



New South Wales

Registered Clubs Amendment (Gaming Machines) Regulation 1997

under the
Registered Clubs Act 1976

His Excellency the Governor, with the advice of the Executive Council, has made the following Regulation under the *Registered Clubs Act 1976*.

J Richard Face MP
Minister for Gaming and Racing

Explanatory note

The object of this Regulation is to make amendments to the *Registered Clubs 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 registered clubs to keep “approved amusement devices” (ie gaming machines which feature the draw poker game), and it is the object of this Regulation to give effect to that reform.

This Regulation makes the following amendments to the *Registered Clubs Regulation 1996*:

- (a) the term “poker machine” is in most places replaced by the term “approved gaming device” which covers both approved amusement devices and poker machines,
- (b) registered clubs and gaming-related licence holders will be required to provide information when selling or disposing of gaming devices that do not conform to certain standards,
- (c) provision is made for the Liquor Administration Board not to approve, as approved poker machines, those gaming machines which feature the draw poker game, although the Board will be able to authorise

multi-game machines (ie devices that feature both draw poker games and standard poker machine games) to be kept and operated by registered clubs,

- (d) instalment periods are specified for the payment of duty in respect of multi-terminal gaming machines (MTGMs) kept by registered clubs (these periods are the same as the instalment periods for the duty payable in respect of other approved gaming devices kept by clubs),
- (e) the maximum amount for a single bet on a MTGM is set at \$100, and the maximum amount of any prize won on a MTGM will be \$500,000,
- (f) registered clubs that keep MTGMs will be required to have in place certain arrangements to ensure that prizes won from playing those machines are paid,
- (g) certain provisions of the Liquor Act 1982 relating to approved amusement devices are set out (with necessary modifications) in the *Registered Clubs Regulation 1996*, and these provisions will apply to and in respect of registered clubs in the same way as they apply to and in respect of hotels,
- (h) a transitional provision is included to provide for an adjustment in the assessment of duty payable under the Act for the period 1 March 1997 to 30 November 1997 (such a provision is necessary because of the changes made by the amending Act to the rates of duty on approved gaming devices kept by registered clubs).

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 *Registered Clubs Act 1976*, including sections 73 (the general regulation making power) and the sections referred to in this Regulation.

Registered Clubs Amendment (Gaming Machines) Regulation 1997

1 Name of Regulation

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

2 Commencement

- (1) This Regulation commences on 1 March 1997, except as provided by subclause (2).
- (2) Schedule 1 [1]-[5] and [8]–[33] commence on 1 April 1997.

3 Amendment of Registered Clubs Regulation 1996

The *Registered Clubs 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 4, heading

Omit “**Poker machines**”.
Insert instead “**Approved gaming devices**”.

[2] Clause 20 Conditions relating to approved gaming devices

Omit “poker machines” Insert instead “approved gaming devices”.

[3] Clause 20A

Insert after clause 20:

20A Requirement to provide certain information when disposing of non “X” standard gaming machines

(1) In this clause:

“**X**” standard gaming machine means an approved gaming device that:

- (a) in the opinion of the Board conforms to the relevant 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.

(2) The certificate of registration of a registered club is subject to the condition that, before the registered club sells or otherwise disposes of an approved gaming device that is not an “X” standard gaming machine, the club must inform the person intending to acquire the device in writing that the device is not an “X” standard gaming machine. The registered club is not required to do so if the person is the holder of a dealer’s licence or the employee of the holder of such a licence.

(3) It is a condition of every gaming-related licence that, before the licensee sells or otherwise disposes of an approved gaming device that is not an "X" standard gaming machine, the licensee must inform the person intending to acquire the device in writing that the device is not an "X" standard gaming machine. The licensee is not required to do so if the person is the holder of a dealer's licence or the employee of the holder of such a licence.

[4] Clause 23

Omit the clause. Insert instead:

23 Types of gaming machines in registered clubs

(1) The Board cannot approve a gaming machine as an approved poker machine if it 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) The Board may authorise approved gaming devices that are multi-game machines (ie gaming devices that feature standard poker machine games and the draw poker game) to be kept and operated on the defined premises of a registered club. Any such device is taken to be (and accordingly counted as) an approved amusement device for the purposes of the Act.

[5] Clause 24A

Insert after clause 24:

24A Application of provisions of Liquor Act 1982 relating to approved amusement devices

Schedules 4 and 5 have effect.

[6] Part 4, Division 4

Insert after Division 3:

Division 4 Multi-terminal gaming machines

30A Payment by instalments of duty for multi-terminal gaming machines

- (1) For the purposes of section 87AA of the Act, each duty period in respect of a multi-terminal gaming machine kept by a registered club is divided into 4 periods of 3 months each (referred to as *instalment periods*) commencing on 1 December, 1 March, 1 June, and 1 September.
- (2) Quarterly instalments of duty are payable by each registered club that keeps a multi-terminal gaming machine in respect of each such instalment period.
- (3) An instalment is payable within 21 days after the end of the relevant instalment period.
- (4) Sections 87B–87H of the Act apply to the payment of quarterly instalments of duty in respect of multi-terminal gaming machines.

30B Bet and prize limits on multi-terminal gaming machines

For the purposes of section 87I of the Act:

- (a) \$100 is prescribed as the maximum amount for any single bet on a multi-terminal gaming machine, and
- (b) \$500,000 is prescribed as the maximum amount of any prize that can be won from playing a multi-terminal gaming machine.

30C Guarantee of prize payments from MTGMs

- (1) If the maximum jackpot prize that may be won on a multi-terminal gaming machine kept and operated by a registered club exceeds \$20,000, it is a condition of the

certificate of registration of the registered club that the club:

- (a) establish with a financial institution a special account which is to have a balance equal to or greater than the total value of the jackpot prizes that can be won on each such machine, or
- (b) obtain a formal guarantee from a bank or recognised financial institution, or from a person or body approved by the Board, for an amount equal to the total value of the jackpot prizes that can be won on each such machine.

(2) The registered club must cause to be kept 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).

(3) The information contained in a record referred to in subclause (2) must be reported by the registered club to the Board in a form approved by the Board within 21 days after the end of each instalment period as referred to in clause 30A.

Maximum penalty (subclauses (2) and (3)): 20 penalty units.

