



New South Wales

Liquor and Registered Clubs Legislation Further Amendment Act 1996 No 103

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New South Wales

Liquor and Registered Clubs Legislation Further Amendment Act 1996 No 103

Act No 103, 1996

An Act to amend the *Liquor Act 1982* and the *Registered Clubs Act 1976* to make further provision with respect to duty on gaming machines in hotels and registered clubs, to provide for linked gaming machine systems between venues, to make further provision with respect to the number and types of gaming machines that may be kept in hotels and registered clubs, and to make miscellaneous amendments; and for other purposes. [Assented to 26 November 1996]

The Legislature of New South Wales enacts:

1 Name of Act

This Act is the *Liquor and Registered Clubs Legislation Further Amendment Act 1996*.

2 Commencement

- (1) This Act commences on a day or days to be appointed by proclamation, except as provided by this section.
- (2) Schedule 1 [20] commences on the date of assent to this Act.
- (3) Schedule 1 [22] commences on the commencement of Schedule 1 [33] to the *Liquor Amendment (Nightclub Licences and Trading Hours) Act 1996*.

3 Amendment of Liquor Act 1982 No 147

The *Liquor Act 1982* is amended as set out in Schedule 1.

4 Amendment of Registered Clubs Act 1976 No 31

The *Registered Clubs Act 1976* is amended as set out in Schedule 2.

5 Amendment of Registered Clubs (Amendment) Act 1988 No 93

The *Registered Clubs (Amendment) Act 1988* is amended by omitting Schedule 3.

Schedule 1 Amendment of Liquor Act 1982

(Section 3)

[1] Section 4 Definitions

Insert in alphabetical order in section 4 (1):

approved gaming device means an approved amusement device, an approved poker machine or an authorised poker machine.

approved poker machine and *authorised poker machine* have the same meanings as in the *Registered Clubs Act 1976*.

poker machine has the same meaning as in the *Registered Clubs Act 1976*.

[2] Part 5, Division 4, heading

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

[3] Sections 86JA and 86JB

Insert before section 86K:

86JA Definitions

(1) In this Division:

cancelled credits payment means payment of an amount by way of redemption of credits accumulated by an approved gaming device player in the course of play.

duty period means a period of 12 months commencing on 1 October.

jackpot payment means payment of an amount to which an approved gaming device player is entitled:

- (a) for the achievement by the player, at the end of a play, of a combination of symbols that is designated, in the original design of the gaming device or in a subsequent modification approved by the Board, as a jackpot combination, or
- (b) on the happening of any other event or contingency which the Board, by instrument in writing, approves as being a due occasion of a jackpot payment for the purposes of this definition.

outgoings means cancelled credits payments, jackpot payments or any other outgoing of a kind prescribed by the regulations.

profits means the excess of revenue over outgoings.

revenue from an approved gaming device means money invested by players of the gaming device in order to play it.

(2) For the purposes of the definition of ***cancelled credits payment*** in subsection (1):

- (a) credits accumulated by a player in the course of play include credits accumulated as a result of the investment of money by the player before proceeding to play the approved gaming device or while playing it, and
- (b) a player's credits are completely redeemed on payment to the player of an amount equal to the amount that a player would have to invest in the gaming device concerned, when showing a nil credit balance, in order (without playing it) to be credited with that number of credits.

86JB Duty on approved gaming devices

- (1) There is payable to the Board by a hotelier the duty imposed by this Division in respect of approved gaming devices kept and operated on the licensed premises.
- (2) The regulations may make provision for or with respect to the deferral of the payment of duty, refunds of duty and exemption from the payment of duty, but any such regulation may only be made with the consent of the Treasurer.
- (3) An amount of duty due and unpaid by a hotelier may be recovered in a court of competent jurisdiction as a debt due to the Crown.

[4] Sections 86K–86KB

Omit section 86K. Insert instead:

86K Rate of duty

- (1) If the profits from all approved gaming devices kept by a hotelier in a duty period do not exceed \$25,000, duty is payable on the profits at the rate of 15%.
- (2) If the profits from all approved gaming devices kept by a hotelier in a duty period exceed \$25,000 but do not exceed \$400,000, duty is payable:
 - (a) in the sum of \$3,750, and
 - (b) on so much of the profits as exceeds \$25,000 but does not exceed \$400,000—at the rate of 25%.
- (3) If the profits from all approved gaming devices kept by a hotelier in a duty period exceed \$400,000 but do not exceed \$1,000,000, duty is payable:
 - (a) in the sum of \$97,500, and
 - (b) on so much of the profits as exceeds \$400,000 but does not exceed \$1,000,000—at the rate of 35%.

- (4) If the profits from all approved gaming devices kept by a hotelier in a duty period exceed \$1,000,000, duty is payable:
 - (a) in the sum of \$307,500, and
 - (b) on so much of the profits as exceeds \$1,000,000—
at the rate of 40%.

