



New South Wales

Gaming Machines Amendment Act 2008 No 99

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New South Wales

Gaming Machines Amendment Act 2008 No 99

Act No 99, 2008

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; and for other purposes. [Assented to 3 December 2008]

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

This Act is the *Gaming Machines Amendment Act 2008*.

2 Commencement

- (1) This Act commences on a day or days to be appointed by proclamation, except as provided by subsection (2).
- (2) Schedule 1 [18], and Schedule 1 [116] to the extent that it inserts clause 44 into Schedule 1 to the *Gaming Machines Act 2001*, commence (or are taken to have commenced) on 1 December 2008.

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 2007 No 90

The *Liquor Act 2007* is amended by inserting after section 153 (1) (h) the following paragraph:

- (i) a decision under section 44A (Location of gaming machines in venues) of the *Gaming Machines Act 2001*.

5 Repeal of Act

- (1) This Act is repealed on the day following the day on which all of the provisions of this Act have commenced.
- (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.

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

(Section 3)

[1] Section 3 Objects of Act

Omit section 3 (1). Insert instead:

- (1) The objects of this Act are as follows:
 - (a) to minimise harm associated with the misuse and abuse of gambling activities,
 - (b) to foster responsible conduct in relation to gambling,
 - (c) to facilitate the balanced development, in the public interest, of the gaming industry,
 - (d) to ensure the integrity of the gaming industry,
 - (e) to provide for an on-going reduction in the number of gaming machines in the State by means of the tradeable poker machine entitlement scheme.

[2] Section 4 Definitions

Omit the definition of *AAD threshold* from section 4 (1).

[3] Section 4 (1), definition of “adviser’s licence”

Omit the definition.

[4] Section 4 (1)

Insert in alphabetical order:

Community Development Fund means the fund established under section 204A.

[5] Section 4 (1), definition of “gaming-related licence”

Omit paragraph (d) from the definition.

[6] Section 4 (1), definition of “large-scale club”

Omit the definition.

[7] Section 4 (1), definition of “new hotel”

Omit paragraph (a) from the definition.

[8] Section 4 (1)

Insert in alphabetical order:

retail shopping centre means a cluster of premises promoted as, or generally regarded as constituting, a shopping centre, shopping mall or shopping arcade, but does not include anything excluded from this definition by the regulations.

[9] Section 4 (1), definition of “SIA threshold”

Omit the definition. Insert instead in alphabetical order:

gaming machine threshold—see section 32.

[10] Section 4 (1), definition of “subsidiary equipment”

Omit the definition. Insert instead:

subsidiary equipment means:

- (a) centralised cash control equipment, or
- (b) any equipment, device or system (or any component of a system) that affects:
 - (i) the playing or result of any game playable on a poker machine or approved amusement device, or
 - (ii) the meters of a poker machine or approved amusement device,

and includes any other equipment, device or system prescribed by the regulations for the purposes of this definition.

[11] Section 4 (1)

Insert in alphabetical order:

technician means the holder of a technician’s licence.

[12] Section 8 Gaming machines not used for purposes of gambling

Omit section 8 (2) (c). Insert instead:

- (c) the Authority has been notified in writing, at least 7 working days in advance, of the kind of use intended and the Authority has not, within that period, refused to allow the use, and

[13] Section 8 (4)

Insert after section 8 (3):

- (4) Nothing in this Act prohibits the keeping or operation of a poker machine or a device in the nature of an approved amusement device if:
 - (a) the poker machine or device is being displayed or promoted at a gaming industry trade show or exhibition, and
 - (b) the poker machine or device is not used for the purposes of gambling or the distributing of prizes, and
 - (c) in the case where the poker machine or device has not been approved in the State—a notice is attached to the poker machine or device indicating that it is not an approved gaming machine.

[14] Section 10

Omit the section. Insert instead:

10 Overall State cap on poker machine entitlements

- (1) The maximum number of poker machine entitlements is set at 99,000 or such lower number as may be prescribed by the regulations (*the overall State cap*).
- (2) The Authority is to review the overall State cap at least once every 5 years following the commencement of this section (as substituted by the *Gaming Machines Amendment Act 2008*).

[15] Section 12 Limit on number of gaming machines in clubs

Omit the section.

