



New South Wales

Gaming Machines Amendment Act 2005 No 78

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Gaming Machines Amendment Act 2005 No 78

Act No 78, 2005

An Act to amend the *Gaming Machines Act 2001* to make further provision with respect to the allocation and transfer of poker machine entitlements, the regulation of gaming machines in hotels and registered clubs and other administrative matters; to amend the *Casino Control Act 1992* to restructure the casino community benefit levy and fund; and for other purposes. [Assented to 26 October 2005]

The Legislature of New South Wales enacts:

1 Name of Act

This Act is the *Gaming Machines Amendment Act 2005*.

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 Casino Control Act 1992 No 15

The *Casino Control Act 1992* is amended as set out in Schedule 2.

Schedule 1 Amendment of Gaming Machines Act 2001

(Section 3)

[1] Section 15AA

Insert before section 15A:

15AA Special allocation of poker machine entitlements

- (1) The Board may allocate poker machine entitlements in respect of a hotelier's licence or the premises of a registered club if poker machine entitlements have not been allocated, or have only been partially allocated, under section 15 in respect of that licence or those premises.
- (2) The allocation of a poker machine entitlement under this section is subject to the regulations.
- (3) Without limiting subsection (2), the regulations may make provision for or with respect to the following:
 - (a) the criteria for determining the hotels and registered clubs that are eligible to be allocated poker machine entitlements under this section,
 - (b) the matters to be taken into consideration by the Board in determining whether to allocate any such entitlements,
 - (c) specifying the period in which an eligible hotel or registered club may apply to the Board for the allocation of any such entitlements,
 - (d) in the case of a hotel or registered club that is approved to keep hardship gaming machines—authorising the Board to convert any such approval into a poker machine entitlement allocated by the Board under this section and to revoke the approval accordingly.
- (4) For the avoidance of doubt, a poker machine entitlement allocated under this section may be transferred in accordance with this Division.

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

Omit "Subjection" from section 20 (6). Insert instead "Subsection".

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

Omit section 21 (6). Insert instead:

- (6) If a registered club (*the former club*) amalgamates with another registered club under the *Registered Clubs Act 1976*, any poker machine entitlements allocated in respect of any of the premises of the former club are taken to be transferred to those same premises without the forfeiture of any entitlement to the Board.

Note. As a result of such an amalgamation, the former club is dissolved and it falls under the certificate of registration of the “parent” club. But the amalgamation in itself does not result in the transfer of poker machine entitlements to the premises of the parent club.

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

Omit section 24 (3) (b). Insert instead:

- (b) merely because:
- (i) the certificate of registration of the club, or its authorisation under Part 5 to keep approved gaming machines, is suspended, or
 - (ii) the club has temporarily ceased to trade on the premises concerned.

[5] Section 24A Transfer of poker machine entitlements when club permanently ceases to trade

Omit “If a registered club ceases” from section 24A (1).

Insert instead “If, in the case of a registered club that has more than one set of premises, the club permanently ceases”.

[6] Section 24A (2)

Insert “permanently” before “ceased”.

[7] Section 46 Provision of problem gambling counselling services

Omit section 46 (1). Insert instead:

- (1) A hotelier or registered club must, in accordance with the regulations, enter into arrangements for problem gambling counselling services to be made available to the patrons of the hotel or club.

Maximum penalty: 100 penalty units.

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

Omit section 49 (3). Insert instead:

- (3) A hotelier or registered club must:
- (a) enter into arrangements, with such persons or bodies as are approved by the Minister, for the establishment and conduct of self-exclusion schemes in the hotel or club, and
 - (b) publicise the availability of self-exclusion schemes and information about how they operate to the patrons of the hotel or club.

Maximum penalty: 100 penalty units.

[9] Section 58 Cancellation of authorisations

Insert after section 58 (1A):

- (1B) Without limiting subsection (1), the Board may suspend or cancel a hotelier's or registered club's authorisation to keep an approved gaming machine if the hotelier or registered club:
- (a) fails to pay a monitoring fee in accordance with section 134, or
 - (b) fails 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 fails to pay a penalty or interest due for late payment of any such tax or instalment.

[10] Section 62 Director may approve of technical standards

Omit "Board" from section 62 (1). Insert instead "Director".

[11] Section 63 Application for declaration of device as approved gaming machine

Insert after section 63 (2):

- (2A) The cost of the investigation may include any fee imposed by the Board in connection with testing or evaluating the device's compatibility and compliance with an authorised CMS.

[12] Section 69A

Insert after section 69:

69A Supplying or installing unapproved gaming machine components

(1) In this section:

component means any component of a poker machine or of a device that is, or is in the nature of, an approved amusement device.

relevant device, in relation to a component, means the poker machine or other device to which the component has been, or is intended to be, added.

(2) A person who is authorised by a gaming-related licence to sell approved gaming machines must not supply a component to any person unless the relevant device is, with the addition of the component, declared by the Board under section 64 as an approved gaming machine.

Maximum penalty: 100 penalty units.