86KA Payment by instalments

- (1) For the purposes of this Division, every duty period is divided into 4 periods of 3 months each (in this Division called *instalment periods*) commencing on 1 January, 1 April, 1 July and 1 October.
- (2) Quarterly instalments of duty are payable by each hotelier in respect of each instalment period.
- (3) If the profits from all approved gaming devices kept by a hotelier in an instalment period do not exceed \$6,250, the instalment payable is an amount equal to 15% of those profits.
- (4) If the profits from all approved gaming devices kept by a hotelier in an instalment period exceed \$6,250 but do not exceed \$100,000, the instalment payable is:
 - (a) the sum of \$937.50, and
 - (b) an amount equal to 25% of the amount by which the profits exceed \$6,250 but do not exceed \$100,000.
- (5) If the profits from all approved gaming devices kept by a hotelier in an instalment period exceed \$100,000 but do not exceed \$250,000, the instalment payable is:
 - (a) the sum of \$24,375, and
 - (b) an amount equal to 35% of the amount by which the profits exceed \$100,000 but do not exceed \$250,000.

- (6) If the profits from all approved gaming devices kept by a hotelier in an instalment period exceed \$250,000, the instalment payable is:
 - (a) the sum of \$76,875, and
 - (b) an amount equal to 40% of the amount by which the profits exceed \$250,000.
- (7) An instalment is payable within 21 days after the end of the relevant instalment period.

86KB Adjustments

- (1) Following the end of a duty period and after payment by a hotelier of the instalment payable in respect of the instalment period ending on 30 September, the Board may, on application by the hotelier (or by any relevant previous hotelier), make a comparison of the duty payable in respect of that duty period and of the total of the relevant 4 quarterly instalments made.
- (2) If, after the Board makes its comparison, the total of the instalments paid exceeds the duty payable for the duty period, the excess is to be distributed:
 - (a) in the case where one hotelier only paid the duty for the period concerned—to that hotelier, or
 - (b) in the case where more than one hotelier paid the duty for the period concerned—to those hoteliers in such proportions as the Board considers appropriate.

[5] Section 86L Records and returns

Omit “amusement” wherever occurring from section 86L (1), (2) and (5).

Insert instead “gaming”.

[6] Section 86M Penalty for late return or late payment of duty

Omit “section 86K” from section 86M (1).

Insert instead “this Division”.

[7] Section 86N Board may estimate profits when return not provided

Omit “turnover of approved amusement devices” wherever occurring.

Insert instead “profits from approved gaming devices”.

[8] Section 92

Insert after section 91A:

92 Gaming-related advertising

- (1) A hotelier must not cause or permit any gaming-related advertising material to be displayed on the exterior or interior of the licensed premises, or in the vicinity of the licensed premises, in contravention of any requirement prescribed by the regulations.

Maximum penalty: 5 penalty units.

- (2) Subsection (1) does not apply to any advertising material that is not visible from any public place outside the licensed premises.

- (3) In this section:

gaming-related advertising material means any sign, poster or other thing that advertises or draws attention to, or can reasonably be taken to advertise or draw attention to, any facilities relating to approved gaming devices within licensed premises, whether by the use of words, symbols, pictures or in any other manner.

[9] Section 156 Regulations

Omit “amusement” wherever occurring from section 156 (1A).

Insert instead “gaming” .

[10] Section 156(1A)

Insert after section 156 (1A) (t):

- (u) the connecting of approved gaming devices within a hotel so that each gaming device contributes to the registration of a right to claim a pooled amount of money or money's worth,
- (v) any matter relevant to the operation of an authorised linked gaming system within the meaning of Part 12,
- (w) licences, licensees and key employees within the meaning of Part 12.

[11] Part 11, heading

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

[12] Part 11, Division 1, heading

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

[13] Section 160 Lawful keeping of approved gaming device

Omit “amusement” from section 160 (a). Insert instead “gaming”.

[14] Section 161 Authority to keep approved gaming devices

Omit “ 1 0 ” wherever occurring. Insert instead “30”.

[15] Section 161

Omit “amusement” wherever occurring. Insert instead “gaming”.

[16] Section 161 (11), (12)

Insert after section 161 (10):

- (11) It is a condition of a hotelier's licence that, if more than 10 approved gaming devices are used and operated at the hotel, that:
- (a) no more than 5 may be located in the general bar area of the hotel, and
 - (b) the others (or all of them if none are located in the general bar area) are to be located in another area that conforms to the requirements of the regulations.

The regulations may make provision for or with respect to identifying the general bar areas of hotels.

- (12) In calculating the number of approved gaming devices kept by a hotelier for the purposes of this Act, any subsidiary equipment kept by the hotelier and approved by the Board for use in connection with such gaming devices is to be disregarded.

[17] Section 163 Sharing of receipts from approved gaming devices

Insert after section 163 (2):

- (3) This section does not apply in respect of an approved gaming device that is part of an authorised linked gaming system within the meaning of Part 12, but only if an agreement exists between a licensee and a participating hotelier (within the meaning of that Part) in relation to the linked gaming system for the sharing of receipts.

[18] Part 11, Division 2A

Insert after Division 2:

Division 2A Poker machines

182A Poker machines

- (1) Subject to this Act, the provisions of the *Registered Clubs Act 1976* relating to poker machines apply to and in respect of hotels in the same way as they apply to and in respect of registered clubs, with:
 - (a) subject to paragraph (b), such adaptations as may be necessary, and
 - (b) such exclusions and modifications as may be prescribed by the regulations.
- (2) Subsection (1) does not apply to Division 2 of Part 10 of the *Registered Clubs Act 1976*. This subsection does not limit subsection (1) (b).