[16] Section 14

Omit the section. Insert instead:

14 General provisions relating to allocation of poker machine entitlements

- (1) The allocation of poker machine entitlements under this Part is subject to the overall State cap. Accordingly, the Authority cannot allocate a poker machine entitlement if the allocation would result in the overall State cap being breached.
- (2) The number of poker machine entitlements allocated in respect of a hotel licence or the premises of a registered club cannot exceed the gaming machine threshold for the hotel or the club premises.

- (3) In calculating (for the purposes of subsection (2)) the number of poker machine entitlements allocated in respect of the premises of a registered club, any poker machine entitlement retained by the club in respect of those premises in accordance with section 15B (as in force before its repeal by the *Gaming Machines Amendment Act 2008*) is to be disregarded.
- (4) Nothing in this Part affects the requirement under Part 5 for authorisation to keep approved gaming machines in a hotel or on the premises of a registered club.

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

Omit the section.

[18] Section 15B Transitional scheme relating to reduction of certain poker machine entitlements allocated to large-scale clubs

Omit the section.

[19] Section 16 Further allocation of poker machine entitlements and certificate of entitlements

Omit “, along with the corresponding number of approved poker machines authorised under Part 5 to be kept in the hotel or on those premises in accordance with those poker machine entitlements,” from section 16 (2).

[20] Sections 16 (3) and 20 (5) (b)

Omit “SIA” wherever occurring. Insert instead “gaming machine”.

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

Omit the section.

[22] Section 18 General restrictions on initial allocation of poker machine entitlements

Insert before section 18 (1):

- (1A) This section applies only in relation to the initial allocation of poker machine entitlements under section 15.

[23] Section 18 (3)

Omit the subsection and the note to that subsection.

[24] Section 19 Transfer of poker machine entitlements

Omit section 19 (5) and (6). Insert instead:

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

[25] Section 19 (7)

Omit the subsection.

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

Omit section 20 (7). Insert instead:

- (7) If the Authority approves the transfer of poker machine entitlements, the Authority is to decrease, by the number of entitlements transferred, the gaming machine threshold for the hotel or the premises of the registered club from which the entitlements are transferred.
- (8) To avoid doubt, the amount by which the gaming machine threshold for the hotel or club premises concerned is to be decreased is to include the number of entitlements that are required to be forfeited under this section because of the transfer.

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

Omit section 21 (2). Insert instead:

- (2) If, in the case of a registered club that has more than one set of premises, poker machine entitlements allocated in respect of one of those sets of premises (*the transferring premises*) are transferred to another set of the club's premises:
 - (a) the forfeiture to the Authority of one entitlement per transfer block is not required if the transferring premises and the other set of premises are situated in the same local government area, and
 - (b) if the transferring premises and the other set of premises are situated in different local government areas—the

forfeiture to the Authority of one entitlement for every 2 transfer blocks is required.

[28] Section 21 (3)

Omit the subsection.

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

Omit the section.

[30] Section 22 Exchange of AADs for poker machine entitlements

Insert “or a registered club whose premises are not in a metropolitan area” after “whose hotel is a country hotel” in section 22 (1) (b).

[31] Section 22 (1A) (b)

Omit “AAD threshold for the hotel”.

Insert instead “gaming machine threshold for the hotel or club premises concerned”.

[32] Section 22 (2)

Omit the subsection. Insert instead:

- (2) On the third anniversary of the commencement of this subsection (as inserted by the *Gaming Machines Amendment Act 2008*):
 - (a) any authorisation under Part 5 to keep an approved amusement device is automatically cancelled, and
 - (b) the gaming machine threshold for the hotel or club premises concerned is to be decreased by the relevant number of approved amusement devices.

[33] Section 23 Transfer of poker machine entitlements when hotel licence surrendered or cancelled

Insert after section 23 (2):

- (2A) However, any such remaining entitlement may be retained for a further period of up to 12 months if a levy is paid to the Authority to retain the entitlement for that period. The levy is \$500 for each of the remaining entitlements intended to be retained.
- (2B) If the remaining poker machine entitlements have not been transferred by the end of the further 12-month period under subsection (2A), the entitlements are forfeited to the Authority.

(2C) Any levy paid under subsection (2A) is to be paid into the Community Development Fund.

