



New South Wales

Liquor and Registered Clubs Legislation Amendment (Community Partnership) Act 1998 No 12

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New South Wales

Liquor and Registered Clubs Legislation Amendment (Community Partnership) Act 1998 No 12

Act No 12, 1998

An Act to amend the *Liquor Act 1982* and the *Registered Clubs Act 1976* with respect to the keeping of gaming machines in hotels and registered clubs, the duty chargeable on profits derived from such machines and other matters; and to provide for an inquiry into the social impact of gaming in the State. [Assented to 15 May 1998]

The Legislature of New South Wales enacts:**1 Name of Act**

This Act is the *Liquor and Registered Clubs Legislation Amendment (Community Partnership) Act 1998*.

2 Commencement

This Act commences on a day or days to be appointed by proclamation.

3 Amendment of Liquor Act 1982 No 147

The *Liquor Act 1982* is amended as set out in Schedules 1 and 2.

4 Amendment of Registered Clubs Act 1976 No 31

The *Registered Clubs Act 1976* is amended as set out in Schedule 3.

5 Inquiry into social impacts of gaming

This section commences on the date of assent to this Act (despite section 2), and Schedule 4 has effect on and from that date.

Schedule 1 Amendment of Liquor Act 1982

(Section 3)

[1] Section 86K Rate of duty

Insert after section 86K (4):

- (5) The rates of duty prescribed by this section are not to be varied before 1 February 2001.
- (6) The Minister and the Treasurer are to cause a review of the rates of duty on profits derived from approved gaming devices kept by hoteliers to be undertaken in conjunction with the hotel industry, the results of which are to be presented to them not later than on 31 January 2001.

[2] Section 86KB Adjustments

Omit “the Board may” from section 86KB (1).
Insert instead “the Board must”.

[3] Section 155B Transfer of Board’s functions under this Act relating to approved gaming devices

Insert after section 155B (4):

- (5) This section does not apply to the functions of the Board in so far as they relate to the specification of technical standards for approved gaming devices, linked gaming systems or equipment used in the connection of approved gaming devices to an authorised centralised monitoring system.

[4] Section 158 Declaration as approved amusement device

Insert “, nor any person who in good faith furnishes information to the Board for the purpose of the exercise by the Board of its functions under this section,” after “Board” where secondly occurring in section 158 (9).

[5] Section 161 Authority to keep approved gaming devices

Omit section 161 (9). Insert instead:

- (9) A fee is payable, in an amount and in a manner determined by the regulations, whenever a condition authorising the keeping of one or more approved amusement devices is imposed or varied by any person exercising the functions of the Board in accordance with section 155B.

[6] Section 163 Sharing of receipts from approved amusement devices

Insert after section 163 (3):

- (4) This section does not apply in respect of an approved gaming device supplied under the authority of an investment licence in force under Part 13 (whether supplied by the holder of the licence or by joint venturers mentioned in section 220).

[7] Section 165 Conditions relating to prizes

Omit section 165 (2) (a). Insert instead:

- (a) may take only such forms, and may be offered and awarded only on such terms, as are determined by or in accordance with the regulations, and

[8] Section 182A Poker machines

Insert "or to any provision of that Act that provides for the transitional application of, or any saving in relation to, any of the provisions of that Division" after "1976" in section 182A (2).

[9] Section 182C

Omit the section. Insert instead:

182C Limitation on number of poker machines in hotels

- (1) It is a condition of a hotelier's licence that not more than 15 poker machines may be kept, used and operated on the premises to which a hotelier's licence relates, unless the licensee holds a permit issued by the Minister for each poker machine in excess of that number that is kept, used and operated on those premises.
- (2) A permit referred to in subsection (1):
 - (a) may be acquired by a licensee in accordance with arrangements approved by the Treasurer from time to time, or
 - (b) in the case of a permit that has been issued in accordance with arrangements referred to in paragraph (a)—~~may be~~ acquired by a licensee, in accordance with arrangements approved by the Treasurer, from another licensee who is in possession of it.
- (3) Arrangements referred to in subsection (2) (a) may include provision for determining an amount that is payable by a licensee as consideration for the issue to the licensee of a permit under this section.
- (4) Nothing in this section affects the overall limit, imposed by section 161, of 30 approved gaming devices per hotelier's licence.

[10] Section 197 Cheating in relation to approved amusement device

Insert after section 197 (3):

- (3A) A person who, in connection with an approved amusement device in a hotel:
 - (a) by any fraudulent representation, or
 - (b) by a fraudulent scheme or practice, or

- (c) by the fraudulent use of an approved amusement device or any other thing,

obtains for himself or herself or another person, or induces a person to deliver, give or credit to him or her or another person, any money, benefit, advantage, valuable consideration or security, is guilty of an offence.

Maximum penalty: 100 penalty units or imprisonment for 2 years, or both.

