



New South Wales

Gaming Machines Amendment Act 2002 No 18

Contents

	Page
1 Name of Act	2
2 Commencement	2
3 Amendment of Gaming Machines Act 2001 No 127	2
4 Amendment of other Acts	2
Schedules	
1 Amendment of Gaming Machines Act 2001	3
2 Amendment of other Acts	13



New South Wales

Gaming Machines Amendment Act 2002 No 18

Act No 18, 2002

An Act to amend the *Gaming Machines Act 2001* to make further provision with respect to the regulation, control and management of gaming machines in hotels and registered clubs; to make miscellaneous amendments to certain other Acts; and for other purposes. [Assented to 16 May 2002]

The Legislature of New South Wales enacts:

1 Name of Act

This Act is the *Gaming Machines Amendment Act 2002*.

2 Commencement

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

3 Amendment of Gaming Machines Act 2001 No 127

The *Gaming Machines Act 2001* is amended as set out in Schedule 1.

4 Amendment of other Acts

Each Act specified in Schedule 2 is amended as set out in that Schedule.

Schedule 1 Amendment of Gaming Machines Act 2001

(Section 3)

[1] Section 4 Definitions

Insert “, and includes any specially approved gaming machine within the meaning of section 141” after “device” in the definition of *approved gaming machine* in section 4 (1).

[2] Section 4 (1), definition of “gaming machine area”

Omit “and which is not physically separated from any other part of the club”.

[3] Section 13 Large-scale clubs required to reduce number of gaming machines

Insert after section 13 (2):

- (3) The requirement under subsection (1) extends to the corresponding number of poker machine entitlements allocated in respect of the large-scale club’s relevant premises.
- (4) Accordingly, a large-scale club must, before the end of each year of the 5-year period referred to in subsection (1), transfer the number of poker machine entitlements (*the relevant entitlements*) that corresponds to the number of approved gaming machines required to be disposed of in respect of that year as determined by the regulations. The transfer of any such relevant entitlements must be in accordance with Division 2 of Part 3.
- (5) If, at the end of the period of 3 months immediately following the end of each such year, any of the relevant entitlements have not been transferred, the remaining relevant entitlements are automatically forfeited to the Board.

[4] Section 15 Initial allocation of poker machine entitlements

Omit “gaming” from section 15 (4). Insert instead “poker”.

[5] Section 19 Transfer of poker machine entitlements

Insert after section 19 (5):

- (6) However, a person is not, for the purposes of subsection (3) (c), to be considered as having a financial interest in a hotelier's licence by reason only of the person being the owner of the hotel.

[6] Section 20 General requirements relating to transfer of poker machine entitlements

Omit section 20 (3) (a). Insert instead:

- (a) a transfer must comprise one or more blocks of 2 or 3 poker machine entitlements nominated by the transferor (referred to in this Division as a *transfer block*),

[7] Section 20 (3) (b)

Omit "block of 3 poker machine entitlements".

Insert instead "transfer block".

[8] Section 20 (4)

Omit "block of 3 poker machine entitlements may comprise".

Insert instead "transfer block may comprise poker machine".

[9] Section 21 Other provisions relating to transferring of poker machine entitlements

Omit "for every 2 that are transferred" wherever occurring from section 21 (2) and (5).

Insert instead "per transfer block".

[10] Section 21 (3)

Omit the subsection.

[11] Section 22 Hoteliers may exchange approved amusement devices for poker machine entitlements

Insert "(either alone or in combination with any other hotelier in such an area)" after "the hotelier" in section 22 (1) (a).

[12] Section 22 (1) (b)

Insert “(either alone or in combination with any other hotelier whose hotel is a country hotel)” after “the hotelier”.

[13] Section 23 Transfer of poker machine entitlements when hotelier’s licence cancelled or surrendered

Omit section 23 (1). Insert instead:

- (1) If a hotelier’s licence or a hotelier’s authorisation under Part 5 to keep approved poker machines is surrendered or cancelled, any poker machine entitlements allocated in respect of the licence concerned may, in accordance with this Division, be transferred.

[14] Section 24 Transfer of poker machine entitlements when club registration cancelled or surrendered

Omit “may be transferred in any number so long as one entitlement for every 2 is forfeited to the Board” from section 24 (1).

Insert instead “may, in accordance with this Division, be transferred”.

[15] Section 25

Omit the section. Insert instead:

25 Transfer of poker machine entitlements if hotelier’s licence is removed to other premises

If:

- (a) a hotelier’s licence is removed under the *Liquor Act 1982* to other premises that are situated more than 1 kilometre from the previous premises, and
- (b) the hotelier applies for authorisation under Part 5 to keep, at those other premises, any number of the approved poker machines for which poker machine

entitlements have been allocated in respect of the hotelier's licence,

the removed licence is, for the purposes of this Division, taken to be another hotelier's licence to which the poker machine entitlements may, in accordance with this Division, be transferred.

Note. The effect of the above provision is to facilitate the transfer of poker machine entitlements to new premises so long as one entitlement per transfer block is forfeited. See also section 58 (2) which provides that the removal of a hotelier's licence has the effect of cancelling the hotelier's authorisation to keep gaming machines (with the result that the hotelier is required to apply for authorisation to keep gaming machines in the new premises).

