the notice to comply with a requirement of the kind referred to in paragraph (a) or (b),
  - (d) furnish to the Director such authorities and consents as the Director requires for the purpose of enabling the Director to obtain information (including financial and other confidential information) from other persons concerning the person under investigation and his or her associates.

(4) A person who complies with a requirement of a notice under this section does not on that account incur a liability to another person.

**108 Summons to show cause against taking of disciplinary action**

(1) A complaint in relation to a holder of a gaming-related licence is an authorised complaint if it is made in writing by:

- (a) the Commissioner of Police, or
- (b) the Director, or
- (c) a hotelier, or
- (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).

(1A) A complaint in relation to a person who is a close associate of a licensee is an authorised complaint for the purposes of this section if it is made in writing by the Commissioner of Police or the Director and specifies as its grounds one or more of the grounds specified in subsection (2A). A complaint under this subsection can be made in conjunction with a complaint in relation to the licensee on the ground specified in subsection (2) (f) or any other ground and those complaints can be heard and determined together.

(2) The grounds upon which an authorised complaint under subsection (1) 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,

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- (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 penalty for late payment of a fee in accordance with this Act,
- (e) that the licensee is not a fit and proper person to be the holder of the licence,
- (e1) that a requirement of the Director made under this Act in relation to the investigation of a licensee and specified in the complaint has not been complied with,
- (f) that a person named in the complaint is, was or will be a close associate of the licensee and is not a fit and proper person to be a close associate of a licensee,
- (g) that a specified person named in an affidavit under section 93 or 112 is not a fit and proper 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,
- (i) that the continuation of the licence is not in the public interest.

(2A) The grounds on which an authorised complaint under subsection (1A) may be made in relation to a person who is a close associate of a licensee are as follows:

- (a) that the close associate is not a fit and proper person to be a close associate of a licensee,
- (b) that a complaint against the licensee under this section has been established and that:
  - (i) the close associate knew or ought reasonably to have known that the licensee was engaging or was likely to engage in conduct of the kind to which the complaint relates, and

- (ii) the close associate failed to take all reasonable steps to prevent the licensee from engaging in conduct of that kind,
- (c) that a requirement of the Director made under this Act in relation to the investigation of the close associate and specified in the complaint has not been complied with.

(3) Upon the making of an authorised complaint, a licensing or other Magistrate, or the Principal Registrar, may summon the licensee or other person 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) must specify the grounds of the complaint upon which the summons was issued,
- (b) where a ground of complaint is based on a person not being a fit and proper person for any purpose or based on the public interest—must specify the reasons given by the complainant for making the complaint on that ground, and
- (c) must be served on the person the subject of the complaint and, if that person is not the licensee, on the licensee personally or by post or in any other prescribed manner.

(5) Where an authorised complaint has been made in relation to a holder of a gaming-related licence, the complainant must 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 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 gaming-related licence may not be the subject both of an authorised complaint and proceedings for an offence.

**108A Complaints against close associates**

- (1) For the purposes of section 108 (2A) (b), a complaint against a licensee under that section is taken to have been established if the Licensing Court, on the hearing and determination of a complaint in relation to the licensee under that section, found that the matter of the complaint had been made out.
- (2) On the hearing and determination of a complaint under section 108 (1A) on the ground referred to in section 108 (2A) (b), the onus is on the close associate to satisfy the Licensing Court that the close associate took all reasonable steps to prevent the licensee from engaging in conduct of the kind concerned.

**109 Disciplinary powers of Court**

- (1) Upon the appearance of a holder of a gaming-related licence in response to a summons under section 108 or in the absence of the licensee after being duly summoned, the Licensing Court is to 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 500 penalty units in the case of a corporation and 200 penalty units in any other case or, if circumstances of aggravation exist in relation to the complaint, not exceeding 1,000 penalty units in the case of a corporation or 400 penalty units in any other case,
  - (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 or, if circumstances of aggravation exist in relation to the complaint, not exceeding 24 months, as the Licensing Court thinks fit,

- (e) cancel the licence,
- (f) disqualify the licensee from holding a gaming-related licence for such period as the Licensing Court thinks fit,

or may take no action.