- (3B) A person who, without lawful excuse, uses or has in his or her possession in a hotel any equipment, device or thing that permits or facilitates cheating or stealing in connection with an approved amusement device is guilty of an offence.

Maximum penalty: 50 penalty units or imprisonment for 12 months, or both.

[11] Schedule 1 Savings and transitional provisions

Insert at the end of clause 1 (1):

*Liquor and Registered Clubs Legislation Amendment
(Community Partnership) Act 1998*

Schedule 2 Amendment of Liquor Act 1982 in relation to investment licences

(Section 3)

[1] Section 156 Regulations

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

- (x) licences under Part 13, and any aspect of the operation of such a licence.

[2] Part 13

Insert after Part 12:

Part 13 Investment licences

217 Definitions

In this Part:

authorised person means a special inspector, a police officer or a person prescribed by the regulations as an authorised person for the purposes of this Part.

disciplinary action means any one or more of the following actions taken under section 228 in relation to an investment 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.

exclusive licence means the licence to which TAB is entitled under this Part.

exclusivity period means the period that begins on the commencement of this Part and ends 15 years after a date declared by the Minister by order published in the Gazette to be the operative date for the purposes of this Part. The date declared by the Minister as the operative date must not be earlier than the commencement of this Part.

investment licence means a licence in force under this Part.

licensee means the holder of an investment licence.

218 Licences may be granted authorising sale and supply of gaming devices and investment in profits from them

- (1) A licence, to be known as an investment licence, may be granted under this Part, authorising the licensee to acquire approved gaming devices and, on such terms as may be agreed between the licensee and the hotelier concerned, to do any one or more of the following:
 - (a) to supply approved gaming devices to hoteliers,
 - (b) to finance the acquisition by hoteliers of one or more approved gaming devices,
 - (c) to share in the profits derived from the operation of a machine supplied by, or whose acquisition is financed by, the licensee,and to carry on such ancillary activities as may be specified in the licence.
- (2) To the extent permitted by the licence, the licensee may under a contract or other arrangement engage a person to act as its agent or to perform any service in connection with an activity authorised by the licence.
- (3) Nothing in this or any other Act operates to prevent:
 - (a) the possession by a licensee of approved gaming devices, the sale or supply of such devices by the licensee to hoteliers or the financing by the licensee of the hotelier's acquisition of such devices, or

- (b) the sharing between a hotelier and the licensee of profits derived from such devices, or
- (c) the carrying on of
 - (i) any activity authorised by the licence, or
 - (ii) any activity prescribed by the regulations to be ancillary to an activity authorised by the licence.
- (4) The regulations may provide for the conditional or unconditional exemption of hoteliers from any specified provisions of this Act or the regulations that would otherwise prevent the carrying on by the licensee of an activity referred to in subsection (3).
- (5) Subsection (3) does not affect:
 - (a) the overall limit, imposed by section 161, on the number of poker machines that may be kept, used and operated by a hotelier, or
 - (b) the operation of any regulation made for the purposes of this Part prescribing any matter or thing as a condition of an investment licence.

219 Exclusive investment licence

- (1) TAB or a wholly owned subsidiary of TAB is entitled to be granted an investment licence authorising the carrying on, during the exclusivity period, of the activities authorised by the licence.
- (2) No other person may be granted an investment licence during the exclusivity period.
- (3) The Minister may, in the Minister's absolute discretion, grant the exclusive licence for a term that is longer than the exclusivity period.
- (4) This section ceases to apply if the exclusive licence is cancelled or otherwise ceases to have effect under this Act.

- (5) No application under this Part is required for the purposes of the grant pursuant to this section of the exclusive licence (whether it is granted for the exclusivity period or for a longer period).
- (6) Nothing in this Part prevents the grant, on application duly made, of a further investment licence to TAB.

220 Joint venture

Subject to the regulations and to the conditions of its exclusive licence, TAB may enter into a joint venture with the Australian Hotels Association (NSW), or any company wholly owned by the Association, in relation to the business of carrying on some or all of the activities authorised by TAB's exclusive licence.

221 Trade Practices exemption

The grant of the exclusive licence is specifically authorised by this Act for the purposes of the *Trade Practices Act 1974* of the Commonwealth and the *Competition Code of New South Wales*.

222 Application for investment licence

- (1) An application for an investment licence is to be made to the Minister.
- (2) An application must be made in such form, and accompanied by such information and documents, as the Minister requires and must be accompanied by the fee prescribed by the regulations.
- (3) An application for a licence cannot be made by:
 - (a) a natural person who is under 18 years of age, or a person who 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.

223 Grant of investment licence

- (1) The Minister may, after considering an application for an investment licence:
 - (a) grant an investment licence to the person making the application, or
 - (b) refuse to grant the licence.
- (2) An investment licence is subject to such conditions as are imposed by or under this Act or as are determined by the Minister and specified in the licence.