182B Hoteliers' licences

- (1) A hotelier's licence may deal with any matters relating to poker machines with which a certificate of registration under the *Registered Clubs Act 1976* may deal.
- (2) Without limiting subsection (1), any conditions relating to poker machines that could be imposed (and otherwise dealt with) in relation to registered clubs under the *Registered Clubs Act 1976* can be imposed (or otherwise dealt with) in relation to hotels under this Act.

182C Limitation on number of poker machines in hotels

It is a condition of a hotelier's licence that the number of poker machines authorised to be kept, used and operated at the hotel at any one time is not to exceed the number of approved amusement devices authorised to be kept, used and operated at the hotel at that time.

[19] Part 12

Insert after Part 11:

Part 12 Inter-hotel linked gaming systems

201 Definitions and operation of Part

(1) In this Part:

authorised linked gaming system means a linked gaming system that:

- (a) is operated under the authority of a licence, and
- (b) has been authorised by the Minister to be installed in a hotel in accordance with such requirements as may be prescribed by the regulations.

key employee means a person (whether or not appointed under a contract of service) who is:

- (a) employed in a managerial or supervisory capacity in relation to the operation of an authorised linked gaming system by a licensee or participating hotelier, or
- (b) authorised to make decisions, involving the exercise of his or her discretion, that regulate the operations of a licensee or a participating hotelier in relation to an authorised linked gaming system operated by the licensee, or
- (c) concerned or engaged, in any manner prescribed by the regulations, in the operation of an authorised linked gaming system by a licensee.

licence means a licence in force under this Part.

licensee means the holder of a licence.

linked gaming system means a system in which 2 or more specially approved gaming devices are linked electronically to contribute a percentage of the money wagered on the gaming devices to a separate jackpot

pool, and includes any communications network, infrastructure and equipment that is subsidiary to, or used in connection with, the system.

operate a linked gaming system includes supply, organise or manage the linked gaming system.

participating hotelier means a hotelier whose hotel is part of an authorised linked gaming system.

specially approved gaming device means an approved gaming device that:

- (a) complies with the guidelines issued by the Board for linked gaming systems, and
 - (b) is of a class of gaming devices specially approved by the Board for the purposes of this Part.
- (2) The provisions of this Part prevail to the extent of any inconsistency with any other provision of this Act.

202 Part applies to inter-hotel links only

This Part does not apply in relation to a linked gaming system operated in a hotel if the linked gaming system does not include a specially approved gaming device kept and operated in another hotel.

203 Keeping of approved gaming devices in a linked gaming system

- (1) If an approved gaming device in a hotel is kept and operated as part of a linked gaming system that is not an authorised linked gaming system, section 160 does not apply to the keeping and operation of the gaming device.
- (2) The fact that an authorised linked gaming system extends beyond licensed premises does not mean that an approved gaming device that is part of the linked gaming system and operated on the premises is not an approved gaming device on the premises.

204 Requirement for licence to operate linked gaming system

A person must not operate a linked gaming system unless the person is the holder of a licence authorising the person to operate the linked gaming system.

Maximum penalty: 100 penalty units.

205 Unlawful operation of linked gaming system by licensee

A licensee who operates a linked gaming system is guilty of an offence if the linked gaming system is operated in contravention of a requirement made under this Act, the regulations or the conditions of the licence.

Maximum penalty: 100 penalty units.

206 Application for licence

- (1) An application for a licence to operate a linked gaming system may be made to the Minister by any one or more persons.
- (2) An application must:
 - (a) be in the form approved by the Minister, and
 - (b) be accompanied by such information as the Minister requires, and
 - (c) be accompanied by the fee prescribed by the regulations.
- (3) An application for a licence may not be made by:
 - (a) a person who is under 18 years of age, or is within a class of persons prescribed by the regulations as being ineligible to apply for a licence, or
 - (b) a person who is disqualified from holding a gaming-related licence, or
 - (c) a person who is the holder of a suspended gaming-related licence.

207 Grant of licence

- (1) The Minister may, after considering an application for a licence:
 - (a) grant a licence to the person making the application, or
 - (b) refuse to grant a licence.
- (2) The Minister may grant a licence subject to any conditions determined by the Minister and specified in the licence.
- (3) In deciding whether to grant a licence, the Minister may have regard to the following matters:
 - (a) the need to balance the public interest with private sector commercial interests,
 - (b) whether the integrity and regularity of the operation of the linked gaming system can be ensured,
 - (c) the need to provide flexibility in respect of commercial gaming activities,
 - (d) the need to provide equal opportunities for hotels to participate in the linked gaming system, including those hotels located in remote areas,
 - (e) the need to prevent any single proposed licensee from establishing a monopoly position with respect to linked gaming systems.
- (4) Subsection (3) does not limit the factors that the Minister may take into account in determining whether or not to grant a licence.
- (5) A licence may be granted to one person or 2 or more persons jointly.
- (6) A licensee may not transfer a licence to another person.

