



New South Wales

# Gaming Machines Amendment (Miscellaneous) Act 2003 No 58

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New South Wales

## **Gaming Machines Amendment (Miscellaneous) Act 2003 No 58**

Act No 58, 2003

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An Act to amend the *Gaming Machines Act 2001* to make further provision with respect to the allocation, transfer and forfeiture of poker machine entitlements, the requirement for large-scale clubs to reduce their allocated number of entitlements, the provision and determination of social impact assessments and other administrative matters; and for other purposes. [Assented to 6 November 2003]

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**The Legislature of New South Wales enacts:**

**1 Name of Act**

This Act is the *Gaming Machines Amendment (Miscellaneous) Act 2003*.

**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 Liquor Act 1982 No 147**

The *Liquor Act 1982* is amended by omitting section 68 (1) (g).

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## **Schedule 1 Amendment of Gaming Machines Act 2001**

(Section 3)

### **[1] Section 8 Gaming machines not used for purposes of gambling**

Insert “research,” before “educational” in section 8 (2) (b).

### **[2] Section 12 Limit on number of gaming machines in clubs**

Insert “(other than a large-scale club’s relevant premises)” after “club” in section 12 (1).

### **[3] Section 12 (2)**

Omit the subsection. Insert instead:

- (2) In the case of a large-scale club’s relevant premises:
  - (a) the Board may not, during the 5-year period referred to in section 15A, authorise any increase in the number of approved gaming machines that may be kept on those premises, and
  - (b) once section 15A (1) is complied with in relation to those premises, the maximum number of approved gaming machines that the Board may authorise the club to keep on those premises is the number that corresponds to the reduced number of poker machine entitlements that the club is required to reach in accordance with that section.

### **[4] Section 15A Large-scale clubs required to reduce their allocated number of poker machine entitlements**

Omit “the premises of the club” from section 15A (1).

Insert instead “the large-scale club’s relevant premises”.

### **[5] Section 15A (2A)**

Insert after section 15A (2):

- (2A) Despite any other provision of this section or the regulations, if a large-scale club has not, by 2 July 2007, reduced the number of poker machine entitlements allocated in respect of its relevant premises to the number required under subsection (1), the remaining number of entitlements that the club was required to transfer in order to reach that reduced number are forfeited to the Board.

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**[6] Section 17 Allocation of free poker machine entitlements in respect of certain clubs**

Insert “and, in the case of a registered club referred to in subsection (1) (c), may not be made by such a club if any of the poker machine entitlements allocated under section 15 in respect of the premises concerned have been transferred to another set of the club’s premises or to the premises of another registered club” after “concerned” in section 17 (2).

**[7] Section 21 Other provisions relating to transfer of poker machine entitlements**

Insert “to which section 21A applies” after “club” in section 21 (3).

**[8] Section 21A Special provisions relating to transfer by large-scale clubs of poker machine entitlements**

Insert “, but only until such time as the club complies with the requirement under section 15A (1) in relation to the large-scale club’s relevant premises” after “1976)” in section 21A (1).

**[9] Section 21A (3)**

Omit “as the result of the transfer of 4 or more”.

Insert instead “in connection with the transfer of more than 4”.

**[10] Section 22 Hoteliers may exchange AADs for poker machine entitlements**

Insert after section 22 (1A):

- (1B) If, in relation to an application by a hotelier under this section, a hotelier surrenders, in combination with another hotelier, any such authorisation to keep approved amusement devices, the Board may not allocate a poker machine entitlement under this section in respect of that application if:
  - (a) in the case of hotels situated in a metropolitan area—either one of the hoteliers is, at the time of the application, authorised to keep 3 or more approved amusement devices, or
  - (b) in the case of country hotels—either one of the hoteliers is, at the time of the application, authorised to keep 2 or more approved amusement devices.