[7] Clauses 55 and 56

Insert after clause 54:

**55 Transitional provision—assessment of duty for period
1 March 1997 to 30 November 1997**

(1) The purpose of this clause is to provide for an adjustment in the assessment of the duty payable under the Act for the period commencing on 1 March 1997 and ending on 30 November 1997 so as to facilitate the phasing-in of the changes in the rates of duty resulting from the amendments to the Act made by the *Liquor and Registered Clubs Legislation Further Amendment Act 1996*.

1997 No 81

Registered Clubs Amendment (Gaming Machines) Regulation 1997

Schedule 1 Amendments

- (2) The duty payable for the period commencing on 1 March 1997 and ending on 30 November 1997 is assessed as follows:
 - (a) If the profits from all approved gaming devices kept by a registered club in that period do not exceed \$75,000, no duty is payable on the profits.
 - (b) If the profits from all approved gaming devices kept by a registered club in that period exceed \$75,000 but do not exceed \$150,000, duty is payable on so much of the profits as exceed \$75,000 but do not exceed \$150,000 at the rate of 1%.
 - (c) If the profits from all approved gaming devices kept by a registered club in that period exceed \$150,000 but do not exceed \$1,875,000, duty is payable:
 - (i) in the sum of \$750, and
 - (ii) on so much of the profits as exceed \$150,000 but do not exceed \$1,875,000—at the rate of 22.5%.
 - (d) If the profits from all approved gaming devices kept by a registered club in that period exceed \$1,875,000, duty is payable:
 - (i) in the sum of \$388,875, and
 - (ii) on so much of the profits as exceed \$1,875,000—at the rate of 24.75%.

56 Transitional provision—registered clubs authorised to keep approved amusement devices before 1 April 1997

- (1) The purpose of this clause is to enable approved amusement devices to be installed in registered clubs before 1 April 1997 so as to facilitate the use and operation of such devices on the defined premises of registered clubs on or after that date.

- (2) Subject to this clause, and despite any other law, it is lawful for a registered club to keep an approved amusement device on the defined premises of the registered club before 1 April 1997 but only if the Board has authorised the device to be used and operated on those 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 by the club before 1 April 1997 unlawful:
 - (a) the device must not be used or operated on the defined premises of the registered club before that date.
 - (b) the logic board of the device must be removed from the device before it is installed,
 - (c) the logic board of the 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 on the defined premises of the registered club, and it must be kept by a licensed dealer, seller or technician.

[8] Schedule 2, heading

Omit “poker machines”.

Insert instead “approved gaming devices”.

[9] Schedule 2, clauses 1, 2 (1) and (3) and 4 (1) and (2)

Omit “poker machines” wherever occurring.

Insert instead “approved gaming devices”.

[10] Schedule 2, clause 2 (2)

Omit “A poker machine”.

Insert instead “An approved gaming device”.

[11] Schedule 2, clauses 2 (2) and (4), 4 (2) (b) and 5 (1) (b) (vii)

Omit “the machine” wherever occurring.
Insert instead “the device”.

[12] Schedule 2, clauses 2 (2) and 4 (3)

Omit “each machine” wherever occurring.
Insert instead “each device”.

[13] Schedule 2, clauses 2 (4) (b), 3 (2) and (4) and 5 (2) (a)

Omit “the poker machine” wherever occurring.
Insert instead “the device”.

[14] Schedule 2, clauses 2 (4), 3 (2) and (4), 4 (3) and 5 (8)

Omit “a poker machine” wherever occurring.
Insert instead “an approved gaming device”.

[15] Schedule 2, clause 3 (1) and (3)

Omit “Poker machines” wherever occurring.
Insert instead “Approved gaming devices”.

[16] Schedule 2, clause 5 (1)

Omit “of poker machines”.
Insert instead “of approved gaming devices”.

[17] Schedule 2, clause 5 (1) (b)

Omit “approved poker machines”.
Insert instead “approved gaming devices other than established poker machines”.

[18] Schedule 2, clause 5 (1) (b) (v) and (vi)

Omit “machines” wherever occurring.
Insert instead “devices”.

[19] Schedule 2, clause 5 (1) (b) (viii)

Omit “machine’s”. Insert instead “device’s”.

[20] Schedule 2, clause 5 (4)

Omit “poker machine”. Insert instead “gaming device”.

[21] Schedule 2, clause 6 (1)

Omit “poker machine”. insert instead “approved gaming device”.

[22] Schedule 2, Part 2, heading

Omit “**poker machines and progressive poker machine systems**”. Insert instead “**machines and intra-club progressive systems**”.

[23] Schedule 2, clause 7

Omit the clause. Insert instead:

7 Definitions

(1) In this Part:

authorised progressive machine means a progressive machine which the Board has authorised a registered club to install.

authorised progressive system means a progressive system which the Board has authorised a registered club to install.

progressive machine means an approved gaming 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 this Part, and
- (d) has not been declared by the Board as having ceased to be a progressive machine.

1997 No 81

Registered Clubs Amendment (Gaming Machines) Regulation 1997

Schedule 1 Amendments

progressive system means 2 or more approved gaming 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 this Part or are within a class of linked progressive systems of devices specially approved by the Board for the purposes of this Part, and
- (d) have not been declared by the Board as having ceased to be a progressive system.

(2) For the purposes of this Part, a multi-terminal gaming machine cannot be included in an authorised progressive system that consists of devices other than multi-terminal gaming machines.

[24] Schedule 2, clause 8 (a)

Omit “an approved”. Insert instead “a”.

[25] Schedule 2, clause 8 (b)

Omit “of poker machines”.

[26] Schedule 2, clause 9

Omit “play and” wherever occurring.
Insert instead “play immediately and be”.

[27] Schedule 2, clause 9 (2)

Omit “a poker machine”.
Insert instead “an approved gaming device”.

[28] Schedule 2, clauses 9 (2), 10 (2) (a) and 11 (2) (a)

Omit “the poker machine” wherever occurring.
Insert instead “each device”.

[29] Schedule 2, clauses 10 (7), 11 (1) (a) and (9)

Omit “poker machines” wherever occurring.
Insert instead “approved gaming devices”.

[30] Schedule 2, clauses 10 (8) and 11 (10)

Omit “\$10,000” wherever occurring.
Insert instead “\$20,000”.