208 Conditions of licence

- (1) The conditions of a licence may include, in addition to any other conditions referred to in this Part, conditions relating to the following:
 - (a) the number of participating hoteliers involved in the linked gaming system,
 - (b) the number of approved gaming devices that may be part of the linked gaming system,
 - (c) the minimum and maximum amounts of jackpot prizes to be paid in connection with the linked gaming system,
 - (d) the financial arrangements with respect to jackpot prize pools and the establishment by the licensee of a special account relating to jackpot prize pools,
 - (e) the furnishing of information, whether in the form of statements, returns or otherwise, by the licensee to the Minister relating to the operation of the linked gaming system (including the operating costs and other costs incurred by the licensee in operating the linked gaming system),
 - (f) the times at which, and the form in which, the information must be furnished to the Minister,
 - (g) the auditing of the financial records of the licensee relating to the operation of the linked gaming system (including records of the operating costs and other costs incurred by the licensee in operating the linked gaming system),
 - (h) the approval by the Minister of contracts or arrangements, entered into by the licensee, for the purpose of operating the linked gaming system,
 - (i) the approval by the Minister of persons engaged in the repair or maintenance of any equipment used in relation to the operation of the linked gaming system,

- (i) the security requirements in respect of the linked gaming system,
 - (k) any other matters that the Minister thinks fit or that may be prescribed by the regulations.
- (2) A licence may make provision for advice to be furnished to the Minister in connection with the exercise of the Minister's functions under this Part.

209 Alteration of conditions of licence

- (1) The Minister may, while a licence is in force, alter the conditions of the licence by imposing an additional condition or by amending, substituting or revoking a condition.
- (2) An alteration may not be made under this section unless the Minister:
- (a) has given the licensee notice, in writing, setting out the terms of the proposed alteration and inviting the licensee to make representations to the Minister, within the period specified in the notice, concerning the proposed alteration, and
 - (b) has, after the end of that period, considered any representations so made by or on behalf of the licensee.
- (3) An alteration under this section takes effect:
- (a) on the day that is 7 days after the day on which a notice advising the licensee of the alteration is given to the licensee by the Minister, or
 - (b) if a later day is specified in the notice—on that day.
- (4) Subsections (2) and (3) do not apply to an alteration made at the request of a licensee. Such an alteration takes effect on the day specified in the notice advising of the alteration that is given by the Minister to the licensee.

210 Periodic licence fee

- (1) A fee is payable to the Minister for a licence while the licence is in force or under suspension, and is so payable in respect of each period prescribed by the regulations.
- (2) The regulations may prescribe the fees payable under this section and provide for any of the following:
 - (a) times for payments of such a fee,
 - (b) payment by instalments,
 - (c) penalties for late payment,
 - (d) suspension or cancellation of a licence for failing to pay such a fee,
 - (e) the circumstances in which such a fee (or part of a fee) may be refunded.

211 Term of licence

The period during which a licence is in force is the period specified by the Minister in the licence.

212 Disciplinary action against licensee

- (1) In this Part, *disciplinary action* means any one or more of the following actions in relation to a licence:
 - (a) the cancellation or suspension of the licence,
 - (b) the imposition on the licensee of a monetary penalty (not exceeding \$250,000),
 - (c) the alteration of the conditions of the licence by the Minister,
 - (d) the service of a letter of reprimand by the Minister on the licensee.
- (2) If a licensee:
 - (a) fails to comply with this Act or the regulations, or
 - (b) fails to comply with a condition of the licence, or

- (c) being a natural person:
 - (i) becomes bankrupt, applies to take the benefit of any law for the relief of bankrupt or insolvent debtors, compounds with his or her creditors or makes an assignment of his or her remuneration for their benefit, or
 - (ii) becomes an incapacitated person and incapable of operating a linked system in accordance with this Part, or
 - (iii) is convicted of an offence involving fraud or dishonesty, or
- (d) being a corporation:
 - (i) enters into or authorises a dealing with or in respect of shares of, or other instruments issued by, the corporation without the consent in writing of the Minister that, in the opinion of the Minister, affects the control of the corporation, or
 - (ii) becomes an externally administered corporation within the meaning of the *Corporations Law*, or
 - (iii) fails to terminate promptly the employment of a person concerned in the management of the licensee who is convicted of an offence involving fraud or dishonesty,

the Minister may serve on the licensee a notice in writing affording the licensee an opportunity to show cause within 14 days (or such longer period as the Minister may specify in the notice) why disciplinary action should not be taken against the licensee on the grounds specified in the notice.

- (3) The licensee may, within the period allowed by the notice, arrange with the Minister for the making of submissions to the Minister as to why disciplinary action should not be taken and the Minister is to consider any submissions so made.

- (4) The Minister may then decide that it is appropriate that certain disciplinary action be taken against the licensee and may either:
 - (a) take that disciplinary action by giving written notice of the action to the licensee, or
 - (b) as an alternative to taking that disciplinary action, take action under section 213.
- (5) Disciplinary action may be taken against a person whether or not the person has been prosecuted, convicted or penalised for any contravention that is the grounds for the action.
- (6) Disciplinary action takes effect when notice of it is given or on a later date specified in the notice.
- (7) The fact that disciplinary action is taken by the Minister under this section does not prevent the Minister from taking the same or other disciplinary action under this section if the contravention continues or a fresh contravention occurs.
- (8) A monetary penalty imposed under this section may be recovered as a debt due to the Crown in a court of competent jurisdiction.