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**[11] Section 23 Transfer of poker machine entitlements when hotelier's licence surrendered or cancelled**

Omit section 23 (1) and (2). Insert instead:

- (1) If:
  - (a) a hotelier's licence is surrendered or cancelled, or
  - (b) a hotelier's authorisation under Part 5 to keep approved gaming machines is cancelled,any poker machine entitlements allocated in respect of the licence concerned may, in accordance with this Division, be transferred.
- (2) If, at the end of the period of 12 months immediately following the surrender or cancellation of the hotelier's licence, or the cancellation of the hotelier's authorisation under Part 5, any such poker machine entitlements have not been transferred, the remaining entitlements are forfeited to the Board.

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

Omit section 24 (1) and (2). Insert instead:

- (1) If:
  - (a) the certificate of registration of a club is surrendered or cancelled, or
  - (b) a registered club's authorisation under Part 5 to keep approved gaming machines is cancelled,any poker machine entitlements allocated in respect of any of the premises of the club may, in accordance with this Division, be transferred.
- (2) If, at the end of the period of 12 months immediately following the surrender or cancellation of the club's certificate of registration, or the cancellation of the club's authorisation under Part 5, any such poker machine entitlements have not been transferred, the remaining entitlements are forfeited to the Board.

**[13] Section 24 (3) (b) (ii)**

Omit the subparagraph.

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**[14] Section 24A**

Insert after section 24:

**24A Transfer of poker machine entitlements when club ceases to trade**

- (1) If a registered club ceases to trade on any of its premises, any poker machine entitlements allocated in respect of those premises may, in accordance with this Division, be transferred.
- (2) If, at the end of the period of 12 months immediately following the date on which the club ceased to trade on those premises (or such longer period as may be allowed by the Board), any such poker machine entitlements have not been transferred, the remaining entitlements are forfeited to the Board.

**[15] Section 30 Requirement to forfeit hardship gaming machines in certain circumstances**

Insert after section 30 (2):

- (2A) However, the exemption under subsection (2) (b) has effect only until such time as the large-scale club complies with the requirement under section 15A (1) in relation to its relevant premises.

**[16] Section 31B Transfer of Liquor Act poker machine permits when hotelier's licence surrendered or cancelled**

Omit "surrendered or" from section 31B (2) (b).

**[17] Section 31B (3)**

Omit the subsection. Insert instead:

- (3) If, at the end of the period of 12 months immediately following the surrender or cancellation of the hotelier's licence, or the cancellation of the hotelier's authorisation under Part 5, any such Liquor Act poker machine permits have not been transferred, the remaining permits are forfeited to the Board.

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**[18] Section 32 Application and operation of Division**

Omit section 32 (1) (b) and (c). Insert instead:

- (b) in the case of temporary premises—that would, if granted by the Board:
  - (i) initially authorise the keeping of approved gaming machines on those premises by the applicant, or
  - (ii) once approved gaming machines have been initially authorised to be kept on those premises—increase the SIA threshold for those premises, or
- (c) in the case of a new hotel or new club—that would, if granted by the Board:
  - (i) initially authorise the keeping of approved gaming machines in the hotel or on the premises of the club, or
  - (ii) once approved gaming machines have been initially authorised to be kept in the hotel or on those premises—increase the SIA threshold for the hotel or those premises.

**[19] Section 34 Classes of social impact assessment**

Omit “has resulted from” from section 34 (2) (b).

Insert insert “is made in connection with”.

**[20] Section 34 (3)**

Insert after section 34 (2):

- (3) Despite any other provision of this Act or the regulations, a class 1 social impact assessment is required to be provided if, in the case of a registered club that has more than one set of premises or that establishes new or additional premises:
  - (a) the application has resulted from the transfer of poker machine entitlements from one of those sets of premises (*the transferring premises*) to another set of the club’s premises, and
  - (b) the other set of premises is situated within 50 kilometres of the transferring premises, and



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- (c) neither the transferring premises nor the other set of premises are situated in a metropolitan area.

**[21] Section 35 Requirements in relation to social impact assessments**

Insert after section 35 (d):

- (e) the time within which the Board is to determine a social impact assessment.

**[22] Section 42 General provisions**

Insert in appropriate order:

- (4) In this Division:

*public holiday* means a bank or public holiday under the *Banks and Bank Holidays Act 1912* that is observed throughout the State, but does not include a Saturday or a Sunday or 1 August (or such other day that is a bank holiday instead of 1 August).