224 Term of investment licence

An investment licence remains in force for the period for which it is granted, as specified in the licence, unless sooner cancelled or surrendered.

225 No proprietary right in investment licence

An investment licence confers no right of property and is incapable of being assigned or mortgaged, charged, leased or otherwise encumbered. This section does not prevent a licensee from conducting activities authorised by the licence in the course of a joint venture or other arrangement to which the licensee is a party.

226 Conditions of investment licence

The conditions that may be imposed by the Minister on an investment licence include (but are not limited to) conditions relating to the following:

- (a) the appointment of, and the making of probity checks in respect of, contractors, joint venturers and other persons,

- (b) the furnishing of information, whether in the form of statements, returns or otherwise, by the licensee to the Minister relating to the carrying on of any activity authorised by the licence,
- (c) the time or times at which, and the form in which, the information must be furnished to the Minister,
- (d) the auditing of the financial records of the licensee relating to the carrying on of activities authorised by the licence.

227 Amendment of conditions of investment licence

- (1) The Minister may amend the conditions of an investment licence in accordance with this section.
- (2) The conditions may be amended by being substituted, varied, revoked or added to.
- (3) An amendment may be proposed:
 - (a) by the licensee by requesting the Minister in writing to make the amendment, or
 - (b) by the Minister by giving notice in writing of the proposed amendment to the licensee and giving the licensee at least 14 days to make submissions to the Minister concerning the proposed amendment.
- (4) The Minister is to consider any submissions made by the licensee and is then to decide whether to make the proposed amendment, either with or without changes from that originally proposed.
- (5) The Minister is to notify the licensee of the Minister's decision. Any amendment that the Minister decides upon takes effect when notice of the decision is given to the licensee or on such later date as may be specified in the notice.

228 Disciplinary action against licensee

- (1) If a licensee:
 - (a) fails to comply with any provision of this Act or the regulations, or

- (b) fails to comply with a condition of the licensee's investment 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 carrying on activities authorised by the licence in accordance with this Act, 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.

- (2) 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.
- (3) 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, or
 - (b) as an alternative to taking that disciplinary action, take action under section 229.
- (4) To the extent that this section authorises disciplinary action to be taken in relation to an offence committed by the licensee or another person, such action may be taken against the licensee whether or not the licensee or person has been prosecuted, convicted or penalised for the offence.
- (5) Disciplinary action takes effect when notice of it is given in writing or on a later date specified in the notice.
- (6) 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.
- (7) A monetary penalty imposed under this section may be recovered as a debt due to the Crown in a court of competent jurisdiction.

229 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 disciplinary action.

- (2) If a licensee fails to take the specified action within the specified time, the Minister may proceed to take disciplinary action in accordance with section 228.

230 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 an investment 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.

231 Surrender of licence

- (1) The licensee may surrender an investment 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.

232 Directions to relevant persons

- (1) The regulations may provide for the Minister to give directions to any hotelier or other person who is party to any business arrangement with, or otherwise concerned in the activities carried on under the investment licence held by, a licensee:
 - (a) regarding any matter that relates to an activity carried on under the authority of the licence, and

- (b) regarding any agreement or arrangement that relates to any such activity, and
 - (c) requiring the hotelier or other person 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.

233 Right of authorised persons to enter premises

- (1) An authorised person may, for the purposes of exercising functions under this Part or the regulations made under this Part, at any reasonable time, enter:
- (a) any part of the premises of a licensee or of any person engaged in a joint venture with the licensee in connection with the licence, or
 - (b) any hotel premises.
- (2) An authorised person is not entitled to exercise the powers conferred by this section in relation to any part of any premises used for residential purposes, except:
- (a) with the consent of the occupier of the premises, or
 - (b) under the authority conferred by a search warrant issued under section 234.
- (3) An authorised person who enters premises under this section is not authorised to remain on the premises if, at the request of the licensee or other occupier of the premises, the authorised person does not show his or her means of identification as an authorised person to the licensee or other occupier.

234 Search warrant

- (1) An authorised person may apply to an authorised justice for the issue of a search warrant if the authorised person believes on reasonable grounds that a provision of this

Act, or the regulations made under this Act, relating to the sale or supply of approved gaming devices or any other activity authorised under an investment licence is being or has been contravened on any premises.

- (2) An authorised justice to whom any such application is made may, if satisfied that there are reasonable grounds for doing so, issue a search warrant authorising an authorised person named in the warrant:
 - (a) to enter the premises, and
 - (b) to exercise any function of an authorised person under this Part.
- (3) Part 3 of the *Search Warrants Act 1985* applies to a search warrant issued under this section.