213 Rectification order as alternative to disciplinary action

- (1) As an alternative to taking disciplinary action against a licensee, the Minister may direct the licensee in writing to take specified action within a specified time to rectify the matter that constitutes the basis for taking the disciplinary action concerned.
- (2) If a licensee fails to take the specified action within the specified time, the Minister may proceed to take the relevant disciplinary action by giving written notice of the action to the licensee, and the disciplinary action takes effect when the notice is given or on a later date specified in the notice.

214 Temporary suspension of licence

- (1) The Minister may take action under this section, without prior notice to a licensee, in order to secure compliance by a licensee with a direction given to the licensee in accordance with the regulations.
- (2) If the Minister considers it necessary or expedient for the purposes of this section, the Minister may, by notice, suspend a licensee's licence:
 - (a) until a date specified in the notice of suspension, or
 - (b) if the notice so specifies—until the Minister, being satisfied that the relevant direction has been complied with, further notifies the licensee.

245 Surrender of licence

- (1) A licensee may surrender the licence by giving notice in writing to the Minister. If the licence is held by more than one person, each licensee is to surrender the licence.
- (2) The surrender takes effect only if the Minister consents to the surrender.

216 Directions to licensees and key employees

- (1) The regulations may provide for the Minister to give directions to any licensee, hotelier or key employee:
 - (a) regarding any matter that relates to the operation of a linked gaming system, and
 - (b) regarding any agreement or arrangement that relates to a linked gaming system, and
 - (c) requiring the licensee, hotelier or key employee to provide such information or particulars, and in such circumstances, as may be prescribed by the regulations.
- (2) The regulations may make provision for or with respect to the enforcement of such directions.

[20] Schedule 1 Savings and transitional provisions

Insert at the end of clause 1 (1):

Liquor Amendment (Nightclub Licences and Trading Hours) Amendment Act 1996.

[21] Schedule 1, clause 1 (1)

Insert at the end of the subclause:

Liquor and Registered Clubs Legislation Further Amendment Act 1996.

[22] Schedule 1, clause 47 (3) (as inserted by Schedule 1 [33] to the Liquor Amendment (Nightclub Licences and Trading Hours) Act 1996)

Insert “(2A) and” after “45”.

[23] Schedule 1, Part 10

Insert at the end of the Schedule:

**Part 10 Liquor and Registered Clubs Legislation
Further Amendment Act 1996**

51 Changes in hotel gaming machine duty arrangements

- (1) In this clause, the *amending Act* means the *Liquor and Registered Clubs Legislation Further Amendment Act 1996*.
- (2) The first duty period for the purposes of Division 4 of Part 5 of this Act (as amended by the amending Act) is the period of 12 months commencing on 1 October 1996.

- (3) However, the amendments made to Division 4 of Part 5 of this Act by the amending Act do not apply to the assessment of any duty payable under that Division as in force immediately before the commencement of Schedule 1 [4] to the amending Act.
- (4) The regulations may provide for adjustments to be made in the assessment of the duty payable for the period between the commencement of Schedule 1 [4] to the amending Act and the duty period commencing 1 October 1997 so as to facilitate the change in the assessment of duty from a turnover basis to a profit basis as a result of the amending Act.
- (5) Following the commencement of Schedule 1 [4] to the amending Act, a licensee is only entitled to a refund or credit under section 86K (3) of this Act (as in force immediately before that commencement) if
 - (a) the licensee makes an application for any such refund or credit, in the manner approved by the Board, within 6 months of that commencement, and
 - (b) the Board approves the application.

Schedule 2 Amendment of Registered Clubs Act 1976

(Section 4)

[1] Section 4 Definitions

Insert in alphabetical order in section 4 (1):

approved amusement device has the same meaning as in the *Liquor Act 1982*.

approved gaming device means an approved amusement device, an approved poker machine or an authorised poker machine.

multi-terminal gaming machine means an approved gaming device that:

- (a) is designed to be played by more than one player at the one time, and
- (b) is equipped with more than one player terminal.

[2] Section 4 (1) definition of “linkage equipment”

Insert “(other than a linked gaming system within the meaning of Part 12)” after “system”.

[3] Section 73 Regulations

Insert after section 73 (1A) (t):

- (u) any matter relevant to the operation of an authorised linked gaming system within the meaning of Part 12,
- (v) licences, licensees and key employees within the meaning of Part 12.

[4] Section 80 Sharing of receipts from poker machine prohibited

Insert at the end of the section:

- (2) This section does not apply in respect of a poker machine that is part of an authorised linked gaming system within the meaning of Part 12, but only if an agreement exists between a licensee and a participating club (within the meaning of that Part) in relation to the linked gaming system for the sharing of receipts.

[5] Section 87

Omit the section. Insert instead:

87 Rate of duty

- (1) This section does not apply in respect of approved gaming devices that are multi-terminal gaming machines.
- (2) If the profits from all approved gaming devices kept by a registered club in a duty period do not exceed \$100,000, no duty is payable on the profits. If the profits from all approved gaming devices do exceed \$100,000 in a duty period, the registered club is liable to pay duty in accordance with this section only in respect of so much of the profits that exceed \$100,000.
- (3) If the profits from all approved gaming devices kept by a registered club in a duty period exceed \$100,000 but do not exceed \$200,000, duty is payable on so much of the profits as exceeds \$100,000 but do not exceed \$200,000 at the rate of 1%.
- (4) If the profits from all approved gaming devices kept by a registered club in a duty period exceed \$200,000 but do not exceed \$2,500,000 duty is payable:
 - (a) in the sum of \$1,000, and
 - (b) on so much of the profits as exceeds \$200,000 but does not exceed \$2,500,000—at the rate of 22.5%.
- (5) If the profits from all approved gaming devices kept by a registered club in a duty period exceed \$2,500,000, duty is payable:

- (a) in the sum of \$518,500, and
- (b) on so much of the profits as exceeds \$2,500,000—
at the rate of 24.75%.