[31] Schedule 2, clause 12 (1) (b)

Omit the paragraph. Insert instead:

(b) is the holder of a poker machine technician’s licence in the case of work involving a poker machine, or is the holder of an amusement device technician’s licence granted under the *Liquor Act 1982* in the case of work involving an approved amusement device, or

[32] Schedule 2, clause 13 (1) (c), (2) (c) and (3)

Omit “poker machine” wherever occurring.
Insert instead “approved gaming device”.

[33] Schedules 4 and 5

Insert after Schedule 3:

Schedule 4 Provisions of Liquor Act 1982 relating to approved amusement devices

(Clause 24A)

1 Excluded provisions

In accordance with section 88AA (1) (b) of the *Registered Clubs Act 1976*, the following provisions of the *Liquor Act 1982* relating to approved amusement devices do not apply to and in respect of registered clubs:

- sections 45 (6), 161 (10) and 162 (5).

2 Application to registered clubs of provisions of Liquor Act 1982 relating to approved amusement devices

- (1) The provisions of the *Liquor Act 1982* relating to approved amusement devices that are set out in Schedule 5 (modified in accordance with section 88AA of the *Registered Clubs Act 1976* to read in the manner as set out in Schedule 5) apply to and in respect of registered clubs. 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 *Liquor Act 1982* have, for the purposes of their application to and respect of registered clubs, the same meanings set out in that Act (except that any reference in those definitions to a hotelier or a hotel is to be read as a reference to a registered club).
- (3) For the avoidance of any doubt:
 - (a) any reference in the applied provisions to this Act is a reference to the *Liquor Act 1982*, and
 - (b) an offence against any of the applied provisions is an offence arising under the *Liquor Act 1982*.

Schedule 5 The applied provisions

(Clause 24A)

20 Conditions of certificate of registration

- (2) A certificate of registration of a registered club is subject to:
 - (cl) a condition that is imposed under Part 11 of this Act in relation to an approved amusement device.
- (4A) It is a condition of a certificate of registration of a registered club that the club is not to provide a cash advance on the defined premises of the club, or permit or suffer a cash advance to be provided on the defined premises on behalf of the club, otherwise than as a prize or bonus won as a direct or indirect consequence of operating an approved amusement device in accordance with this Act and the *Registered Clubs Act 1976* and the other conditions to which the certificate of registration of the club is subject.

86 Records to be kept

(1) A registered club must make and keep up-to-date in the manner and form approved by the Board records in the English language specifying the information required by the form relating to approved amusement devices (if any) kept by the registered club.

Maximum penalty: 20 penalty units.

(2) A record made under subsection (1) shall, until the day that is 3 years after its making, be kept by the secretary of the registered club on the defined premises of the registered club or in some other place approved by the Board.

Maximum penalty: 20 penalty units.

(3) The Commissioner of Police or a special inspector may, after giving reasonable notice of his intention so to do, require the secretary or person for the time being in charge of a registered club:

(a) to produce to the Commissioner or the special inspector, or at a place specified in the notice, a record referred to in subsection (1), and

(b) to permit the Commissioner or the special inspector to inspect any such record and:

(i) make copies thereof or take extracts therefrom, or do both, or

(ii) remove it from the registered club or other place approved under subsection (2) and keep it in his custody or under his control for such period as he considers necessary.

(4) A person shall not, without reasonable excuse, fail to comply with a requirement applicable to the person that is made by an inspector under subsection (3).

Maximum penalty: 20 penalty units.

(5) Where the Commissioner of Police or a special inspector removes a record under subsection (3) (b) (ii):

- (a) the record shall, for the purposes of subsection (2) and during the period that elapses before it is returned to the registered club or other place approved under subsection (2), be deemed to be kept on the defined premises of the registered club or other place approved under subsection (2),
- (b) the Commissioner or the special inspector shall, at all reasonable times, permit inspection of the record, or the making of additions thereto, by any person who, if the record were not in the possession of the Commissioner or the special inspector, would be entitled to inspect the record or, as the case may be, make those additions, and
- (c) the Commissioner or the special inspector shall, as soon as practicable, return the record, or cause it to be returned, to the person required by subsection (1) to keep it.

110 Powers of entry, inspection and seizure

- (1) If the Commissioner of Police believes on reasonable grounds:
 - (a)
 - (b) that a breach of this Act in relation to an approved amusement device has been, or is being, committed on the defined premises of a registered club,the Commissioner may, at any time of the day or night, enter the premises with or without another member of the police force.
- (1A) If a special inspector believes on reasonable grounds that a breach of this Act in relation to an approved amusement device has been, or is being, committed on the defined premises of a registered club, the special inspector may, at any time of the day or night, enter the premises with or without a police officer.

- (2) In exercising the power conferred by subsection (1), the Commissioner of Police may, with or without assistance, break into the premises if entry is refused or unreasonably delayed (whether or not by the absence of a person able to permit entry to the premises).
- (3) A member of the police force or a special inspector may, at any reasonable time, enter and examine any part of the defined premises of a registered club and may:
 - (a)
 - (b) make such examination and inquiry as may be necessary to ascertain whether the provisions of this Act relating to approved amusement devices have been, or are being, complied with, or
 - (c) having required the secretary of the club (or any other person having them in his or her custody) to produce any registers, books, records or documents relating to approved amusement devices kept by the registered club, make copies of, or take extracts from, entries in the registers, books, records or other documents, or
 - (d) examine any device in the nature of an approved amusement device and take readings from the device.
- (3A) In the exercise of a power conferred under this section, the Commissioner of Police, a police officer or a special inspector may:
 - (a) if the Commissioner, police officer or special inspector considers it necessary to do so for the purposes of obtaining evidence of the commission of an offence, seize any registers, books, records or other documents relating to approved amusement devices kept by the registered club, and
 - (b) require any person to answer any question relating to any such registers, books, records or other documents or any other relevant matter.

1997 No 81

Registered Clubs Amendment (Gaming Machines) Regulation 1997

Schedule 1 Amendments

- (5) The secretary or the person for the time being in charge of the registered club must not refuse or fail to admit to the registered club a person requiring entrance under subsection (1), (1A) or (3) or obstruct or delay the person in the exercise of his or her powers.