- (1A) For the purposes of this section, circumstances of aggravation exist in relation to a complaint if (and only if) any of the following paragraphs applies:
  - (a) the complaint alleges that for the reasons specified in the complaint the matter of the complaint is so serious as to warrant the taking of action that is available to the Licensing Court when circumstances of aggravation exist,
  - (b) the Licensing Court, in finding that the matter of the complaint has been made out, is of the opinion (having regard to such matters as the number of contraventions of the Act involved, the seriousness of the contravention involved, the number of people involved in the contravention, the seriousness of the outcome of the contravention, or other relevant considerations) that the matter of the complaint is so serious as to warrant the taking of action that is available to the Licensing Court when circumstances of aggravation exist.
- (1B) On the appearance of a person in response to a summons under section 108 in respect of a complaint under section 108 (1A), or in the person's absence after being duly summoned, the Licensing Court is to proceed to hear and determine the matter of the complaint to which the summons relates and, if it is satisfied that the ground on which the complaint was made has been made out, may do any one or more of the following:
  - (a) reprimand the person,
  - (b) disqualify the person from being a close associate of a licensee for such period as the Licensing Court thinks fit,

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- (c) disqualify the person from holding a licence for such period as the Licensing Court thinks fit,
- (d) order the person to pay to the Crown a monetary penalty not exceeding 500 penalty units in the case of a corporation or 200 penalty units in any other case,

or may take no action.

- (1C) While a person is disqualified by the Licensing Court from being a close associate of a licensee, the person is conclusively presumed for the purposes of this Act and the *Liquor Act 1982* to be a person who is not a fit and proper person to be a close associate of a licensee under either Act.
- (1D) The taking of action under subsection (1B) in respect of a complaint does not prevent or limit the taking of any other action under this section in respect of any other complaint in relation to a licensee (whether or not that other complaint is heard together with the complaint).
- (2) Where, under subsection (1), the Licensing Court hears and determines the matter of a complaint made by the Commissioner of Police or the Director, 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.
- (2A) When hearing and determining the matter of a complaint under subsection (1), the Licensing Court must admit into evidence and consider any relevant findings of a court, a tribunal or a Royal Commission, the Independent Commission Against Corruption or other commission of inquiry or a coroner in any investigation, inquiry or other proceeding if those findings have been publicly released and are brought to the attention of the court.

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(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.

**111 Keeping of records**

(1) Where the holder of a gaming-related 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 217 or 359 of the *Corporations Law*.

(2) Where the holder of a gaming-related 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.

**112 Control of business carried on under gaming-related licence**

(1) If a person (other than a licensee or a financial institution) becomes interested in the business, or the profits of the business, carried on under a gaming-related licence, it is a condition of the licence that the licensee must, within 28 days after the other person's becoming so interested, produce to the Principal Registrar an affidavit stating:

(a) that the licensee has made all reasonable inquiries to ascertain the information required to complete the affidavit, and

(b) the name and date of birth of the person so interested and, in the case of a proprietary company, the names of the directors and shareholders.

- (2) For the purposes of subsection (1), a person is interested in the business, or the profits of the business, carried on under the licence if the person is entitled to receive:
  - (a) any income derived from the business, or any other financial benefit or financial advantage from the carrying on of the business (whether the entitlement arises at law or in equity or otherwise), or
  - (b) any rent, profit or other income in connection with the use or occupation of premises on which the business is to be carried on.
- (3) This section does not apply to a licence held as an employee.

**113 Competence**

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.

**114 Lost or destroyed gaming-related licence**

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

**116 Manufacture etc of poker machines**

- (1) A, person who manufactures or assembles a poker machine is guilty of an offence unless the person:
  - (a) holds a dealer's licence, or
  - (b) is a director or secretary of a corporation that holds a dealer's licence, or
  - (c) is an employee of the holder of a dealer's licence and is doing work as such an employee.

Maximum penalty: 100 penalty units or imprisonment for 1 year, or both.

(2) A holder of a dealer's licence who manufactures or assembles a poker machine otherwise than in accordance with the authority conferred on the holder by the licence is guilty of an offence.

Maximum penalty: 100 penalty units or imprisonment for 1 year, or both.

(3) Subsection (2) does not apply to the manufacture or assembly of a poker machine by 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 as an approved poker machine, and
- the manufacture or assembly of the poker machine is for the purposes of the application and its investigation.

**116A Supply, sale and purchase of poker machines**

(1) A person who offers to supply, or supplies, a poker machine otherwise than by way of sale is guilty of an offence unless the offer or supply has the approval of the Board and any conditions imposed by the Board when giving the approval are complied with.