[34] Section 24 Transfer of poker machine entitlements when licence of registered club surrendered or cancelled

Insert after section 24 (2):

(2A) However, any such remaining entitlement may be retained for a further period of up to 12 months if a levy is paid to the Authority to retain the entitlement for that period. The levy is \$500 for each of the remaining entitlements intended to be retained.

(2B) The Authority may allow a poker machine entitlement to be retained for the further period without requiring the payment of the levy under subsection (2A) if the Authority is satisfied that the delay in transferring the remaining entitlements is due to circumstances beyond the control of the proposed transferor of the entitlements.

(2C) If the remaining poker machine entitlements have not been transferred by the end of the further 12-month period under subsection (2A), the entitlements are forfeited to the Authority.

(2D) Any levy paid under subsection (2A) is to be paid into the Community Development Fund.

[35] Section 25 Transfer of poker machine entitlements if hotel licence is removed to other premises

Omit “within 1 kilometre of” from section 25 (2).

Insert instead “in the same local government area as”.

[36] Section 25 (3)

Omit the subsection.

[37] Section 25A

Omit the section. Insert instead:

25A Transfer of poker machine entitlements if club licence is removed to other premises

(1) If a club licence under the *Liquor Act 2007* is removed under that Act to other premises, any poker machine entitlements allocated in respect of the premises from which the licence is removed may only be transferred to the other premises if they are transferred in accordance with this Division.

- (2) If the other premises to which the club licence is removed are situated in the same local government area as the previous premises, the forfeiture to the Authority of one entitlement per transfer block is not required.

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

Omit “(or such longer period as may be prescribed by the regulations)” from section 26 (2) (c).

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

Omit section 30 (2) and (2A). Insert instead:

- (2) Subsection (1) does not apply to or in respect of a hotelier or registered club after the period of 3 years following the date (as determined by the Authority) on which hardship gaming machines were approved to be kept in the hotel or on the club’s premises.

[40] Section 30 (3)

Omit “situated more than 1 kilometre from”.

Insert instead “not situated in the same local government area as”.

[41] Section 31 Allocation of poker machine entitlements for hardship gaming machines

Insert after section 31 (4):

- (5) If:
- (a) the Authority is satisfied that the conditions applying to an approval to keep a hardship gaming machine have been complied with, and
 - (b) the approval is not required to be forfeited in accordance with those conditions or any other provision of this Act,
- the Authority may notify the hotelier or registered club concerned in writing that the hotelier or club is eligible to make an application under this section for the allocation of a poker machine entitlement in relation to the hardship gaming machine.
- (6) If any such notice is given in relation to a hardship gaming machine kept by a hotelier or registered club, the approval to keep the hardship gaming machine is automatically forfeited to the Authority:

- (a) at the end of the period of 12 months following the date on which the notice was given to the hotelier or registered club concerned, or
- (b) on the date on which a poker machine entitlement is allocated in relation to the hardship gaming machine, whichever occurs first.

[42] Section 31A Forfeiture of other entitlements in certain circumstances

Omit section 31A (4). Insert instead:

- (4) In this section:

gaming machine entitlement means:

- (a) in the case of a hotel licence:
 - (i) any hardship gaming machine in respect of which a poker machine entitlement has not been allocated, and
 - (ii) any poker machine entitlement allocated under section 22 that is not transferable in accordance with that section, and
 - (iii) any authorisation to keep an approved amusement device, or
- (b) in the case of the premises of a registered club:
 - (i) any hardship gaming machine in respect of which a poker machine entitlement has not been allocated, and
 - (ii) any free club entitlement allocated under section 17 (as in force before its repeal by the *Gaming Machines Amendment Act 2008*), and
 - (iii) any authorisation to keep an approved amusement device,

but does not include a poker machine entitlement or a Liquor Act poker machine permit.

[43] Section 31B Transfer of Liquor Act poker machine permits when hotel licence surrendered or cancelled

Insert after section 31B (3):

- (4) However, any such remaining permit may be retained for a further period of up to 12 months if a levy is paid to the Authority to retain the permit for that period. The levy is \$500 for each of the remaining permits intended to be retained.

- (5) The Authority may allow a Liquor Act poker machine permit to be retained for the further period without requiring the payment of the levy under subsection (4) if the Authority is satisfied that the delay in transferring the remaining permits is due to circumstances beyond the control of the proposed transferor of the permits.
- (6) If the remaining Liquor Act poker machine permits have not been transferred by the end of the further 12-month period under subsection (4), the permits are forfeited to the Authority.
- (7) Any levy paid under subsection (4) is to be paid into the Community Development Fund.