Maximum penalty: 50 penalty units.

110A Dealing with seized documents

- (1) If the Commissioner of Police, a police officer or a special inspector seizes any document under section 110 on the defined premises of a registered club, the Commissioner, police officer or inspector must issue the secretary or person apparently in charge of the club with a written receipt for the document.
- (2) The Commissioner of Police, police officer or special inspector may retain any document seized under section 110 until the completion of any proceedings (including proceedings on appeal) in which it may be evidence.
- (3) A document may only be retained under subsection (2) if the person from whom the document was seized is provided, within a reasonable time after the seizure, with a copy of the document certified by the Commissioner of Police, police officer or special inspector as a true copy.
- (4) The copy is, as evidence, of equal validity to the document of which it is certified to be a copy.

111 Obstruction

A person who hinders or obstructs a special inspector, member of the police force or any other person in the exercise by him of a function conferred on him by or under this Act is guilty of an offence and liable, where no other penalty or punishment is provided therefor, to a penalty not exceeding 50 penalty units.

117C Registered club liable for use of approved amusement device by minor

- (1) If a person under the age of 18 years uses or operates an approved amusement device on the defined premises of a registered club, the registered club is guilty of an offence.
Maximum penalty: 50 penalty units.
- (2) It is a defence to a prosecution for an offence under this section if it is proved that the person under the age of 18 years was over the age of 14 years and that:
 - (a) before the commission of the offence, or
 - (b) while the offence was being committed,
there was produced to an employee of the registered club, documentary evidence that might reasonably be accepted as applying to the person and as proving that the person was at least 18 years of age.

117D Use of approved amusement device by minor prohibited

- (1) A person who, while under the age of 18 years, uses or operates an approved amusement device kept on the defined premises of a registered club is guilty of an offence.
Maximum penalty: 5 penalty units.
- (2) It is a defence to a prosecution for an offence under this section if it is proved that the person who used or operated the approved amusement device did so under the supervision of the holder of an approved amusement device technician's licence for the purpose only of receiving training and instruction in respect of the servicing, repair or maintenance of approved amusement devices.

140 Averments

- (1) In any proceedings under this Act, an allegation in an application, objection, information or complaint:
 - (d3) that a specified device is or is not an approved amusement device, or

- (d4) that a specified registered club is authorised to keep and to permit the use and operation of an approved amusement device or a specified number of approved amusement devices, or
- (d5) that a specified registered club is not authorised to keep or to permit the use or operation of an approved amusement device,

is evidence of the truth of the allegation.

143A Additional penalties

- (1) In addition to any other penalty it may impose on a registered club for an offence under this Act, the court may, if it thinks fit, do any one or more of the following:
 - (a) cancel the certificate of registration or functions authority of the club,
 - (b) suspend the functions authority of the club,
 - (c) subject the certificate of registration or functions authority of the club to a specified condition,
 - (d) declare (subject to section 17AAA and subsection (3)) that each person specified in the declaration is, for such period as is specified in the declaration, ineligible to stand for election or to be appointed to, or to hold office in, the position of secretary or member of the governing body (or both of those positions) of:
 - (i) the club, and
 - (ii) if the court so declares—all other registered clubs or such other registered clubs as are specified or as are of a class specified in the declaration.
- (2) In addition to any other penalty it may impose for an offence committed by the holder of a gaming-related licence under this Act, a court may, if it thinks it appropriate, do any one or more of the following:
 - (a) reprimand the licensee,
 - (b) impose a condition to which a licence is to be subject, or revoke or vary a condition to which a licence is subject,

- (c) suspend a licence for such period, not exceeding 12 months, as the court thinks fit,
- (d) cancel a licence,
- (e) disqualify a licensee from holding a gaming-related licence for such period as the court thinks fit.

(3) Section 17AAA (2) and (5)–(8) apply to a court exercising a power under subsection (1) (d) in the same way as they apply to the Licensing Court exercising its power under section 17 (2) (f).

156 Regulations

- (1) The Governor may make regulations, not inconsistent with this Act, for or with respect to any matter that by this Act is required or permitted to be prescribed or that is necessary or convenient to be prescribed for carrying out or giving effect to this Act and, in particular, for or with respect to any of the following:
 - (a) the manufacture and assembly of approved amusement devices,
 - (b) the supply, offering to supply, sale, acquisition, ownership, possession, keeping, use, operation, transport, control, management, servicing, repair, maintenance and disposal of approved amusement devices,
 - (c) the design and construction of approved amusement devices,
 - (d) the means of identification, and the appearance, of approved amusement devices,
 - (e) the terms and conditions of acquisition, ownership and disposal of approved amusement devices,
 - (f) the types of approved amusement devices which may, or may not, be kept, used and operated on the defined premises of a registered club or a part of such premises,
 - (g) the installation and location of approved amusement devices on the defined premises of a registered club or a part of such premises,

- (h) the offering and provision of prizes and bonuses relating to the use of approved amusement devices and the calculation and determination of the prizes and bonuses,
- (i) the keeping of records in relation to the keeping, use and operation of approved amusement devices, the form in which the records are to be kept, the transfer of the records, the inspection of the records and the obtaining of copies of the records,
- (j) the furnishing of returns, including periodic returns, in relation to approved amusement devices,
- (k) tampering or interfering with approved amusement devices,
- (l) the examination and inspection of approved amusement devices,
- (m) the sealing of an approved amusement device to prevent it from being operated without breaking the seal,
- (n) the withdrawal of an approved amusement device from operation until a defect in the device is rectified,
- (o) the removal of approved amusement devices from the defined premises of a registered club or a part of such premises, and the disposal of approved amusement devices by sale or otherwise,
- (p) the rebuilding or reconstruction of approved amusement devices and the distribution of used or second-hand approved amusement devices,
- (q) information to be provided on or in relation to approved amusement devices and the display of signs on or in relation to approved amusement devices,
- (r)

- (s) security procedures for the manufacture, assembly, storage, handling, transport, consignment and receipt of approved amusement devices,
- (t) any matter relevant to the conduct of gaming by the use of an approved amusement device.

(2) A regulation may impose a penalty not exceeding 50 penalty units for a contravention thereof.

(2A) The regulations may provide that the form to be used for a particular purpose is to be the form approved for the purpose by the Board.