235 Powers of authorised persons

- (1) An authorised person may do any one or more of the following:
 - (a) require any person whom the authorised person reasonably suspects of being in possession or control of any documents that relate to, or that the authorised person reasonably suspects relate to, the sale or supply of approved gaming devices or the carrying on of any activity authorised by an investment licence to produce the documents for inspection and to answer questions or provide information relating to the documents,
 - (b) make copies of, take extracts from and notes relating to, any documents,
 - (c) require a licensee, hotelier or other person whom the authorised person reasonably suspects of having possession or control of any device or equipment that is, or that appears to the authorised person to be, used in pursuance of arrangements entered into under the authority of an investment licence to produce the device or equipment for inspection and to answer questions or provide information relating to the device or equipment,

- (d) inspect and test any device or equipment in the possession or control of a licensee, hotelier or other person that is, or that appears to the authorised person to be, used in pursuance of an arrangement entered into under the authority of an investment licence,
- (e) for the purpose of any such inspection or testing:
 - (i) require the licensee, hotelier or other person to provide the authorised person with any assistance that the authorised person reasonably requires, or
 - (ii) if practicable, remove the device or equipment to another place, for any time that is reasonably necessary for that purpose,
- (f) if the authorised person considers it to be necessary to do so for the purpose of obtaining evidence of the commission of an offence—seize any document or any device or equipment inspected or tested under this subsection,
- (g) by notice in writing require any licensee, hotelier or other person concerned, in whatever capacity, in the operation of any gaming device sold or supplied by an investment licensee to attend before an authorised person at a specified time and place and answer questions, or provide information, with respect to the operation of the device,
- (h) call to his or her aid:
 - (i) another authorised person if he or she is obstructed, or believes on reasonable grounds that he or she will be obstructed, in the exercise of his or her functions, or
 - (ii) a person considered by the authorised person to be competent for the purpose,

- (i) exercise any other functions prescribed by the regulations as functions of an authorised person for the purposes of this Part.
- (2) If an authorised person seizes any document, device or equipment under this section, it may be retained by the authorised person until the completion of any proceedings (including proceedings on appeal) in which it may be tendered in evidence but only if, in the case of documents, the person from whom the documents were seized is provided, within a reasonable time after the seizure, with a copy of the documents certified by an authorised person as a true copy.
- (3) Subsection (2) ceases to have effect in relation to anything seized if, on the application of a person aggrieved by the seizure, the court in which proceedings referred to in that subsection are instituted so orders.
- (4) A copy of documents provided under subsection (2) is, as evidence, of equal validity to the documents of which it is certified to be a true copy.
- (5) A natural person is not required by this section to answer a question that might incriminate the person.
- (6) A person has, while acting in aid of an authorised person under this section, the functions of an authorised person.

236 Offences relating to authorised persons

- (1) A person who:
 - (a) prevents an authorised person from exercising any function conferred on the authorised person by or under this Part, or
 - (b) hinders or obstructs an authorised person in the exercise of any such function, or
 - (c) fails to comply with a requirement of an authorised person under this Part, or

(d) furnishes to an authorised person (whether in answer to a question asked by an authorised person or otherwise) information that the person knows is false or misleading in a material particular,

is guilty of an offence.

Maximum penalty: 50 penalty units.

- (2) It is a defence to a prosecution for an offence under subsection (1) (c) for the failure of the defendant to answer a question asked by an authorised person for the purposes of this Part if the defendant proves that the defendant did not know, and could not with reasonable diligence have ascertained, the answer to the question.
- (3) If an answer to a question asked by an authorised person for the purposes of this Part, or any information, is given to an authorised person by an officer of a corporation (within the meaning of the *Corporations Law*) that is concerned in the activities of a licensee, the answer and information are, for the purposes of any proceedings against the corporation under this Act, binding on and admissible in evidence against the corporation unless it is proved that the answer or information was given on a matter in respect of which the officer had no authority to bind the corporation.

Schedule 3 Amendment of Registered Clubs Act 1976

(Section 4)

[1] Section 4AA

Insert after section 4A:

4AA Notes in the text

Notes included in this Act are explanatory notes and do not form part of this Act.

[2] Section 51A

Insert after section 51:

51A Minors passing through poker machine areas

- (1) It is a sufficient defence to a prosecution for an offence arising under section 50A or 51 (1) (e) if it is proved that the minor concerned:
 - (a) was in the poker machine area only for so long as was reasonably necessary to pass through it in order conveniently to gain access to another area of the club that the minor may enter without contravening this Act, and
 - (b) was at all times while in the poker machine area in the company and immediate presence of a responsible adult.
- (2) The defence provided by this section is in addition to any other available defences.
- (3) For the purposes of this section, a responsible adult is a person of or above the age of 18 years who, in relation to the minor, belongs to one or more of the following classes of persons:
 - (a) a parent, step-parent or guardian of the minor,

- (b) the minor's spouse or any person who, although not legally married to the minor, ordinarily lives with the minor as the minor's spouse on a permanent and domestic basis,
- (c) a person who is for the time being in loco parentis to the minor.