[6] Section 87AA

Insert before section 87A:

87AA Rate of duty for multi-terminal gaming machines

- (1) Duty is payable on the profits from each approved gaming device that is a multi-terminal gaming machine kept by a registered club in a duty period at the rate of 30%.
- (2) The regulations may provide for any such duty to be paid in instalments in accordance with the regulations.

[7] Section 87A Payment by instalments

Omit section 87A (3) and (4). Insert instead:

- (3) If the profits from all approved gaming devices kept by a registered club in an instalment period do not exceed \$25,000, no instalment is payable.
- (4) If the profits from all approved gaming devices kept by a registered club in an instalment period exceed \$25,000 but do not exceed \$50,000, the instalment payable is an amount equal to 1% of the amount by which the profits exceed \$25,000 but do not exceed \$50,000.
- (4A) If the profits from all approved gaming devices kept by a registered club in an instalment period exceed \$50,000 but do not exceed \$625,000, the instalment payable is:
 - (a) the sum of \$250, and
 - (b) an amount equal to 22.5% of the amount by which the profits exceed \$50,000 but do not exceed \$625,000.
- (4B) If the profits from all approved gaming devices kept by a registered club in an instalment period exceed \$625,000, the instalment payable is:
 - (a) the sum of \$129,625, and

(b) an amount equal to 24.75% of the amount by which the profits exceed \$625,000.

(4C) This section does not apply in respect of approved gaming devices that are multi-terminal gaming machines.

[8] Part 10, Division 3

Insert after Division 2:

Division 3 Multi-terminal gaming machines

87I Clubs may operate approved gaming devices that are MTGMs

- (1) A registered club may keep and operate multi-terminal gaming machines.
- (2) The number of multi-terminal gaming machines that may be kept and operated by a registered club must not exceed the number prescribed by the regulations.
- (3) It is a condition of a certificate of registration of a registered club that the club must not keep and operate a multi-terminal gaming machine if the maximum amount for any single bet, or the maximum amount of any prize, exceeds the maximum amount, respectively, prescribed by the regulations.

87J MTGM player terminals taken to be separate gaming devices

For the purposes of this Act, each player terminal that forms part of a multi-terminal gaming machine is, except as provided by the regulations, taken to be (and accordingly be counted as) a separate approved gaming device.

[9] Part 10A

Insert before Part 11:

Part 10A Approved amusement devices

88AA Approved amusement devices

- (1) Subject to this Act, the provisions of the *Liquor Act 1982* relating to approved amusement devices apply to and in respect of registered clubs in the same way as they apply to and in respect of hotels, with:
 - (a) subject to paragraph (b), such adaptations as may be necessary, and
 - (b) such exclusions and modifications as may be prescribed by the regulations.
- (2) Subsection (1) does not apply to Division 4 of Part 5 of the *Liquor Act 1982*. This subsection does not limit subsection (1) (b).

88AB Certificates of registration

- (1) A certificate of registration under this Act may deal with any matters relating to approved amusement devices with which a hotelier's licence under the *Liquor Act 1982* may deal.
- (2) Without limiting subsection (1), any conditions relating to approved amusement devices that could be imposed (and otherwise dealt with) in relation to hotels under the *Liquor Act 1982* can be imposed (or otherwise dealt with) in relation to registered clubs under this Act.

88AC Limitation on number of approved amusement devices in clubs

It is a condition of a certificate of registration of a registered club that the number of approved amusement devices authorised to be kept, used and operated on the

defined premises at any time is not to exceed the number of poker machines authorised to be kept, used and operated on the defined premises at that time.

[10] Part 12

Insert after Part 11:

Part 12 Inter-club linked gaming systems

134 Definitions and operation of Part

(1) In this Part:

authorised linked gaming system means a linked gaming system that:

- (a) is operated under the authority of a licence, and
- (b) has been authorised by the Minister to be installed in a registered club in accordance with such requirements as may be prescribed by the regulations.

key employee means a person (whether or not appointed under a contract of service) who is:

- (a) employed in a managerial or supervisory capacity in relation to the operation of an authorised linked gaming system by a licensee or participating club, or
- (b) authorised to make decisions, involving the exercise of his or her discretion, that regulate the operations of a licensee or a participating club in relation to an authorised linked gaming system operated by the licensee, or
- (c) concerned or engaged, in any manner prescribed by the regulations, in the operation of an authorised linked gaming system by a licensee.

licence means a licence in force under this Part.

licensee means the holder of a licence.

linked gaming system means a system in which 2 or more specially approved gaming devices are linked electronically to contribute a percentage of the money wagered on the gaming devices to a separate jackpot pool, and includes any communications network, infrastructure and equipment that is subsidiary to, or used in connection with, the system.

operate a linked gaming system includes supply, install, organise or manage the linked gaming system.

participating club means a registered club participating in an authorised linked gaming system.

specially approved gaming device means an approved gaming device that:

- (a) complies with the guidelines issued by the Board for linked gaming systems, and
 - (b) is of a class of gaming devices specially approved by the Board for the purposes of this Part.
- (2) The provisions of this Part prevail to the extent of any inconsistency with any other provision of this Act.