(3) A provision of a regulation may:

- (a) apply generally or be limited in its application by reference to specified exceptions or factors,
- (b) apply differently according to different factors of a specified kind, or
- (c) authorise any matter or thing to be from time to time determined, applied or regulated by any specified person or body,

or may do any combination of those things.

157 Investigation of certain devices

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

- (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.

158 Declaration as approved amusement device

- (1) The Board may declare that a device referred to in the declaration is an approved amusement device for the purposes of this Act.
- (2) A declaration under this section:
 - (a) may refer to a device specifically or by reference to a class or description of devices, and
 - (b) may be a temporary declaration pending final determination of an application for declaration of the device as an approved amusement device.
- (3) Without affecting the discretion of the Board to make, or refuse to make, a declaration of a device as an approved amusement device, 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.
- (4) If an approved amusement device kept by a registered club is modified in such a way that it is in the form of a different approved amusement device, it ceases to be an approved amusement device 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 under section 161 of a condition of the registered club's certificate of registration.

- (5) A minor or insignificant variation does not preclude a device from being an approved amusement device if the variation does not affect its security or integrity or the manner in which the approved amusement device 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) A revocation under this section does not take effect in relation to an approved amusement device in the possession of a registered club or the holder of a gaming-related licence until the registered club or licensee has been given, or served by post with, written notice of the revocation.
- (8) A device in relation to which a revocation under this section takes effect ceases to be an approved amusement device.
- (9) Neither the Board nor a member of the Board incurs, or has ever incurred, any liability that but for this section might be claimed to arise from:
 - (a) a declaration by the Board to the effect that a device is an approved amusement device, or
 - (b) a revocation by the Board of such a declaration,whether the declaration or revocation took effect before, or takes effect on or after, the commencement of this section.

159 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 an amusement device dealer's licence for declaration of a device as an approved amusement device, or
 - (b) refuse such an application, or

1997 No 81

Registered Clubs Amendment (Gaming Machines) Regulation 1997

Schedule 1 Amendments

- (c) revoke an existing declaration of a device as an approved amusement device that was made on the application of the holder of an amusement device dealer's licence,
unless this section is complied with before it decides to do so.
- (2) The Board must serve on the relevant holder of an amusement device 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.

160 Lawful keeping etc of approved amusement device

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, use and operate an approved amusement device in a registered club, and
- (b) to pay or present prizes and bonuses won as a direct or indirect consequence of operating the device,
if the device is kept, used and operated, and the prizes and bonuses are paid or presented, as authorised by this Act and any conditions of the registered club's certificate of registration.

161 Authority to keep approved amusement devices

- (1) On the application of a registered club, the Board may impose a condition of the registered club's certificate of registration authorising the club to acquire and keep, and to permit the use and operation of, approved amusement devices in the registered club.
- (2) A condition in force under this section may be varied or revoked by the Board.
- (3) In the instrument by which it imposes, varies or revokes a condition, the Board is to identify the device or devices to which the condition, variation or revocation relates.
- (4) An application to the Board:
 - (a) for the imposition of a condition authorising the acquisition and keeping of an approved amusement device, or
 - (b) for a variation, or the revocation, of an existing condition authorising the keeping of an approved amusement device,
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.
- (5) 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 applicant must forthwith provide the Board with full particulars of the change.
Maximum penalty: 20 penalty units.

1997 No 81

Registered Clubs Amendment (Gaming Machines) Regulation 1997

Schedule 1 Amendments

- (6) The Board may, from time to time before making a decision on an application, require the applicant to provide, or require the applicant 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.
- (7) The Board:
 - (a) may approve an application form that requires the information provided by completing the form to be verified by statutory declaration, and
 - (b) may require information or particulars provided by an applicant to be verified by statutory declaration.
- (8) The Board may refuse to proceed with an application by a registered club for imposition or variation of a condition under this section if the registered club fails or refuses to provide the Board with such information as may be required by the Board as to:
 - (a) the ownership of each approved amusement device to which the condition, or the varied condition, would relate, or
 - (b) the financial or other arrangements in accordance with which each such device has been, or is proposed to be, acquired or modified.

162 Qualifications for keeping approved amusement device

- (1) Unless satisfied as provided by subsection (2), the Board is not to:
 - (a) subject the certificate of registration of a registered club to a condition under section 161, or
 - (b) vary such a condition by adding an approved amusement device to the condition, or
 - (c) vary such a condition by substituting a different approved amusement device for an existing device, whether or not the difference is the result of a modification under section 158.

- (2) The Board is to be satisfied:
 - (a)
 - (b) that each such device will be acquired, or will be modified, under a written contract that includes such terms and conditions (if any) as may be prescribed. and
 - (c) that subsection (3) applies in relation to each such device.
- (3) This subsection applies in relation to an approved amusement device:
 - (a) if, on the passing of the property in the device after being paid for in full, it will be owned unconditionally and free from encumbrances by the registered club, or
 - (b) if the device is to be acquired by the registered club in accordance with financial or other arrangements approved by the Board, or
 - (c) if the device is to be modified for the registered club in accordance with financial or other arrangements approved by the Board.
- (4) Any change in the financial or other arrangements under which an approved amusement device is acquired or modified is void without the prior written approval of the Board.

163 Sharing of receipts from approved amusement device

It is a condition of the certificate of registration of a registered club that the club is not to:

- (a) share any receipts arising from the use or operation of an approved amusement device, or
- (b) make any payment or part payment by way of commission or allowance from or on those receipts.

164 Statutory condition relating to approved amusement devices

- (1) Compliance with the requirements of this section is a condition of the certificate of registration of a registered club.
- (2) The registered club is not to permit or suffer an approved amusement device to be in the registered club if the device is capable of being operated to provide cash or credit otherwise than as a prize authorised by this Act.
- (3) An approved amusement device is not to be acquired, and is not to be kept, used or operated on any part of the registered club, except in accordance with:
 - (a) the provisions of this Act, and
 - (b) a condition of the certificate of registration of the club authorising the registered club to keep the device and permit its use and operation, and
 - (c) any other conditions imposed by or under this Act.
- (4) The registered club is not to acquire an approved amusement device from a person who is not the holder of an amusement device dealer's licence or an amusement device seller's licence unless it is acquired on a disposal that would not be an offence under section 187.
- (5) The registered club is not to keep or permit the use or operation of an approved amusement device:
 - (a) that is not owned by the registered club, or
 - (b) that is not being acquired by the registered club in accordance with financial or other arrangements approved by the Board.
- (6)
- (7)
- (8) The registered club is not to dispose of an approved amusement device unless:
 - (a) the Board has authorised disposal of the device, and

- (b) the registered club complies with any conditions imposed by the Board when authorising disposal of the device, and
- (c) the Board has made an appropriate variation of, or has revoked, the condition imposed under section 161 in so far as it authorised the registered club to acquire and keep, and to permit the use and operation of, the device.