[3] Section 73 Regulations

Insert “, and recommended minimum levels of emoluments payable to such members” after “club” in section 73 (1) (n).

[4] Section 77B Declaration of approved poker machine or of cessation as established poker machine

Insert “, nor any person who in good faith furnishes information to the Board for the purpose of the exercise by the Board of its powers and functions under this section,” after “Board” where secondly occurring in section 77B (10).

[5] Section 78A Authority to keep poker machine

Insert after section 78A (3):

- (4) A fee is payable, in an amount and in a manner determined by the regulations, whenever an authority to acquire and keep a poker machine is imposed or varied by any person exercising the functions of the Board in accordance with section 133A.

[6] Section 80 Sharing of receipts from poker machine

Insert “(or joint venturers mentioned in section 142A)” after “licensee” in section 80 (2).

[7] Section 83 Cheating in relation to poker machine

Insert after section 83 (3):

(3A) A person who, in connection with a poker machine in a registered club:

- (a) by any fraudulent representation, or
- (b) by a fraudulent scheme or practice, or
- (c) by the fraudulent use of a poker machine or any other thing,

obtains for himself or herself or another person, or induces a person to deliver, give or credit to him or her or another person, any money, benefit, advantage, valuable consideration or security, is guilty of an offence.

Maximum penalty: 100 penalty units or imprisonment for 2 years, or both.

(3B) A person who, without lawful excuse, uses or has in his or her possession in a registered club any equipment, device or thing that permits or facilitates cheating or stealing in connection with a poker machine is guilty of an offence.

Maximum penalty: 50 penalty units or imprisonment for 12 months, or both.

[8] Section 85 Duty on approved gaming devices

Insert after section 85 (1):

(1A) In respect of a club whose defined premises include two or more areas that, in accordance with the regulations, are determined by the Board or otherwise taken to be separate and distinct premises, the provisions of this Division imposing the duty apply as though each of those premises were a separate club, and a reference in those provisions to an approved gaming device kept on the premises of the club is to be construed accordingly.

[9] Sections 87–87B

Omit the sections. Insert instead:

87 Rate of duty for gaming machines

- (1) If the profits from all approved gaming devices kept on the premises of a registered club in a duty period do not exceed \$100,000, no duty is payable on the profits.
- (2) If the profits from all approved gaming devices kept on the premises of 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%.
- (3) If the profits from all approved gaming devices kept on the premises of a registered club in a duty period exceed \$200,000 but do not exceed \$1,000,000, 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 \$1,000,000—at the rate of 20%.
- (4) If the profits from all approved gaming devices kept on the premises of a registered club in a duty period exceed \$1,000,000, duty is payable:
 - (a) in the sum of \$161,000, and
 - (b) on so much of the profits as exceeds \$1,000,000—at the rate of 26.25%, except as provided by subsection(5).
- (5) If the Board is satisfied, on such evidence as it may require, that a proportion of so much of the profits derived from approved gaming devices kept on the premises of a registered club during a duty period as exceeds \$1,000,000 has been applied to community development and support (as defined by guidelines published under subsection (6)), the amount of duty payable by virtue of subsection (4) (b) is by this subsection reduced by an amount equal to the amount so applied, except as provided by subsection (7).

- (6) The Minister may from time to time, after consultation with the Registered Clubs Association of New South Wales, publish guidelines that determine what constitutes the application of profits to community development and support for the purposes of subsection (5).
- (7) Guidelines under subsection (6) must provide for the following:
 - (a) of the funds claimed by a registered club to have been applied to community development and support during a duty period mentioned in subparagraphs (i)–(iii) below, amounts not less than the amounts prescribed by each such paragraph must have been applied to specific community welfare, community development, social services and employment assistance activities:
 - (i) for the duty period ending on 30 November 1998—an amount equal to 0.42% of so much of the profits derived from approved gaming devices kept by the club during that period as exceeds \$1,000,000,
 - (ii) for the duty period ending on 30 November 1999—an amount equal to 0.6% of so much of the profits derived from approved gaming devices kept by the club during that period as exceeds \$1,000,000,
 - (iii) for the duty period ending on 30 November 2000—an amount equal to 0.75% of so much of the profits derived from approved gaming devices kept by the club during that period as exceeds \$1,000,000,
 - (b) funds claimed by a registered club to have been applied to community development and support, being capital expenditure directed to the enhancement of club facilities:
 - (i) can only be sourced from the balance of funds available after expenditure requirements on community welfare, community development, social services