Maximum penalty: 100 penalty units or imprisonment for 1 year, or both.

(2) A person who offers to purchase, or purchases, a poker machine is guilty of an offence unless the offer is made to, or the poker machine is purchased from, a person who is authorised by a licence, or by or under this Act, to sell the poker machine.

Maximum penalty: 100 penalty units or imprisonment for 1 year, or both.

(3) A person who supplies a poker machine to a hotelier is guilty of an offence unless the keeping of the machine by the hotelier would be lawful.

Maximum penalty: 50 penalty units.

(4) A person who sells a poker machine is guilty of an offence unless:

- (a) the person is the holder of a current dealer's licence, a current seller's licence or a current adviser's licence, or
- (b) the person is a director or secretary of a corporation that is the holder of such a licence, or
- (c) subsection (5) or (6) applies.

Maximum penalty: 100 penalty units or imprisonment for 1 year, or both.

(5) It is a defence to a prosecution for an offence under subsection (4) if it is proved that the defendant, without being the holder of a seller's licence or an adviser's licence, exercised a function of a holder of such a licence but did so only:

- (a) for the purpose of receiving training or instruction in the exercise of the function, and
- (b) under the supervision of the holder of such a licence.

(6) It is a defence to a prosecution for an offence under subsection (4) if it is proved that the sale is to a purchaser at a price, and on terms and conditions, approved by the Board and is:

- (a) a sale by a hotelier of a poker machine that is, or was, a poker machine kept by the hotelier, or
- (b) a sale by a mortgagee of the poker machine in the exercise of a power conferred by the mortgage, or
- (c) a sale by a person (other than a mortgagee) who obtained possession of the poker machine by exercising a power or proprietary right under financial and other arrangements approved by the Board under section 79.

(7) A holder of a dealer's licence, seller's licence or adviser's licence who sells a poker machine otherwise than as authorised by the licence is guilty of an offence.

Maximum penalty: 100 penalty units or imprisonment for 1 year, or both.

(8) A person who supplies, or offers to supply, a poker machine is guilty of an offence if possession of the machine by the person to whom the machine is supplied or offered is or would be unlawful.

Maximum penalty: 100 penalty units.

(9) This section does not apply to prohibit the sale or supply of a poker machine by:

(a) a hotelier with the authority of the Board, if any conditions imposed by the Board when authorising disposal of the machine are complied with, or

(b) a hotelier whose hotelier's licence has been cancelled or who has been disqualified for a period from holding such a licence, if the sale or supply is effected in accordance with arrangements approved by the Board.

**116B Servicing and repair of poker machines**

(1) A person who services or repairs a poker machine is guilty of an offence unless the person:

(a) holds a dealer's licence or a technician's licence, or

(b) services or repairs the poker machine under the supervision of the holder of such a licence for the purpose of receiving training and instruction in respect of the servicing and repair of poker machines.

Maximum penalty: 100 penalty units or imprisonment for 1 year, or both.

(2) A holder of a dealer's licence or technician's licence who services or repairs a poker machine otherwise than in accordance with the authority conferred by the licence is guilty of an offence.

Maximum penalty: 100 penalty units or imprisonment for 1 year, or both.

**116C Advice relating to poker machines**

- (1) A person who acts as a poker machine adviser without being the holder of a dealer's licence or an adviser's licence is guilty of an offence.  
Maximum penalty: 100 penalty units or imprisonment for 1 year, or both.
- (2) A holder of a dealer's licence or an adviser's licence who acts as a poker machine adviser otherwise than in accordance with the authority conferred by the licence is guilty of an offence.  
Maximum penalty: 100 penalty units or imprisonment for 1 year, or both.