**[23] Section 58 Cancellation of authorisations**

Insert after section 58 (1):

- (1A) Without limiting subsection (1), an authorisation by the Board to keep an approved gaming machine ceases to have effect if the disposal of the gaming machine is authorised by the Board.

**[24] Section 58 (3)**

Omit the subsection. Insert instead:

- (3) If, under the *Registered Clubs Act 1976*, a registered club moves to other premises (whether or not those other premises are outside the neighbourhood of the previous premises), the removal has the effect of cancelling the club's authorisation to keep any approved gaming machine in the previous premises.

**[25] Section 58 (4) (b)**

Omit "the premises of a registered club being removed".

Insert instead "a registered club moving".

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**[26] Section 82 Definitions**

Insert “or work permit” after “gaming-related licence” in the definition of *licence fee*.

**[27] Section 108 Periodic licence fee**

Omit “, and for a work permit,” from section 108 (1).

Insert instead “or work permit”.

**[28] Section 109 Cancellation for late payment of periodic licence fee**

Insert “or work permit” after “licence” wherever occurring.

**[29] Section 110 Application for reinstatement of cancelled gaming-related licence or work permit**

Insert “or work permit” after “licence” wherever occurring in section 110 (1), (5) and (7).

**[30] Section 110 (2)**

Insert “or work permit” after “licence” where firstly occurring.

**[31] Section 110 (4)**

Insert “or work permit” after “licence” where firstly, thirdly and fourthly occurring.

**[32] Section 110 (6), definition of “trading days”**

Insert “or work permit” after “licence”.

**[33] Section 111 Board may refund licence fee**

Insert “or work permit” after “licence” wherever occurring.

**[34] Section 112 Refund of licence fee on surrender of gaming-related licence or work permit**

Insert “or work permit” after “gaming-related licence” in section 112 (1).

**[35] Section 112 (4)**

Insert “or work permit” after “licence”.

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**[36]    Section 129 Grounds for making complaint**

Insert after section 129 (3) (c):

- (c1)    that the hotelier or registered club has failed to pay tax within the meaning of the *Gaming Machine Tax Act 2001*, or an instalment of any such tax, within the time allowed by or under that Act, or has failed to pay a penalty or interest due for late payment of any such tax or instalment,

**[37]    Section 131 Disciplinary powers of Licensing Court**

Omit “or (c)” from section 131 (2) (c). Insert instead “, (c) or (c1)”.

**[38]    Schedule 1 Savings, transitional and other provisions**

Insert at the end of clause 1 (1):

*Gaming Machines Amendment (Miscellaneous) Act 2003*

**[39]    Schedule 1**

Insert at the end of the Schedule with appropriate Part and clause numbers:

**Part                    Provisions consequent on enactment of  
Gaming Machines Amendment  
(Miscellaneous) Act 2003**

**Definition**

In this Part:

*amending Act* means the *Gaming Machines Amendment (Miscellaneous) Act 2003*.

**Exchange of AADs for poker machine entitlements**

Section 22 (1B), as inserted by the amending Act:

- (a)    applies to or in respect of an application under section 22 (1) made on or after the date of introduction into the Legislative Assembly of the Bill for the amending Act, and

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- (b) extends to an application made under section 22 (1) before that introduction date if the application has not been approved by the Board before the commencement of section 22 (1B).

**Transfer of poker machine entitlements between country clubs**

Anything done:

- (a) by a registered club in connection with the provision of a social impact assessment, or
- (b) by the Board in connection with the determination or approval of a social impact assessment,

that would have been validly done had section 34 (3) (as inserted by the amending Act) been in force when the thing was done is validated.

**Continuation of existing complaints about non-payment of gaming machine tax**

The repeal by the amending Act of section 68 (1) (g) of the *Liquor Act 1982* does not affect any proceedings brought in connection with that provision that were commenced before its repeal, and any such proceedings may continue to be dealt with as if that provision had not been repealed.

[Second reading speech made in—

Legislative Assembly on 19 September 2003

Legislative Council on 28 October 2003]

BY AUTHORITY