- and employment assistance activities in accordance with paragraph (a) have been met, and
- (ii) cannot include funds applied to enhancement of gaming facilities at the club,
- (c) a listing of community social expenditure priorities in each region of the State is to be developed in consultation with State government agencies such as the Department of Community Services and the Council of Social Service of New South Wales and made available to registered clubs (either directly or by furnishing it to the Registered Clubs Association of New South Wales) for the purposes of determining their priorities with respect to community development and support expenditure,
 - (d) the Registered Clubs Association of New South Wales is to be required to advertise, at times to be prescribed by the guidelines, in a newspaper circulating throughout the State and in newspapers circulating in regions of the State, that registered clubs are seeking applications for community development and support projects,
 - (e) a registered club claiming a reduction under subsection (5) must:
 - (i) take such steps as the guidelines may prescribe to ascertain, from the recipients of any money applied by the club to community development and support projects, the manner in which the money was applied, and
 - (ii) verify, by statutory declaration of some appropriate person or in such other manner as the guidelines may prescribe, all information supporting its claim and the measures taken by it in compliance with subparagraph (i).

- (8) Provisions of the guidelines that define the terms *community welfare*, *community development*, *social services* and *employment assistance* for the purposes of subsection (7) (a) are to be settled in consultation with the Registered Clubs Association of New South Wales and the Council of Social Service of New South Wales.
- (9) Part 6 of the *Interpretation Act 1987* (sections 39,42 and 43 excepted) applies to guidelines under subsection (6). The guidelines are to be reviewed, in consultation with the Registered Clubs Association of New South Wales and with the Council of Social Service of New South Wales, and remade and republished for the purposes of their application in respect of the duty period commencing on 1 December 1999 and subsequent duty periods.
- (10) The amount by which duty payable under subsection (4) (b) is reduced by subsection (5) cannot exceed an amount equal to 1.5% of all the profits to which subsection (4) (b) applies.
- (11) The rates of duty prescribed by this section are not to be varied before 1 February 2001, except as provided by section 87AA.
- (12) The Minister and the Treasurer are to cause a review of the rates of duty on profits derived from approved gaming devices to be undertaken in conjunction with the club industry, the results of which are to be presented to them not later than on 31 January 2001, except as provided by section 87AA.

Note. For the rates of duty applicable to profits derived from approved gaming devices in the duty period commencing on 1 December 1997, see Part 13 of Schedule 2.

87AA Problem gambling policy

- (1) The Registered Clubs Association of New South Wales is to develop and publish, by 31 May 1998, an appropriately funded policy that is capable of enforcement for minimising harm caused to the public interest and to individuals and families by gambling in registered clubs.

- (2) If the Association does not meet its obligations under this section by the due date, the dates mentioned in section 87 (8) and (9) are to be shortened by 2 months for every calendar month after the due date during which the Association fails to meet those obligations.

87A 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 December, 1 March, 1 June and 1 September.
- (2) Quarterly instalments of duty are payable by each registered club in respect of each instalment period.
- (3) If the profits from all approved gaming devices kept on the premises of 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 on the premises of a registered club in an instalment period exceed \$25,000 but do not exceed \$50,000, the instalment payable is an amount equal to % of the amount by which the profits exceed \$25,000 but do not exceed \$50,000.
- (5) If the profits from all approved gaming devices kept on the premises of a registered club in an instalment period exceed \$50,000 but do not exceed \$250,000, the instalment payable is:
- (a) the sum of \$250, and
 - (b) an amount equal to 20% of the amount by which the profits exceed \$50,000 but do not exceed \$250,000.
- (6) If the profits from all approved gaming devices kept on the premises of a registered club in an instalment period exceed \$250,000, the instalment payable is:
- (a) the sum of \$40,250, and
 - (b) an amount equal to 24.75% of the amount by which the profits exceed \$250,000.

- (7) Despite the foregoing provisions of this section, the remainder of any duty that, having regard to the provisions of section 87 (4)–(7), remains payable in respect of the whole of a duty period is payable at the time of payment of the last instalment for the period.
- (8) Subsection (7) does not affect the operation of section 87D.
- (9) An instalment is payable within 21 days after the end of the relevant instalment period.

Note. For the instalment payable in respect of the instalment period commencing on 1 December 1997, see Part 13 of Schedule 2.

87B Adjustments

- (1) Following the end of a duty period and after payment by a club of the instalment payable in respect of the instalment period ending on 30 November, the Board must, on application by the club, 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 credited to the club in the accounts of the Board.

[10] Section 87F Duty refund for welfare expenditure

Omit the section.

[11] Section 87G Special provision for amalgamation of clubs

Omit the section.

[12] Section 88AA Approved amusement devices

Insert "or to any provision of that Act that provides for the transitional application of, or any saving in relation to, any of the provisions of that Division" after "1982" in section 88AA (2).

[13] Section 88AC Limitation on number of approved amusement devices in clubs

Omit the section.