**116D Compliance plate for poker machine**

- (1) A holder of a dealer's licence is guilty of an offence if a poker machine leaves the licensee's premises without a compliance plate that complies with this section and is securely attached to the machine in a manner approved by the Board.  
Maximum penalty: 100 penalty units.
- (2) It is a defence to a prosecution for an offence under this section if it is proved that the defendant had taken all reasonable precautions aimed at ensuring attachment of a compliance plate and, at the time of the offence, did not know, and had no reason to suspect, that a compliance plate was not securely attached to the poker machine in the manner approved by the Board.
- (3) Exemption from the operation of this section may be granted by the Board in a particular case or a particular class of cases.
- (4) In this section:  
*compliance plate*, in relation to a poker machine, means a plate that:
  - (a) is made of a substance approved by the Board, and
  - (b) is of dimensions not less than dimensions approved by the Board, and
  - (c) may readily be seen and inspected, and

- (d) shows the name of the dealer, the dealer's licence number, the serial number of the poker machine and the month and year of the manufacture and assembly of the poker machine, and
- (e) has those particulars incorporated in a manner approved by the Board and in symbols that are at least of a minimum size approved by the Board.

**117 Provision of financial assistance by gaming-related licensee**

- (1) A holder of a gaming-related licence must not enter into a transaction whereby the licensee:
  - (a) provides financial assistance to a hotelier, or
  - (b) guarantees the observance by a hotelier of a term or condition on which financial assistance is provided to the hotelier by a person other than the licensee, or
  - (c) indemnifies any person against any loss suffered in relation to financial assistance provided to a hotelier,

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

Maximum penalty: 20 penalty units.

- (2) A holder of a gaming-related licence must 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.

Maximum penalty: 20 penalty units.

- (3) The holder of a gaming-related licence is guilty of an offence if:
  - (a) financial arrangements made by the licensee have been approved by the Board, and
  - (b) there is a change in those arrangements that has not been approved by the Board, and
  - (c) the Board is not notified of the change immediately after it comes to the notice of the licensee.

Maximum penalty: 20 penalty units.

**118 Cessation of employment of seller, technician or adviser**

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) the holder of another gaming-related licence or a hotelier,

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

Maximum penalty: 20 penalty units.

**121 Possession of approved poker machines**

- (1) A person knowingly in possession of an approved poker machine is guilty of an offence unless the person:
  - (a) is the holder of a gaming-related licence, or
  - (b) is a hotelier lawfully in possession of the poker machine, or
  - (c) has possession of the poker machine in the ordinary course of a business involving the transportation or storage of goods, or
  - (d) is an authorised person exercising functions under section 127 (which confers certain powers of entry and inspection and related functions), or
  - (e) is in lawful possession of the poker machine as a consequence of its seizure under the authority of a search warrant.

Maximum penalty: 100 penalty units or imprisonment for 1 year, or both.

- (2) This section does not apply to the possession of an approved poker machine by a hotelier if the hotelier's licence has been cancelled and the possession has not extended beyond a reasonable time after the cancellation.

- (3) This section does not apply to a person in possession of an approved poker machine if the possession resulted from the exercise of a power conferred on the person by a mortgage and has not extended beyond a reasonable time after the exercise of the power.
- (4) This section does not apply to a person in possession of an approved poker machine if the person:
  - (a) obtained possession of the poker machine by exercising a power or proprietary right under financial or other arrangements approved by the Board before or after the commencement of this section, and
  - (b) has not retained possession beyond a reasonable time after the exercise of the power.

**122 Illegal possession of other poker machines**

- (1) Except in the case of a holder of a gaming-related licence or as may be prescribed, a person must not be in possession of a poker machine that is not an approved poker machine.

Penalty: 100 penalty units or imprisonment for 1 year, or both.
- (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.

**122A Change in state of affairs of gaming-related licensee**

If a prescribed change takes place in the state of affairs of the holder of a gaming-related licence, the licensee is guilty of an offence if the Director is not notified in writing of the prescribed particulars of the change within the period of 14 days that next succeeds the change.

Maximum penalty: 20 penalty units.

**122B Gaming-related licensee to display identification**

(1) A holder of a dealer's licence or a technician's licence is guilty of an offence if, at any time while servicing, repairing or maintaining a poker machine in a hotel, he or she is not wearing on his or her person a clearly visible form of identification approved by the Board.

Maximum penalty: 20 penalty units.

(1A) If the holder of a dealer's licence is a corporation, a reference in this section to the holder of the licence includes a reference to a person acting under the authority of the licence.

(2) The Board may exempt a person or the members of a class of persons from the operation of this section.

**123 Poker machines not used for gaming**

(1) This Part does not operate to prohibit the possession, keeping, use or operation of a poker machine if:

- (a) it is not operated for gaming, and
- (b) it is used only for therapeutic purposes with the prior written approval of the Board, and
- (c) any conditions imposed by the Board when giving the approval are complied with.