165 Conditions relating to prizes

- (1) Compliance with the requirements of this section is a condition of the certificate of registration of a registered club.
- (2) A prize given to a person in respect of the use or operation of an approved amusement device:
 - (a) is to consist only of
 - (i) money, or
 - (ii) a further opportunity to win any kind of prize authorised by this Act or the regulations, or
 - (iii) a prize under both subparagraph (i) and subparagraph (ii), and
 - (b)
 - (c) unless it consists of an opportunity to win a prize otherwise than by operating an approved amusement device, is to be of such amount or value, or is to be of not less than such minimum amount or value and not more than such maximum amount or value, as may be prescribed or as may be calculated or determined as prescribed, and
 - (d)
- (3) The registered club is not to offer a prize in respect of the use or operation of an approved amusement device other than a prize authorised by this section.
- (4) So much of a prize for the use or operation of an approved amusement device as consists of money may be paid by cheque.

166 Board may impose other conditions

The certificate of registration of a registered club is subject to any condition that relates to the keeping, use or operation of an approved amusement device and is imposed by the Board:

- (a) when authorising the keeping, use and operation of the device, or
- (b) at any later time on the application of the Director, the Principal Registrar or the Commissioner of Police.

if the registered club has first been given an opportunity to make submissions about the proposed condition.

167 Trial of device

- (1) A registered club authorised to keep an approved amusement device may, with the approval of the Board and subject to compliance with any conditions imposed by the Board, keep in the registered club:
 - (a) on a trial basis, and
 - (b) for a period fixed by the Board,a device that is not an approved amusement device.
- (2) If a device is kept, used and operated as provided by this section, this Act (except section 162 (3) and (4) and section 164 (3) and (5)) applies to it in the same way as the Act applies to an approved amusement device.

168 Powers of entry, inspection etc—approved amusement devices

- (1) This section applies to:
 - (a) the defined premises of a registered club, and
 - (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, approved amusement devices,
 - (b) require a person having access to records relating to relevant matters to produce the records for examination,
 - (c) make copies of, or take extracts from, records relating to relevant matters,
 - (d) affix a temporary seal to any part of an approved amusement device,
 - (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 member of the governing body of a registered club,
 - (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 registered club 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, an approved amusement device or a part of an approved amusement device that is on the premises entered (including any money in the device or part):

- (a) for the purposes of further examination, or
- (b) if the authorised person believes on reasonable grounds that the device or part is in the possession of a person who, by being in possession of the device or part, is guilty of an offence against this Act,

but may do so only if the authorised person issues the person apparently in charge of the premises with a written receipt for the device or part and for any money in the device 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) An approved amusement device or part removed under this section, and any money in the device or part, are to be returned if the Board so directs on the application of the registered club or the holder of the gaming-related licence concerned (as the case may be) made not earlier than 14 days after its removal, unless a summons has been issued under section 170.

(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 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 against this Act.

Maximum penalty: 50 penalty units.

(12) A person who, not being an authorised person, breaks a temporary seal that has been affixed to an approved amusement device by an authorised person is guilty of an offence against this Act.

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 an approved amusement device, or
- (b) a transaction referred to in section 183 (which relates to the provision by the holder of a gaming-related licence of financial assistance to certain persons).

169 Search warrants—approved amusement devices

- (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 certificate of registration or a gaming-related licence is being contravened in relation to an approved amusement device.
- (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 an approved amusement device, 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 approved amusement devices or devices in the nature of approved amusement devices, 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*.

170 Forfeiture or return of removed or seized approved amusement device

- (1) This section applies to an approved amusement device if the device is removed under section 168 or is seized under section 169 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*, (whether or not on application by a police officer) may issue a summons requiring:
 - (a) the owner of a device to which this section applies, or
 - (b) the owner or occupier of the premises from which such a device was removed or on which it was seized,to appear before the court and show where and for what purpose the person summoned came to be in possession of the device.
- (3) On the return of the summons and whether or not there is an appearance in response to the summons, the court is to inquire into the matter and:
 - (a) order the forfeiture to the use of the Crown of the approved amusement device, and of any money found in the device, if satisfied that this Act or a condition of a certificate of registration or a licence was being contravened in relation to the approved amusement device on the premises from which it was removed or on which it was seized, or
 - (b) if not so satisfied, order the return to the person summoned of the device and any money found in the device.

171 Other forfeitures of approved amusement devices

- (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 certificate of registration or a licence has been contravened in relation to an approved amusement device, the Court may order the forfeiture to the Crown of the approved amusement device 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 an approved amusement device or other device at the time of its seizure.

172 Amusement device dealer's licence

(1) The court may grant an amusement device dealer's licence in a form approved by the Board.

(2) An amusement device 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 amusement devices in the place or places specified in the licence, and
- (b) to sell, or negotiate the sale of, approved amusement devices, whether or not manufactured or assembled by the licensee, and
- (c) to service, repair and maintain approved amusement devices.

(3) If a corporation is the holder of an amusement device dealer's licence, the authority conferred by this section on the corporation extends to a director or secretary of the corporation.

(4) The Board may impose a condition of an amusement device 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.

(5) Before deciding whether or not to impose a condition of a licence under this section, the Board is to give the licensee an opportunity to make submissions about the proposed condition.

(6) The court may, on the application of the holder of an amusement device dealer's licence, vary by endorsement on the licence the place or places referred to in subsection (2) (a).