(3) The holder of a dealer's licence or technician's licence must not install any component unless the relevant device is, with the addition of the component, declared by the Board under section 64 as an approved gaming machine.

Maximum penalty: 100 penalty units.

[13] Section 77 Protection of sensitive areas of gaming machines

Insert after section 77 (2):

(2A) If an authorised person, in doing anything referred to in subsection (1), breaks any seal on or in relation to an approved gaming machine kept in a hotel or on the premises of a registered club, the hotelier or registered club must ensure that the seal is replaced by the authorised person in accordance with subsection (2).

Maximum penalty: 10 penalty units.

(2B) The hotelier or registered club does not commit an offence under subsection (2A) if the authorised person has, before the gaming machine is operated for the purposes of gambling:

(a) certified, in the form approved by the Director, that the seal has been replaced by the person, and

(b) given a copy of the certificate to the hotelier or club.

(2C) If a copy of any such certificate is given to the hotelier or registered club, the hotelier or club must:

- (a) keep the copy in the hotel or club, and
- (b) if requested to do so by a special inspector, produce the copy for inspection by the inspector.

Maximum penalty: 10 penalty units.

(2D) An authorised person must not make any statement in a certificate under subsection (2B) that the person knows is false or misleading.

Maximum penalty: 100 penalty units.

[14] Section 77 (5)

Omit “another provision of this section”.

Insert instead “subsection (1) or (3)”.

[15] Section 104 Conditions of gaming-related licences

Insert “imposed by this Act or” after “conditions” in section 104 (2) (a).

[16] Section 104 (4)

Insert “imposed by this Act or” after “other than a condition”.

[17] Section 106 Board may require dealers to alter certain gaming machines

Insert after section 106 (3):

- (4) If a specified alteration is required to be made to an approved gaming machine under this section, a person who is authorised by a gaming-related licence to sell approved gaming machines must not supply the gaming machine or component to which the requirement relates to any hotel or registered club unless the specified alteration has been made.

Maximum penalty: 50 penalty units.

[18] Sections 133 and 133A

Omit section 133. Insert instead:

133 Hoteliers and clubs required to connect gaming machines to authorised CMS

- (1) A hotelier or registered club must ensure that each approved gaming machine that is kept in the hotel or club is connected to an authorised CMS.

Maximum penalty: 100 penalty units.

- (2) A hotelier or registered club must, to the extent necessary to enable approved gaming machines kept in the hotel or club to be connected to an authorised CMS:
- (a) permit the employees and agents of the CMS licensee to have access to those gaming machines, and
 - (b) give assistance to the employees and agents of the CMS licensee.

Maximum penalty: 100 penalty units.

- (3) The CMS licensee may, if satisfied that an approved gaming machine kept in a hotel or registered club is not connected to an authorised CMS, request the hotelier or club to take action to ensure that the gaming machine is connected to the CMS.
- (4) The hotelier or registered club must, within 2 working days of receiving any such request by the CMS licensee, take appropriate action to comply with the request.

Maximum penalty: 100 penalty units.

133A Technicians required to connect gaming machines to authorised CMS

- (1) A technician who carries out any work on an approved gaming machine in a hotel or registered club must ensure that the gaming machine is connected to an authorised CMS before the gaming machine is operated for the purposes of gambling.

Maximum penalty: 100 penalty units.

- (2) A technician does not commit an offence under subsection (1) if:
- (a) it is not practicable in the circumstances for the approved gaming machine to be connected to an authorised CMS, and
 - (b) the technician records the following details in a certificate (referred to as a **CMS connectivity certificate**) that is in the form approved by the Director:
 - (i) the gaming machine concerned,
 - (ii) the reason why it cannot be connected for the time being to an authorised CMS,
 - (iii) the person who has the responsibility for ensuring its connection to an authorised CMS.

- (3) If any such details are recorded in a CMS connectivity certificate by a technician in relation to an approved gaming machine in a hotel or registered club, the hotelier or club must:

- (a) keep a copy of the certificate in the hotel or club, and

(b) if requested to do so by a special inspector, produce the copy for inspection by the inspector.

Maximum penalty: 10 penalty units.

(4) A technician must not record any details in a CMS connectivity certificate if the technician does so knowing that those details are false or misleading.

Maximum penalty: 100 penalty units.

(5) In this section:

technician means the holder of a technician's licence.

[19] Section 134 Monitoring fee payable by hoteliers and registered clubs to CMS licensee

Insert "from the person (including a former hotelier) who is or was liable to pay that fee" after "debt" in section 134 (4).

[20] Section 141 Definitions

Omit "devices" from the definition of *linked gaming system*.

Insert instead "machines".

[21] Section 148 Linked gaming systems to which Division applies

Insert "or, in the case of a club that has more than one set of premises, on any of its other premises" after "another registered club".

[22] Section 153 Granting of links licences

Insert "under Part 12" after "an application" in section 153 (1).