[14] Section 133A Transfer of Board's functions under this Act relating to approved gaming devices

Insert after section 133A (4):

- (5) This section does not apply to the functions of the Board in so far as they relate to the specification of technical standards for approved gaming devices, linked gaming systems or equipment used in the connection of approved gaming devices to an authorised centralised monitoring system.

[15] Section 134 Definitions and operation of Part

Insert after section 134 (2):

- (3) Without limiting subsection (2), a provision of this Act that would, but for this section, prevent:
- (a) the supply, under the authority of a licence, of any machine or equipment necessary or ancillary to the operation of a linked gaming system, or
 - (b) financing of the acquisition, by a registered club, of any such machine or equipment, or
 - (c) the possession by a licensee of any such machine or equipment, or
 - (d) any other activity authorised by a licence or prescribed by the regulations to be ancillary to an activity so authorised,
- does not operate to prevent it.
- (4) The regulations may make provision for the conditional or unconditional exemption of registered clubs from any specified provisions of this Act or the regulations that would otherwise prevent the carrying on by a licensee of an activity referred to in subsection (3).

[16] Section 142A

Insert after, section 142:

142A Joint venture

Subject to the regulations and to the conditions of its exclusive licence, TAB may enter into a joint venture with the Registered Clubs Association of New South Wales (or a company wholly owned by the Association) in relation to the business of carrying on some or all of the activities authorised by TAB's exclusive licence.

[17] Schedule 2 Transitional provisions

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

*Liquor and Registered Clubs Legislation Amendment
(Community Partnership) Act 1998*

[18] Schedule 2, Part 13

Insert after Part 12:

**Part 13 Liquor and Registered Clubs Legislation
Amendment (Community Partnership) Act
1998**

76 Definitions

In this Part:

amending Act means the *Liquor and Registered Clubs Legislation Amendment (Community Partnership) Act 1998*.

relevant instalment period means the period commencing on 1 December 1997 and ending on 28 February 1998.

transitional year means the duty period commencing on 1 December 1997.

77 Duty on profits derived from approved gaming devices (other than multi-terminal gaming machines) during the relevant instalment period

- (1) This clause applies to determine the duty payable on profits derived from approved gaming devices (other than multi-terminal gaming machines) kept on the premises of a registered club during the relevant instalment period, and so applies to the exclusion of section 87, whether as in force before its repeal by the amending Act or as inserted by that Act.
- (2) If the profits from all approved gaming devices (other than multi-terminal gaming machines) kept on the premises of a registered club during the relevant instalment period do not exceed \$25,000, no duty is payable on the profits.
- (3) If the profits from all approved gaming devices (other than multi-terminal gaming machines) kept on the premises of a registered club during the relevant instalment period exceed \$25,000 but do not exceed \$50,000, duty is payable on so much of the profits as exceeds \$25,000 but does not exceed \$50,000 at the rate of 1 %.
- (4) If the profits from all approved gaming devices (other than multi-terminal gaming machines) kept on the premises of a registered club during the relevant instalment period exceed \$50,000 but do not exceed \$250,000, the duty payable on those profits is:
 - (a) the sum of \$250, and
 - (b) an amount equal to 21.72% of the amount by which the profits exceed \$50,000 but do not exceed \$250,000.
- (5) If the profits from all approved gaming devices (other than multi-terminal gaming machines) kept on the premises of a registered club during the relevant instalment period exceed \$250,000 but do not exceed \$625,000, the duty payable on those profits is:
 - (a) the sum of \$43,690, and
 - (b) an amount equal to 23.20% of the amount by which the profits so derived exceed \$250,000 but do not exceed \$625,000.

- (6) If the profits from all approved gaming devices (other than multi-terminal gaming machines) kept on the premises of a registered club during the relevant instalment period exceed \$625,000, the duty payable on those profits is:
 - (a) the sum of \$130,690, and
 - (b) an amount equal to 24.75% of the amount by which the profits so derived exceed \$625,000.
- (7) This clause has effect subject to clause 80.

78 Duty on profits derived from multi-terminal gaming machines during the relevant instalment period

- (1) This clause applies to determine the duty payable on profits derived from multi-terminal gaming machines kept on the premises of a registered club during the relevant instalment period, and so applies to the exclusion of section 87AA, as in force immediately before its repeal by the amending Act.
- (2) If the profits from all approved gaming devices kept on the premises of a registered club during the relevant instalment period do not exceed \$25,000, duty is payable on so much of those profits as was derived from the operation of multi-terminal gaming machines at the rate of 20.67%.
- (3) If the profits from all approved gaming devices kept on the premises of a registered club during the relevant instalment period exceed \$25,000 but do not exceed \$50,000, duty is payable on so much of those profits as was derived from the operation of multi-terminal gaming machines at the rate of 20.98%.
- (4) If the profits from all approved gaming devices kept on the premises of a registered club during the relevant instalment period exceed \$50,000 but do not exceed \$250,000, duty is payable on so much of those profits as was derived from the operation of multi-terminal gaming machines at the rate of 26.89%.

