



New South Wales

# Gaming Machines Amendment (Temporary Freeze) Act 2008 No 6

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New South Wales

## **Gaming Machines Amendment (Temporary Freeze) Act 2008 No 6**

Act No 6, 2008

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An Act to amend the *Gaming Machines Act 2001* to impose a temporary freeze on the maximum number of gaming machines that may be kept in a hotel or club and to make further provision in relation to the transfer of hotel poker machine entitlements; and for related purposes. [Assented to 14 April 2008]

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

**1 Name of Act**

This Act is the *Gaming Machines Amendment (Temporary Freeze) Act 2008*.

**2 Commencement**

This Act commences on the date of assent to this Act.

**3 Amendment of Gaming Machines Act 2001 No 127**

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

**4 Repeal of Act**

- (1) This Act is repealed on the day following the day on which this Act commences.
- (2) The repeal of this Act does not, because of the operation of section 30 of the *Interpretation Act 1987*, affect any amendment made by this Act.

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## Schedule 1 Amendments

(Section 3)

**[1] Section 19 Transfer of poker machine entitlements**

Omit section 19 (5). Insert instead:

- (5) For the purposes of subsection (3) (c), a person is taken to have a financial interest in a licence if:
  - (a) the person is entitled to receive any income derived from the business carried on under the authority of the licence or any other financial benefit or financial advantage from the carrying on of the business (whether the entitlement arises at law or in equity or otherwise), or
  - (b) in the case where the hotel to which the licence relates is subject to a lease—the person is the lessor and has a beneficial interest in the business of the hotel (including the goodwill of the business at the end of the lease).

**[2] Section 19 (6)**

Omit “However”. Insert instead “Subject to subsection (5) (b)”.

**[3] Section 19 (6)**

Insert “building comprising the” after “owner of the”.

**[4] Section 19 (7)**

Insert after section 19 (6):

- (7) Subsection (5) (b) does not, in the case where the hotel to which the licence relates is subject to a lease, apply in relation to the transfer of a poker machine entitlement that was purchased by a person other than the lessor or a person acting on behalf of the lessor.

**[5] Section 37B**

Insert after section 37A:

**37B Temporary freeze in relation to SIA thresholds**

- (1) During the period of the freeze, a social impact assessment that relates to the keeping of approved gaming machines in a hotel or on the premises of a registered club cannot be approved if the approval would result in an increase in the SIA threshold for the hotel or the premises of the club.

- (2) In this section, *period of the freeze* means the period:
- (a) starting on the commencement of this section, and
  - (b) ending on the date appointed by proclamation.

**[6] Section 61 Clubs may keep multi-terminal gaming machines**

Insert “and section 61A” after “this section” in section 61 (1).

**[7] Section 61 (2)**

Insert “, subject to section 61A,” after “may”.

**[8] Section 61A**

Insert after section 61:

**61A Temporary freeze on number of multi-terminal gaming machines in clubs**

- (1) During the period of the freeze, an application for authorisation to keep a multi-terminal gaming machine on the premises of a registered club cannot be granted if:
- (a) more than 15% of the approved gaming machines authorised to be kept on the premises are terminals forming part of multi-terminal gaming machines, or
  - (b) the authorisation would result in such terminals comprising more than 15% of the approved gaming machines authorised to be kept on the premises.
- (2) Subsection (1) applies only if the application relates to an increase in the number of multi-terminal gaming machines authorised to be kept on the premises concerned immediately before 7 December 2007.
- (3) In this section, *period of the freeze* means the period:
- (a) starting on the commencement of this section, and
  - (b) ending on the date appointed by proclamation.

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

Insert as Part 10:

**Part 10 Provisions consequent on enactment of  
Gaming Machines Amendment (Temporary  
Freeze) Act 2008**

**37 Definition**

In this Part:

*amending Act* means the *Gaming Machines Amendment (Temporary Freeze) Act 2008*.

**38 Transfer of certain hotel poker machine entitlements**

- (1) The amendments made to section 19 by the amending Act extend to any application for approval to transfer a hotel poker machine entitlement that was made between 7 December 2007 and the commencement of the amending Act.
- (2) If such an application was approved before the commencement of the amending Act, the transfer of the hotel poker machine entitlement to which the application for approval relates has no effect if the approval could not have been given in accordance with section 19 had the amendments made to that section by the amending Act been in force when the approval was given.
- (3) In this clause, *hotel poker machine entitlement* means a poker machine entitlement allocated in respect of a hotelier's licence.

**39 Approval of certain SIAs**

- (1) Section 37B (as inserted by the amending Act) extends to any social impact assessment that was provided in accordance with Division 1 of Part 4 of this Act between 7 December 2007 and the commencement of the amending Act.
- (2) If such a social impact assessment was approved before the commencement of the amending Act, the approval has no effect (and accordingly the SIA threshold for the hotel or premises concerned is taken not to have been increased) if the approval could not have been given had section 37B been in force when the approval was given.
- (3) For the avoidance of doubt, section 37B does not apply in relation to any social impact assessment that was provided in accordance with Division 1 of Part 4 of this Act before 7 December 2007.

**40 Multi-terminal gaming machines in clubs**

- (1) Section 61A (as inserted by the amending Act) extends to any application for authorisation to keep a multi-terminal gaming machine that was made between 7 December 2007 and the commencement of the amending Act.
- (2) If such an application was granted before the commencement of the amending Act, the authorisation to which the application relates has no effect if the application could not have been granted had section 61A been in force when the application was granted.

**41 Period of the freeze**

The date appointed for the end of the period of the freeze for the purposes of section 37B or 61A may be altered by a further proclamation or proclamations published before the date so appointed.

**42 Crown not liable for any compensation**

- (1) Damages or compensation are not payable by or on behalf of the Crown:
  - (a) because of the enactment of the amending Act or the operation of the amendments made by the amending Act (including the provisions of this Part), or
  - (b) for the consequences of that enactment or operation.
- (2) In subclause (1), *the Crown* means the Crown within the meaning of the *Crown Proceedings Act 1988*, and includes any employee or agent of the Crown.

[Agreement in principle speech made in Legislative Assembly on 28 February 2008  
Second reading speech made in Legislative Council on 9 April 2008]

BY AUTHORITY