135 Part applies to inter-club links only

This Part does not apply in relation to a linked gaming system operated on the defined premises of a registered club if the linked gaming system does not include a specially approved gaming device kept and operated on the defined premises of another registered club.

136 Keeping of approved gaming devices in a linked gaming system

- (1) If an approved gaming device on the defined premises of a registered club is kept and operated as part of a linked gaming system that is not an authorised linked gaming system, section 77 does not apply to the keeping and operation of the gaming device.

- (2) The fact that an authorised linked gaming system extends beyond the defined premises of a registered club does not mean that an approved gaming device that is part of the linked gaming system and operated on the premises is not an approved gaming device on the premises.

137 Requirement for licence to operate linked gaming system

A person must not operate a linked gaming system unless the person is the holder of a licence authorising the person to operate the linked gaming system.

Maximum penalty: 100 penalty units.

138 Unlawful operation of linked gaming system by licensee

A licensee who operates a linked gaming system is guilty of an offence if the linked gaming system is operated in contravention of a requirement made under this Act, the regulations or the conditions of the licence.

Maximum penalty: 100 penalty units.

139 Application for licence

- (1) An application for a licence to operate a linked gaming system may be made to the Minister by any one or more persons.
- (2) An application must:
- (a) be in the form approved by the Minister, and
 - (b) be accompanied by such information as the Minister requires, and
 - (c) be accompanied by the fee prescribed by the regulations.
- (3) An application for a licence may not be made by:
- (a) a person who is under 18 years of age, or is within a class of persons prescribed by the regulations as being ineligible to apply for a licence, or

- (b) a person who is disqualified from holding a gaming-related licence, or
- (c) a person who is the holder of a suspended gaming-related licence.

140 Grant of licence

- (1) The Minister may, after considering an application for a licence:
 - (a) grant a licence to the person making the application, or
 - (b) refuse to grant a licence.
- (2) The Minister may grant a licence subject to any conditions determined by the Minister and specified in the licence.
- (3) In deciding whether to grant a licence, the Minister may have regard to the following matters:
 - (a) the need to balance the public interest with private sector commercial interests,
 - (b) whether the integrity and regularity of the operation of the linked gaming system can be ensured,
 - (c) the need to provide flexibility in respect of commercial gaming activities,
 - (d) the need to provide equal opportunities for registered clubs to participate in the linked gaming system, including those clubs located in remote areas,
 - (e) the need to prevent any single proposed licensee from establishing a monopoly position with respect to linked gaming systems.
- (4) Subsection (3) does not limit the factors that the Minister may take into account in determining whether or not to grant a licence.

- (5) A licence may be granted to one person or 2 or more persons jointly.
- (6) A licensee may not transfer a licence to another person.

141 Conditions of licence

- (1) The conditions of a licence may include, in addition to any other conditions referred to in this Part, conditions relating to the following:
 - (a) the number of participating clubs involved in the linked gaming system,
 - (b) the number of approved gaming devices that may be part of the linked gaming system,
 - (c) the minimum and maximum amounts of jackpot prizes to be paid in connection with the linked gaming system,
 - (d) the financial arrangements with respect to jackpot prize pools and the establishment by the licensee of a special account relating to jackpot prize pools,
 - (e) the furnishing of information, whether in the form of statements, returns or otherwise, by the licensee to the Minister relating to the operation of the linked gaming system (including the operating costs and other costs incurred by the licensee in operating the linked gaming system),
 - (f) the times at which, and the form in which, the information must be furnished to the Minister,
 - (g) the auditing of the financial records of the licensee relating to the operation of the linked gaming system (including records of the operating costs and other costs incurred by the licensee in operating the linked gaming system),
 - (h) the approval by the Minister of contracts or arrangements, entered into by the licensee, for the purpose of operating the linked gaming system,

- (i) the approval by the Minister of persons engaged in the repair or maintenance of any equipment used in relation to the operation of the linked gaming system,
 - (j) the security requirements in respect of the linked gaming system,
 - (k) any other matters that the Minister thinks fit or that may be prescribed by the regulations.
- (2) A licence may make provision for advice to be furnished to the Minister in connection with the exercise of the Minister's functions under this Part.

142 Alteration of conditions of licence

- (1) The Minister may, while a licence is in force, alter the conditions of the licence by imposing an additional condition or by amending, substituting or revoking a condition.
- (2) The Minister must not make an alteration under this section unless the Minister:
 - (a) has given the licensee notice, in writing, setting out the terms of the proposed alteration and inviting the licensee to make representations to the Minister, within the period specified in the notice, concerning the proposed alteration, and
 - (b) has, after the end of that period, considered any representations so made by or on behalf of the licensee.
- (3) An alteration under this section takes effect:
 - (a) on the day that is 7 days after the day on which a notice advising the licensee of the alteration is given to the licensee by the Minister, or
 - (b) if a later day is specified in the notice—on that day.