[23] Section 153 (2A)

Insert after section 153 (2):

(2A) Any subsidiary equipment to be used in connection with a linked gaming system that has, under the terms of the links licence, been approved by the Minister is taken to be subsidiary equipment approved by the Board for that purpose.

[24] Section 182A

Insert after section 182:

182A Power to require information and documents

(1) A special inspector may, by notice in writing, require a hotelier, registered club or licensee to provide the inspector, in accordance with directions in the notice, with such information and

documents as are specified in the notice and that relate to the business of the hotelier, club or licensee.

- (2) A hotelier, registered club or licensee who fails to comply with a requirement of a notice under this section is guilty of an offence.
Maximum penalty: 100 penalty units.
Note. The provision of false or misleading information or documents is an offence under Division 3 of Part 5 of the *Crimes Act 1900*.
- (3) If any document is provided under this section, the special inspector to whom the document is provided may retain possession of it for such period as may reasonably be necessary to permit examination of the document, the taking of extracts from the document and the making of copies of the document.
- (4) A special inspector must permit inspection of any such document, at any reasonable time during which it is retained under this section, by a person who would be entitled to inspect the document were it not in the possession of a special inspector.
- (5) A person who complies with a requirement of a notice under this section does not on that account incur a liability to another person.

[25] Section 205 Directions by Minister and additional functions of Board

Omit section 205 (1) (c).

[26] Section 205A

Insert after section 205:

205A Minister may vary or suspend operation of Act for research or trial purposes

- (1) For the purposes of enabling the carrying out of gambling-related research or the trialling of gambling-related programs, the Minister may, by order published in the Gazette, vary or suspend the operation of any specified provision of this Act or the regulations for a specified period and in relation to either or both of the following:
 - (a) a specified area,
 - (b) a specified person or specified class of persons.
- (2) Any such variation or suspension is subject to such conditions as may be specified in the order.

[27] Section 206 Secrecy

Insert after section 206 (5):

- (5A) This section does not apply to the publishing of any information if, in the opinion of the Minister, it is in the public interest to do so.

[28] Section 206AA

Insert before section 206A:

206AA Authority to publish certain other information

The Director-General may, despite any other Act or law, publish any information relating to gaming machine activities or operations in this State if, in the opinion of the Minister, it is in the public interest to do so. The authority to publish under this section is limited to matters of a regulatory, statistical or industry wide nature.

[29] Schedule 1 Savings, transitional and other provisions

Insert at the end of clause 1 (1):

Gaming Machines Amendment Act 2005

[30] Schedule 1, Part 8

Insert after Part 7:

Part 8 Provisions consequent on enactment of Gaming Machines Amendment Act 2005

30 Definition

In this Part:

amending Act means the *Gaming Machines Amendment Act 2005*.

31 Validation of initial allocation by Board of poker machine entitlements under section 15

Anything done by the Board before 14 February 2003 in relation to the allocation of poker machine entitlements under section 15 has effect despite the decision of the Supreme Court in *Mellor v Liquor Administration Board* [2003] NSWSC 38 and is not invalidated merely because of that decision.

32 Approved technical standards

Any technical standards approved by the Board under section 62 and in force immediately before the amendment to that section by the amending Act are taken to have been approved by the Director under that section as so amended.

Schedule 2 Amendment of Casino Control Act 1992

(Section 4)

[1] Section 72A Provision of problem gambling counselling services

Omit section 72A (1). Insert instead:

- (1) A casino operator must, in accordance with the regulations, enter into arrangements for problem gambling counselling services to be made available to the patrons of the casino.
Maximum penalty: 100 penalty units.

[2] Part 8, heading

Omit “community benefit”. Insert instead “responsible gambling”.

[3] Sections 115 (1), 117 and 119 (1) and (4)

Omit “casino community benefit levy” wherever occurring.
Insert instead “responsible gambling levy”.

[4] Section 115 Responsible gambling levy and fund

Omit “Casino Community Benefit Fund” from section 115 (4).
Insert instead “Responsible Gambling Fund”.

[5] Section 115 (5)–(7)

Omit “the benefit of the community” wherever occurring.
Insert instead “purposes relating to responsible gambling”.

[6] Section 115 (8)

Insert after section 115 (7):

- (8) The Minister may also pay money out of the Fund for any purpose that is consistent with the provisions of the trust deed but only after consulting with the trustees on the proposed expenditure.

[7] Schedule 4 Savings and transitional provisions

Insert at the end of clause 1 (1):

Gaming Machines Amendment Act 2005, to the extent that it amends this Act

[8] Schedule 4, Part 7

Insert after Part 6:

**Part 7 Provisions consequent on enactment of
Gaming Machines Amendment Act 2005**

22 Responsible Gambling Fund

The Responsible Gambling Fund referred to in section 115 (4) (as amended by Schedule 2 [4] to the *Gaming Machines Amendment Act 2005*) is a continuation of the Casino Community Benefit Fund operating under that section immediately before the commencement of that Schedule.

[Second reading speech made in—

Legislative Assembly on 9 June 2005

Legislative Council on 11 October 2005]

BY AUTHORITY