(2) This Part does not operate to prohibit the possession, keeping, use or operation of a poker machine if:

- (a) it is not operated for gaming, and

- (b) it is used only for educational or cultural purposes or for the purpose of promoting the poker machine (but not for the purpose of promoting other goods or services), and
- (c) the Board has been given at least 3 days' written notice of the kind of use intended and the Board has not, before the period of notice expires, refused to allow the use, and
- (d) any conditions imposed by the Board within that period of notice are complied with.

(3) In a particular case or a particular class of cases, the Board may waive compliance with the requirement for giving notice under subsection (2) and may impose conditions for operation of the waiver.

**124 Liability of management and directors of corporate holder of a gaming-related licence**

- (1) Where a holder of a gaming-related licence 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 is, whether or not the corporation has been convicted for the contravention, taken to have contravened the provision unless the person satisfies the court that:
  - (a) the corporation contravened the provision without the knowledge of the person, or
  - (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.

**126 Identification of special inspectors**

(1) The Minister administering section 109 of the *Liquor Act 1982* is to cause each special inspector to be issued with a means of identification that is approved by the Minister and includes the following information:

- (a) that it is issued under this Act by the Minister administering the *Liquor Act 1982*,
- (b) the name of the special inspector,
- (c) that the special inspector is authorised to exercise the powers conferred on a special inspector by the *Registered Clubs Act 1976*.

(2) A special inspector is not authorised to exercise the functions of a special inspector in a hotel without production of his or her means of identification for inspection:

- (a) by the hotelier, or
- (b) in the absence of the hotelier, by the person believed by the inspector to be the most senior person on duty in the hotel,

unless to do so would defeat the purpose for which the functions are to be exercised.

**127 Powers of entry, inspection etc—poker machines**

(1) This section applies to:

- (a) a hotel in which poker machines are kept, or
- (b) premises on which the holder of a gaming-related licence or a work permit carries on business, or on which the holder of such a licence or a work permit is employed.

(2) An authorised person may enter any part of premises to which this section applies and exercise the powers conferred by this section, but may do so only:

- (a) at a reasonable hour of the day or night, unless it is being exercised in an emergency, and
- (b) after giving reasonable notice, unless the giving of notice would defeat the purpose for which the powers are to be exercised, and

- (c) by using no more force than is reasonably necessary.
- (3) The authorised person may do any of the following:
  - (a) inspect, count, check and 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, and take extracts from, records relating to relevant matters,
  - (d) affix a temporary seal to any part of a poker machine,
  - (e) for the purpose of further examination, take possession of, and remove, a record relating to relevant matters.
- (4) The authorised person may ask any of the following persons to answer questions relating to relevant matters:
  - (a) a hotelier,
  - (b) a holder of a gaming-related licence or, if a holder of a gaming-related licence is a corporation, a director of the corporation,
  - (c) an employee of a hotelier or of a holder of a gaming-related licence,
  - (d) the person who appears to be in charge of the premises entered.
- (5) The authorised person may take possession of, and remove, a poker machine or a part of a poker machine that is on the premises entered (including any money in the machine or part):
  - (a) for the purposes of further examination, or
  - (b) if the authorised person believes on reasonable grounds that the poker machine or part is in the possession of a person who, by being in possession of the machine or part, is guilty of an offence,

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but may do so only if the authorised person issues the person apparently in charge of the premises with a written receipt for the machine or part and for any money in the machine or part.

- (6) If damage is caused by the exercise of the powers conferred by this section, the Minister is to pay reasonable compensation for the damage unless the exercise of the powers was obstructed by the occupier of the premises.
- (7) A poker machine or part removed under this section, and any money in the poker machine or part, are to be returned if the Board so directs on the application of the owner made not earlier than 14 days after its removal, unless a summons has been issued under section 130.
- (8) If a person claims on reasonable grounds that a record removed under this section is necessary for the conduct of business on the premises from which the record was removed, the record is not to be retained beyond the end of the next succeeding day, unless the claimant is first provided with a copy of the record certified by an authorised person to be a true copy.
- (9) A certified copy of a record provided under this section is for all purposes of equal validity to the original.
- (10) A Licensing Magistrate or other Magistrate, or the Principal Registrar, may, on the application of an authorised person, issue a summons requiring a person:
  - (a) to produce to the Licensing Court records that the person summoned has failed to produce in accordance with a requirement made under this section, or
  - (b) to appear before the Licensing Court and give evidence in relation to a matter in respect of which the person summoned has failed to answer a question in accordance with such a requirement,and, on the return of the summons, the person summoned may be represented and be heard.