- (4) Subsections (2) and (3) do not apply to an alteration made at the request of a licensee. Such an alteration takes effect on the day specified in the notice advising of the alteration that is given by the Minister to the licensee.

143 Periodic licence fee

- (1) A fee is payable to the Minister for a licence while the licence is in force or under suspension, and is so payable in respect of each period prescribed by the regulations.
- (2) The regulations may prescribe the fees payable under this section and provide for any of the following:
- (a) times for payments of such a fee,
 - (b) payment by instalments,
 - (c) penalties for late payment,
 - (d) suspension or cancellation of a licence for failing to pay such a fee,
 - (e) the circumstances in which such a fee (or part of a fee) may be refunded.

144 Term of licence

The period during which a licence is in force is the period specified by the Minister in the licence.

145 Disciplinary action against licensee

- (1) In this Part, *disciplinary action* means any one or more of the following actions in relation to a licence:
- (a) the cancellation or suspension of the licence,
 - (b) the imposition on the licensee of a monetary penalty (not exceeding \$250,000),
 - (c) the alteration of the conditions of the licence by the Minister,
 - (d) the service of a letter of reprimand by the Minister on the licensee.

- (2) If a licensee:
- (a) fails to comply with this Act or the regulations, or
 - (b) fails to comply with a condition of the licence, or
 - (c) being a natural person:
 - (i) becomes bankrupt, applies to take the benefit of any law for the relief of bankrupt or insolvent debtors, compounds with his or her creditors or makes an assignment of his or her remuneration for their benefit, or
 - (ii) becomes an incapacitated person and incapable of operating a linked system in accordance with this Part, or
 - (iii) is convicted of an offence involving fraud or dishonesty, or
 - (d) being a corporation:
 - (i) enters into or authorises a dealing with or in respect of shares of, or other instruments issued by, the corporation without the consent in writing of the Minister that, in the opinion of the Minister, affects the control of the corporation, or
 - (ii) becomes an externally administered corporation within the meaning of the *Corporations Law*, or
 - (iii) fails to terminate promptly the employment of a person concerned in the management of the licensee who is convicted of an offence involving fraud or dishonesty,

the Minister may serve on the licensee a notice in writing affording the licensee an opportunity to show cause within 14 days (or such longer period as the Minister may specify in the notice) why disciplinary action should not be taken against the licensee on the grounds specified in the notice.

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- (3) The licensee may, within the period allowed by the notice, arrange with the Minister for the making of submissions to the Minister as to why disciplinary action should not be taken and the Minister is to consider any submissions so made.
 - (4) The Minister may then decide that it is appropriate that certain disciplinary action be taken against the licensee and may either:
 - (a) take that disciplinary action by giving written notice of the action to the licensee, or
 - (b) as an alternative to taking that disciplinary action, take action under section 146.
 - (5) Disciplinary action may be taken against a person whether or not the person has been prosecuted, convicted or penalised for any contravention that is the grounds for the action.
 - (6) Disciplinary action takes effect when notice of it is given or on a later date specified in the notice.
 - (7) The fact that disciplinary action is taken by the Minister under this section does not prevent the Minister from taking the same or other disciplinary action under this section if the contravention continues or a fresh contravention occurs.
 - (8) A monetary penalty imposed under this section may be recovered as a debt due to the Crown in a court of competent jurisdiction.

146 Rectification order as alternative to disciplinary action

- (1) As an alternative to taking disciplinary action against a licensee, the Minister may direct the licensee in writing to take specified action within a specified time to rectify the matter that constitutes the basis for taking the disciplinary action concerned.

- (2) If a licensee fails to take the specified action within the specified time, the Minister may proceed to take the relevant disciplinary action by giving written notice of the action to the licensee, and the disciplinary action takes effect when the notice is given or on a later date specified in the notice.

147 Temporary suspension of licence

- (1) The Minister may take action under this section, without prior notice to a licensee, in order to secure compliance by a licensee with a direction given to the licensee in accordance with the regulations.
- (2) If the Minister considers it necessary or expedient for the purposes of this section, the Minister may, by notice, suspend a licensee's licence:
 - (a) until a date specified in the notice of suspension, or
 - (b) if the notice so specifies—until the Minister, being satisfied that the relevant direction has been complied with, further notifies the licensee.

148 Surrender of licence

- (1) A licensee may surrender the licence by giving notice in writing to the Minister. If the licence is held by more than one person, each licensee is to surrender the licence.
- (2) The surrender takes effect only if the Minister consents to the surrender.

149 Directions to licensees and key employees

- (1) The regulations may provide for the Minister to give directions to any licensee, participating club or key employee:
 - (a) regarding any matter that relates to the operation of a linked gaming system, and

- (b) regarding any agreement or arrangement that relates to a linked gaming system, and
 - (c) requiring the licensee, club or key employee to provide such information or particulars, and in such circumstances, as may be prescribed by the regulations.
- (2) The regulations may make provision for the enforcement of such directions.

[11] Schedule 2 Transitional provisions

Insert at the end of clause 1A (1):

*Liquor and Registered Clubs Legislation Further
Amendment Act 1996*

[Minister's second reading speech made in –
Legislative Assembly on 12 November 1996
Legislative Council on 19 November 1996]