[16] Section 26 Application for additional gaming machines on special grounds

Insert after section 26 (2):

- (3) Subject to this Division, a hardship application may be made by a hotelier or registered club even though the hotelier or club is not, at the time of the application, authorised to keep any approved gaming machines. Accordingly, a reference in this Division to the keeping of additional approved gaming machines by any such hotelier or club is a reference to the keeping of the approved gaming machines to which the hardship application relates.
- (4) A reference in this section to a hotelier includes a reference to a prospective hotelier as referred to in section 27 (2A).

[17] Section 27 Hardship applications by hoteliers and prospective hoteliers

Omit section 27 (1). Insert instead:

- (1) A hotelier who, as at 19 April 2001, was authorised under the *Liquor Act 1982* to keep 15 or more approved poker machines is not entitled to make a hardship application.

[18] Section 27 (2A)–(2C)

Insert after section 27 (2):

- (2A) A person (referred to in this Division as a *prospective hotelier*) may make a hardship application if:

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- (a) the person would, but for the fact the person is not a hotelier, satisfy the grounds referred to in subsection (2) (b) for making such an application, or
 - (b) an application (*the hotel application*) was made on or before 19 April 2001 (but not determined by that date):
 - (i) for a hotelier's licence in respect of specified premises, or
 - (ii) for the removal of a hotelier's licence to those premises,and the hardship application relates to the keeping of approved gaming machines at those premises.
- (2B) A hardship application may be made by a prospective hotelier under subsection (2A) (b) even though the hotel application was made by a person other than the prospective hotelier.
- (2C) For the purposes of subsections (2A) and (2B), a reference to a hotel application includes a reference to an application made after 19 April 2001 (but before 2 April 2002):
- (a) for a hotelier's licence in respect of the premises to which the hotel application under subsection (2A) (b) relates, or
 - (b) for the removal of a hotelier's licence to those premises.

[19] Section 27 (7)

Insert "or prospective hotelier" after "hotelier".

[20] Section 29 Approval to keep hardship gaming machines

Insert after section 29 (1):

- (1A) In the case of a hotelier, the Board may not approve of the hotelier keeping such number of hardship gaming machines as would, at the time the approval is given, result in the hotelier keeping more than 15 approved poker machines.
- (1B) If a hardship application is made by a prospective hotelier, the Board may refuse the application or it may approve the keeping of hardship gaming machines subject to the prospective hotelier being granted a hotelier's licence. If the hotelier's licence is not granted within 3 years of the Board's approval, the approval is revoked.

[21] Section 33 Social impact assessment must be provided in connection with application for authorisation to keep gaming machines

Insert “The social impact assessment may be provided before the application is made or at the same time as the application is made.” after “applies.” in section 33 (1).

[22] Section 33 (3)

Insert after section 33 (2):

(3) Despite section 57, a social impact assessment may be provided by:

(a) a person who has applied for, but has not yet been granted, a hotelier’s licence under the *Liquor Act 1982*, or

(b) a club on whose behalf an application for a certificate of registration has been made, but has not yet been granted, under the *Registered Clubs Act 1976*,

even though an application to which this Division applies has not yet been made by the person or the club.

[23] Section 37 Approval of social impact assessment

Insert “this Division and” after “the requirements of” in section 37 (3) (a).

[24] Section 37 (5)

Omit the subsection. Insert instead:

(5) The regulations may make provision for or with respect to the manner in which the approval of a social impact assessment is to operate.

[25] Section 41 Approval of different shutdown periods for “early openers”

Omit section 41 (5). Insert instead:

(5) Despite any other provision of this section, the Board’s approval of a hotel or registered club having different shutdown periods may be given only in respect of those days of the week on which the hotel or club has continued:

- (a) to close for business between midnight and 10 am for a consecutive period of at least 3 hours, and
- (b) to re-open for business before 10 am.

[26] Section 43 Prohibition on publishing gaming machine advertising

Omit “A hotelier or registered club” wherever occurring from section 43 (1) and (3).

Insert instead “A person (whether or not a hotelier or registered club)”.

[27] Section 43 (1), (2), (3) and (5)

Omit “gambling-related” wherever occurring.

Insert instead “gaming machine”.

[28] Section 43 (6)

Omit the definition of *gambling-related advertising*. Insert instead:

gaming machine advertising means any form of advertising that gives publicity to, or otherwise promotes or is intended to promote:

- (a) the playing of approved gaming machines in a hotel or registered club, or
- (b) the supply, sale or manufacture of an approved gaming machine,

but does not include any such advertising that is excluded from the operation of this section by the regulations.

[29] Section 43 (7)

Insert after section 43 (6):

- (7) This section prevails over the *Business Names Act 1962*.

[30] Section 44 Prohibition on displaying gambling-related signs

Omit “or will be displayed as described in” from section 44 (3).

Insert instead “displayed in contravention of”.

[31] Section 44 (5)

Insert “(being a sign that is displayed in contravention of subsection (1))” after “sign”.