(11) A person who, having been served with a summons under this section, fails to comply with the summons, is guilty of an offence.

Maximum penalty: 50 penalty units.

(12) A person who, not being an authorised person, breaks a temporary seal that has been affixed to a poker machine by an authorised person is guilty of an offence.

Maximum penalty: 100 penalty units.

(13) In this section:

**authorised person** means a special inspector, the Commissioner of Police or a person prescribed 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 (which relates to the provision of financial assistance to a hotelier by the holder of a gaming-related licence).

#### **128 Hotelier to comply with requirements of special inspector**

(1) A special inspector may require a hotelier to:

- (a) withdraw from operation a poker machine that, in the opinion of the inspector, is not operating properly, or
- (b) refrain from making available for operation a poker machine withdrawn from operation under paragraph (a) until, in the opinion of the inspector or another special inspector, it is operating properly, or
- (c) refrain from making a poker machine available for operation except in accordance with controls specified by the inspector in relation to the poker machine, or

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- (d) deliver to the Board, in writing in the English language and within a time specified by the inspector, such particulars relating to a poker machine in the hotel as are so specified, or
- (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.

(2) A hotelier who is required by a special inspector to act under this section and fails to comply with the requirement is guilty of an offence.

Maximum penalty: 50 penalty units.

### 129 Search warrants (poker machines)

- (1) A police officer may apply to an authorised justice for a search warrant if the police officer has reasonable grounds for believing that, on specified premises, this Act or a condition of a gaming-related licence is being contravened in relation to a poker machine.
- (2) An authorised justice to whom an application is made under this section may, if satisfied that there are reasonable grounds for doing so, issue a search warrant to any police officer to enter and search the premises.
- (3) Part 3 of the *Search Warrants Act 1985* applies to a search warrant issued under this section.
- (4) A police officer who enters any premises on the authority of a search warrant issued under this section may search the premises and may:
  - (a) seize and carry away:
    - (i) any device in the nature of a poker machine, or
    - (ii) any part of such a device,
  - and any money in the device or part, or

- (b) seize and carry away any books of account and documents that may reasonably be suspected to relate to poker machines or devices in the nature of poker machines, or
- (c) require any person on the premises to state his or her name and address.

(5) This section does not authorise a police officer to carry away anything for which the officer does not give a receipt.

(6) In this section, *authorised justice* has the same meaning as it has in the *Search Warrants Act 1985*.

**130 Forfeiture or return of removed or seized poker machine**

- (1) This section applies to a poker machine if it is removed under section 127 or is seized under section 129 in the execution of a search warrant.
- (2) A Licensing Magistrate or other Magistrate, the Principal Registrar, or an authorised justice under the *Search Warrants Act 1985*, may (whether or not on application by a police officer) issue a summons requiring:
  - (a) the owner of a poker machine to which this section applies, or
  - (b) the owner or occupier of the premises from which such a poker machine was removed or on which it was seized,to appear before the Licensing Court and show where and for what purpose the person summoned came to be in possession of the poker machine.
- (3) On the return of the summons and whether or not there is an appearance in response to the summons, the Licensing Court is to inquire into the matter and:
  - (a) order the forfeiture to the use of the Crown of the poker machine, and of any money found in the poker machine, if satisfied that this Act or a condition of a hotelier's licence or of a gaming-related licence was being contravened in relation to the poker machine on the premises from which it was removed or on which it was seized, or

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- (b) if not so satisfied, order the return to the person summoned of the poker machine and any money found in the poker machine.

### **130A Other forfeitures of poker machines**

- (1) If, in proceedings of any kind before it, the Licensing Court or any other Court finds that this Act or a condition of a hotelier's licence or of a gaming-related licence has been contravened in relation to a poker machine, the Court may order the forfeiture to the Crown of the poker machine and any money found in it.
- (2) A police officer may seize and carry away anything that the police officer reasonably suspects may be liable to forfeiture under this section or which a Court has ordered to be forfeited to the Crown, including any money in a poker machine or other device at the time of its seizure.