173 Board may require dealer to alter certain approved amusement devices

- (1) The Board may require the holder of an amusement device 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 amusement device that is to be, or has been, supplied by the licensee to a registered club after the commencement of this section.
- (2) It is a condition of an amusement device 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 certificate of registration of a registered club that the registered club is to allow the holder of an amusement device dealer's licence or an amusement device technician's licence such access to an approved amusement device in the registered club as may be required to enable the holder of the licence to comply with a requirement of the Board under this section.

174 Amusement device seller's licence

- (1) The court may grant an amusement device seller's licence in a form approved by the Board.
- (2) An amusement device seller's licence authorises the licensee, subject to this Act and any conditions to which the licence is subject:
 - (a) as principal or agent, to sell approved amusement devices, and
 - (b) as an employee of a holder of an amusement device dealer's licence or an amusement device seller's licence, to negotiate on behalf of the employer the sale of approved amusement devices.
- (3) If a corporation is the holder of an amusement device seller's licence, the authority conferred by this section on the corporation extends to a director or secretary of the corporation.

175 Amusement device technician's licence

- (1) The court may grant an amusement device technician's licence in a form approved by the Board.
- (2) An amusement device technician's licence authorises the licensee, subject to this Act and any conditions to which the licence is subject, to service, repair and maintain approved amusement devices.

176 Expenses of investigation of application

- (1) The 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 court may refuse to hear the application and may dismiss it.

178 Work permits

- (1) The Principal Registrar may, pending a decision on an application for an amusement device seller's licence or an amusement device technician's licence, issue to the applicant 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 work permit for a gaming-related licence.
- (4) Subject to any condition or restriction imposed under this section, 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.

179 Periodic returns by gaming-related licensees

- (1) Within the period of 1 month after the expiration of each licensing period for a gaming-related licence, the licensee 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.

181 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 against this Act 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.

182 Gaming-related licensees 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 an approved amusement device in a registered club, 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.

183 Financial assistance in relation to approved amusement devices

(1) A holder of a gaming-related licence who enters into a transaction under which the licensee:

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

is guilty of an offence against this Act unless the transaction received the prior written approval of the Board.

Maximum penalty: 20 penalty units.

(2) A holder of a gaming-related licence who agrees to a variation of a term or condition of a transaction referred to in subsection (1) is guilty of an offence against this Act unless the variation received the prior written approval of the Board.

Maximum penalty: 20 penalty units.

(3) The holder of a gaming-related licence is guilty of an offence against this Act 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.

184 Possession of approved amusement devices

(1) A person knowingly in possession of an approved amusement device is guilty of an offence against this Act unless the person:

- (a) is the holder of a gaming-related licence, or
- (b) is a registered club lawfully in possession of the approved amusement device, or
- (c) has possession of the device in the ordinary course of a business involving the transportation or storage of goods, or
- (d) is an authorised person exercising functions under section 168 (which confers certain powers of entry and inspection and related functions), or
- (e) is in lawful possession of the device 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 amusement device by a registered club if

- (a) the club has been disqualified from holding a certificate of registration and the period of disqualification has not expired, or

- (b) the certificate of registration of the club has been cancelled,
and the possession has not extended beyond a reasonable time after the disqualification or cancellation.
- (3) This section does not apply to a person in possession of an approved amusement device 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 amusement device if the person:
 - (a) obtained possession of the device 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.

185 Manufacture etc of approved amusement devices

- (1) A person who manufactures or assembles an approved amusement device is guilty of an offence against this Act unless the person:
 - (a) holds an amusement device dealer's licence, or
 - (b) is a director or secretary of a corporation that holds an amusement device dealer's licence, or
 - (c) is an employee of the holder of an amusement device 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 an amusement device dealer's licence who manufactures or assembles an approved amusement device otherwise than in accordance with the authority conferred on the holder by the licence is guilty of an offence against this Act.

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

(3) Subsection (2) does not apply to the manufacture or assembly of an approved amusement device by the holder of an amusement device dealer's licence if:

- (a) the Board has agreed to the making of an application by the licensee to have the device declared as an approved amusement device, and
- (b) the manufacture or assembly of the device is for the purposes of the application and its investigation.

186 Compliance plate for approved amusement device

(1) A holder of an amusement device dealer's licence is guilty of an offence against this Act if an approved amusement device leaves the licensee's premises without a compliance plate that complies with this section and is securely attached to the device 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 device 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 an approved amusement device, 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 device and the month and year of the manufacture and assembly of the device, 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.

187 Supply, sale and purchase of approved amusement devices

- (1) A person who offers to supply, or supplies, an approved amusement device otherwise than by way of sale is guilty of an offence against this Act 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, an approved amusement device is guilty of an offence against this Act unless the offer is made to, or the device is purchased from, a person who is authorised by a licence, or by or under this Act, to sell the device.

Maximum penalty: 100 penalty units or imprisonment for 1 year, or both.
- (3) A person who supplies an approved amusement device to a registered club is guilty of an offence against this Act unless the keeping of the device by the registered club would be lawful.

Maximum penalty: 50 penalty units.
- (4) A person who sells an approved amusement device is guilty of an offence against this Act unless:
 - (a) the person is the holder of a current amusement device dealer's licence or a current amusement device seller'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 an amusement device seller's licence, exercised a function of the 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 mortgagee of the approved amusement device in the exercise of a power conferred by the mortgage, or
 - (b) a sale by a person (other than a mortgagee) who obtained possession of the approved amusement device by exercising a power or proprietary right under financial and other arrangements approved by the Board under section 162.
- (7) A holder of an amusement device dealer's licence or an amusement device seller's licence who sells an approved amusement device otherwise than as authorised by the licence is guilty of an offence against this Act.

Maximum penalty: 100 penalty units or imprisonment for 1 year, or both.
- (8) The holder of an amusement device dealer's licence is guilty of an offence against this Act if the prescribed notification is not given to the Principal Registrar within 7 days after the commencement, and within 7 days after

1997 No 81

Registered Clubs Amendment (Gaming Machines) Regulation 1997

Schedule 1 Amendments

any cessation, of employment by the licensee of a person who is, or was during the employment, the holder of an amusement device seller's licence.

Maximum penalty: 20 penalty units.

(9) A person who supplies, or offers to supply, an approved amusement device is guilty of an offence if possession of the device by the person to whom the device is supplied or offered is or would be unlawful.

Maximum penalty: 100 penalty units.