[32] Section 44 (7)

Insert after section 44 (6):

(7) This section prevails over the *Business Names Act 1962*.

[33] Section 46 Provision of problem gambling counselling services

Omit “classes of persons” from section 46 (2) (a).

Insert instead “persons or bodies”.

[34] Section 46 (2) (b)

Insert “or bodies” after “persons”.

[35] Section 46 (2) (d)

Omit “is”. Insert instead “in”.

[36] Section 47A

Insert after section 47:

47A Prohibition on accepting transfer of prize winning cheques

(1) A person (other than a financial institution) must not accept the transfer of a cheque that the person knows, or could reasonably be expected to know, is a prize winning cheque.

Maximum penalty: 100 penalty units.

(2) Without limited subsection (1), a person who accepts the transfer of a prize winning cheque in, or within 500 metres of, a hotel or registered club is taken to know that the cheque is a prize winning cheque unless the contrary is proven.

(3) In this section:

prize winning cheque means a crossed cheque (as referred to in section 53 of the *Cheques Act 1986* of the Commonwealth) that is paid by a hotelier or registered club as prize money to a person as a result of the person winning money or accumulating credits on an approved gaming machine.

[37] Section 49 Self-exclusion of patrons from hotels and clubs

Omit “by the hotelier or registered club” from paragraph (b) of the definition of *self-exclusion scheme* in section 49 (1).

[38] Section 49 (5)

Omit the subsection. Insert instead:

- (5) No civil or criminal liability is incurred by a responsible person for a hotel or registered club (or by the registered club itself):
- (a) for any act done or omitted to be done in good faith, and in accordance with this section and the regulations, to or in respect of a participant, or
 - (b) if a participant enters or remains in the nominated area of the hotel or club.

[39] Section 66 Non-approved gaming machines may be kept on trial basis

Omit “(except section 73)” from section 66 (3).

Insert instead “(except section 72)”.

[40] Section 78 Modification of gaming machines

Omit “the device concerned” wherever occurring.

Insert instead “the gaming machine”.

[41] Section 206A

Insert after section 206:

206A False or misleading statements

- (1) A person must not, in any official document, make a statement that the person knows, or could reasonably be expected to know:

- (a) is false or misleading in a material respect, or
- (b) omits material matter.

Maximum penalty: 100 penalty units.

- (2) In this section:

official document means any application, instrument or other document that is, for the purposes of this Act or the regulations, given to or lodged with the Board, the Licensing Court, a registrar, the Minister, the Director or the Director-General.

[42] Schedule 1 Savings, transitional and other provisions

Insert at the end of clause 1 (1):

Gaming Machines Amendment Act 2002

[43] Schedule 1

Insert after Part 2:

**Part 3 Provisions consequent on enactment of
Gaming Machines Amendment Act 2002**

11 Validation provision

Anything done before the commencement of the amendments to this Act by the *Gaming Machines Amendment Act 2002* that would have been validly done had those amendments been in force when it was done is validated.

Schedule 2 Amendment of other Acts

(Section 4)

2.1 Casino Control Act 1992 No 15

[1] Section 76A Regulation of promotional prizes and player reward schemes

Omit “It is a condition of a casino licence that the casino operator must not” from section 76A (2).

Insert instead “A casino operator must not”.

[2] Section 76A (2)

Insert at the end of the subsection:

Maximum penalty: 100 penalty units.

[3] Section 76A (4)

Omit the subsection. Insert instead:

(4) If a casino operator conducts a player reward scheme, the casino operator must, in accordance with the regulations:

- (a) advise the participants in the scheme of the availability of player activity statements that relate to the playing of gaming machines under the scheme, and
- (b) provide each such participant with a player activity statement.

Maximum penalty: 100 penalty units.

[4] Section 76A (6)

Omit the subsection. Insert instead:

- (6) This section does not apply to or in respect of a casino operator until 2 October 2002.

2.2 Fines Act 1996 No 99

Schedule 1 Statutory provisions under which penalty notices issued

Insert in alphabetical order:

Casino Control Act 1992, section 168A

Gaming Machines Act 2001, section 203

2.3 Liquor Act 1982 No 147

[1] Section 4 Definitions

Omit paragraph (e) of the definition of *sell* in section 4 (1).

[2] Section 45 Grounds of objection

Omit “amusement devices” from section 45 (6) (a) and (c) wherever occurring.

Insert instead “gaming machines”.

[3] Section 111C Conditions of minors functions authority

Omit “amusement device” from section 111C (2) (a).

Insert instead “gaming machine”.

2.4 Registered Clubs Act 1976 No 31

[1] Section 33A Secretary of club prohibited from holding hotelier’s licence

Omit “or manager” from section 33A (1).

[2] Section 39A Requirement to declare financial interest in hotels

Omit section 39A (1). Insert instead:

(1) In this section:

relevant person means a person who:

- (a) is a director of a registered club, or
- (b) is one of the 5 highest paid employees of a registered club.

[Second reading speech made in—
Legislative Assembly on 9 April 2002
Legislative Council on 7 May 2002]