- (5) If the profits from all approved gaming devices kept on the premises of a registered club during the relevant instalment period exceed \$250,000, duty is payable on so much of those profits as was derived from the operation of multi-terminal gaming machines at the rate of 28.37%.
- (6) This clause has effect subject to clause 80.

79 Duty on profits derived from approved gaming devices during the last three quarters of the duty period commencing on 1 December 1997

- (1) This clause applies to determine the duty payable on profits derived from approved gaming devices kept on the premises of a registered club during the remainder of the transitional year after 28 February 1998, and so applies to the exclusion of section 87.
- (2) If the profits from all approved gaming devices kept on the premises of a registered club during the remainder of the transitional year after 28 February 1998 do not exceed \$75,000, no duty is payable on the profits.
- (3) If the profits from all approved gaming devices kept on the premises of a registered club during the remainder of the transitional year after 28 February 1998 exceed \$75,000 but do not exceed \$150,000, duty is payable on so much of the profits as exceeds \$75,000 at the rate of 1%.
- (4) If the profits from all approved gaming devices kept on the premises of a registered club during the remainder of the transitional year after 28 February 1998 exceed \$150,000 but do not exceed \$750,000, duty is payable:
 - (a) in the sum of \$750, and
 - (b) on so much of the profits as exceeds \$150,000 but does not exceed \$750,000—at the rate of 20%.

- (5) If the profits from all approved gaming devices kept on the premises of a registered club during the remainder of the transitional year after 28 February 1998 exceed \$750,000, duty is payable:
 - (a) in the sum of \$750, and
 - (b) on so much of the profits as exceeds \$750,000—at the rate of 26.25%.
- (6) This clause has effect subject to clause 80.

80 Expenditure on community support

- (1) This clause applies to provide for a reduction in the amount of duty payable on profits derived from approved gaming devices kept on the premises of a registered club during the transitional year, and so applies to the exclusion of section 87F, as in force immediately before its repeal by the amending Act, and section 87 (5)–(7), as inserted by that Act.
- (2) Regulations made in accordance with clause 1A may make provision for or with respect to the application (with or without modification) of the provisions of section 87F, as in force immediately before its repeal by the amending Act, in respect of duty payable on profits derived by a registered club in the months of December 1997 and January 1998.
- (3) If the Board is satisfied, on such evidence as it may require, that a proportion of so much of the profits derived from approved gaming devices kept by a club during the transitional year (apart from the months of December 1997 and January 1998) as exceed \$1,000,000 has been applied during that period to community development and support (as defined in guidelines published under section 87), the duty that would otherwise be payable under clauses 77–79 in respect of so much of those profits as exceed \$1,000,000 is by this clause reduced by an amount equal to the amount so applied, except as provided by subclause (4).

- (4) amount by which duty is reduced by subclause (3) cannot exceed an amount equal to 1.25% of so much of the club's dutiable profits, derived as referred to in that subclause, as exceed \$1,000,000.

81 Special adjustment

An amount paid by a registered club in accordance with clause 74, to the extent that it exceeds the duty payable (as calculated in accordance with this Part of this Schedule) for the relevant instalment period, is to be credited to the club concerned in the accounts of the Board.

82 Manner of making adjustments generally

Section 87B, as inserted by the amending Act, is taken to have applied in respect of the relevant instalment period as well as to any subsequent period, and no failure to comply with the provisions of section 87B, as in force immediately before its repeal by that Act, in relation to that instalment period renders the Board, any member of the Board or any other person liable to any action, claim, suit or demand.

Schedule 4 Inquiry into social impacts of gaming

(Section 5)

The Government is to initiate an independent inquiry into the social impacts of gaming in New South Wales. The inquiry is to report to Parliament by 26 November 1998, and is to investigate:

- (a) the need for and form of a gaming commission or similar authority to oversight gaming in New South Wales, and
- (b) the relationship that should exist between the Casino Control Authority and any such gaming commission, and
- (c) measures to foster a responsible gaming environment, and
- (d) the co-ordination of the problem gaming policies of hotels, registered clubs and the casino, and
- (e) the co-ordination of problem gaming support services and research centres to address problem gaming,

and generally comment on the social impact of gaming in the State.

For the purposes of fixing the terms of reference of the inquiry, the Minister is to utilise existing studies, including any inquiry into gaming undertaken on behalf of the Commonwealth, and draw upon comments made on behalf of the State for the purposes of any such inquiry, and take into account suggestions from all interested organisations.

[Minister's second reading speech made in—
Legislative Assembly on 29 April 1998
Legislative Council on 6 May 1998]