(10) This section does not apply to prohibit the sale or supply of an approved amusement device:

- (a) by a registered club in accordance with section 164 (8), or
- (b) by a club of which the certificate of registration has been cancelled or which has been disqualified for a period from holding a certificate of registration, if the sale or supply is effected in accordance with arrangements approved by the Board.

188 Keeping, acquisition and disposal of approved amusement devices

A registered club must not:

- (a) keep an approved amusement device without complying with any conditions imposed by the Board in relation to the keeping of the device, or
- (b) acquire an approved amusement device without the authority of the Board or without complying with any conditions imposed by the Board in relation to the acquisition of the device, or
- (c) dispose of an approved amusement device without the authority of the Board or without complying with any conditions imposed by the Board in relation to the disposal of the device.

Maximum penalty: 100 penalty units.

189 Servicing and repair of approved amusement devices

(1) A person who services or repairs an approved amusement device is guilty of an offence against this Act unless the person:

- (a) holds an amusement device dealer's licence or an amusement device technician's licence, or
- (b) services or repairs the device 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 approved amusement devices.

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

(2) A holder of an amusement device dealer's licence or an amusement device technician's licence who services or repairs an approved amusement device otherwise than in accordance with the authority conferred by the licence is guilty of an offence against this Act.

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

190 Compliance with requirements of special inspector

(1) A special inspector may require a registered club or the holder of a gaming-related licence to:

- (a) withdraw from operation an approved amusement device that, in the opinion of the inspector, is not operating properly, or
- (b) refrain from making available for operation an approved amusement device 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 an approved amusement device available for operation except in accordance with controls specified by the inspector in relation to the device, or

- (d) deliver to the Board, in writing in the English language and within a time specified by the inspector, such particulars relating to an approved amusement device kept by the registered club or licensee as are so specified, or
- (e) refrain from making available for operation an approved amusement device 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 approved amusement device.

(2) A registered club or holder of a gaming-related licence who is required by a special inspector to act under this section and fails to comply with the requirement is guilty of an offence against this Act.

Maximum penalty: 50 penalty units.

191 Defective approved amusement device

- (1) A registered club is guilty of an offence against this Act if an approved amusement device available for use on the defined premises of the registered club 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 this section if it is proved:

- (a) that the operation of the device was for testing or maintenance purposes, or
- (b) that the governing body of the registered club:
 - (i) had taken all reasonable precautions to ensure that the device 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 device was not functioning properly.

195 Protection of sensitive areas of approved amusement devices

- (1) It is an offence against this Act 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 an approved amusement device,
 - (e) remove, or interfere with, any security device on an approved amusement device,
 - (f) remove, or interfere with, the housing protecting the meters of an approved amusement device,
 - (g) remove, disconnect or interfere with a meter of an approved amusement device,
 - (h) interfere with information received, stored or transmitted electronically by an approved amusement device,
 - (i) remove, or interfere with, any mark or seal affixed to an approved amusement device to preserve the integrity of operation of the device.

Maximum penalty: 100 penalty units.

- (2) A person (including a specially authorised person) who removes, alters or otherwise interferes with the compliance plate on an approved amusement device is guilty of an offence against this Act.

Maximum penalty: 100 penalty units.

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

Maximum penalty: 100 penalty units.

(4) In this section:

computer cabinet means the sealable part of an approved amusement device that contains the game program storage medium and the random access memory.

specially authorised person means a special inspector, the holder of an amusement device technician's licence, a person exercising a function under section 168 or a person appointed by the Director as a specially authorised person for the purposes of this section.

196 Modification of approved amusement devices

(1) A person who modifies an approved amusement device in such a way that it is in the form of a different approved amusement device is guilty of an offence against this Act unless the person holds a technician's licence or the modification does not, as provided by section 158, preclude the device from being an approved amusement device.

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

(2) A holder of a technician's licence who modifies an approved amusement device in such a way that it is in the form of a different approved amusement device is guilty of an offence against this Act unless there is returned within a reasonable time to the supplier of the materials for the conversion so much of the device 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.

197 Unlawful interference with approved amusement device

(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 an approved amusement device kept on the defined premises of a registered club, or
- (b) does anything calculated, or likely, to interfere with the normal operation of an approved amusement device kept on the defined premises of a registered club, or
- (c) does anything calculated to render an approved amusement device in a registered club incapable, even temporarily, of producing a winning combination,

is guilty of an offence against this Act.

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 an approved amusement device by the holder of an amusement device 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 195.

(3) A person who, with intent to dishonestly obtain money or a financial advantage for himself or herself or another person, inserts in an approved amusement device kept on the defined premises of a registered club anything other than:

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

1997 No 81

Registered Clubs Amendment (Gaming Machines) Regulation 1997

Schedule 1 Amendments

- (b) a banknote of a denomination approved by the Board for use in order to operate the device, or
- (c) a card of a type approved by the Board for use in order to operate the device,

is guilty of an offence against this Act.

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 an approved amusement device is guilty of an offence against this Act.

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 against this Act.

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

198 Illegal advantage gained during design etc of approved amusement device

- (1) A person who, during the design, manufacture, assembly, maintenance or repair of an approved amusement device, dishonestly makes provision to gain an advantage (whether or not for another person) in the operation of the device is guilty of an offence against this Act.

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 an approved amusement device, makes provision to gain an advantage (whether or not for another person) in the operation of the device is guilty of an offence against this Act.

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

(3) A person who does anything to an approved amusement device in order to conceal anything that is an offence under another provision of this section is guilty of an offence against this Act.

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.

199 Consignment or movement of approved amusement devices

(1) A holder of an amusement device dealer's licence or an amusement device seller's licence who consigns or moves an approved amusement device:

(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 devices, and

(b) the number of each type of device, and

(c) the manufacturer's serial number for each of the devices, and

(d) the origin and destination of the devices, 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.

1997 No 81

Registered Clubs Amendment (Gaming Machines) Regulation 1997

Schedule 1 Amendments

(4) A licensee who fails to comply with a requirement of this section that is applicable to the licensee is guilty of an offence against this Act.

Maximum penalty: 50 penalty units.

200 Approved amusement devices not used for gaming

(1) This Part does not operate to prohibit the possession, keeping, use or operation of an approved amusement device 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 an approved amusement device 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 approved amusement device (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.