[44] Part 4, Division 1

Omit the Division. Insert instead:

Division 1 Gaming machine threshold scheme

32 Gaming machine thresholds for venues

- (1) The Authority may, for each hotel and each set of premises of a registered club, set the maximum number of approved gaming machines that may be authorised under Part 5 to be kept in the hotel or on those premises.
- (2) Any such maximum number is the ***gaming machine threshold*** for the hotel or club premises concerned.
- (3) The gaming machine threshold for a hotel is subject to section 11.
- (4) In the case of a new hotel or the premises of a new club, or any hotel or club premises in respect of which poker machine entitlements have not been allocated as at the commencement of this section (as inserted by the *Gaming Machines Amendment Act 2008*), the gaming machine threshold for the hotel or club premises may be set at zero.
- (5) The gaming machine threshold for a hotel or the premises of a registered club may be increased or otherwise varied by the Authority in accordance with this Act.

33 Classification of local government areas

- (1) For the purposes of this Division, each local government area of the State is to be classified by the Authority as:
 - (a) a Band 1 LGA, or

-
- (b) a Band 2 LGA, or
 - (c) a Band 3 LGA.
- (2) The Authority is to specify the classification of local government areas on a publicly available website.
 - (3) The classification of any local government area under this section may be varied from time to time by the Authority.

34 Application to increase gaming machine threshold

- (1) A hotelier or registered club may apply to the Authority to increase the gaming machine threshold for the hotel or the premises of the club (*a threshold increase application*).
- (2) The hotel or club premises to which a threshold increase application relates is referred to in this Division as the *relevant venue*.
- (3) A threshold increase application must comply with the requirements of this Division and the regulations.
- (4) The Authority may approve a threshold increase application only if the Authority is satisfied that the requirements of this Division and the regulations have been complied with in relation to the application.
- (5) If the application is approved, the Authority may increase the gaming machine threshold for the relevant venue in accordance with the Authority's approval.
- (6) Nothing in this Division requires the Authority, if it approves a threshold increase application, to increase the relevant venue's gaming machine threshold by the number to which the application relates.
- (7) Without limiting subsection (1), a threshold increase application may be made by a person in relation to premises that are the subject of an application for a licence under the *Liquor Act 2007* that has not yet been granted.

35 Requirements relating to threshold increase applications

- (1) Except as provided by this section, a threshold increase application must be accompanied by a local impact assessment (*LIA*). A *LIA*, if required, is to be a *class 1 LIA* or a *class 2 LIA* as determined by this section.

(2) **When LIA is not required**

A threshold increase application is not required to be accompanied by a LIA if the application is made together with an application under section 19 for the Authority's approval of the transfer of poker machine entitlements to the relevant venue and either or both of the following apply:

- (a) the relevant venue is situated in a Band 1 LGA and the threshold increase application, if approved, would not result in the gaming machine threshold for the venue being increased, over any period of 12 months, by a number that is more than the number corresponding to a low-range increase for the venue,
- (b) both the relevant venue and the hotel or club premises from which the poker machine entitlements are proposed to be transferred are situated in the same local government area.

(3) **When class 1 LIA is required**

A threshold increase application must, unless subsection (2) applies in relation to the application, be accompanied by a class 1 LIA if the relevant venue:

- (a) is situated in a Band 1 LGA and the application is for a mid-range increase in the gaming machine threshold for the venue, or
- (b) is situated in a Band 2 LGA and the application is for a low-range increase in the gaming machine threshold for the venue.

(4) **When class 2 LIA is required**

A threshold increase application must, unless subsection (2) applies in relation to the application, be accompanied by a class 2 LIA if the relevant venue:

- (a) is situated in a Band 1 LGA and the application is for a high-range increase in the gaming machine threshold for the venue, or
- (b) is situated in a Band 2 LGA and the application is for a mid-range or high-range increase in the gaming machine threshold for the venue, or
- (c) is situated in a Band 3 LGA.

- (5) For the purposes of this section, a *low-range increase*, a *mid-range increase* or a *high-range increase* in a gaming machine threshold for a venue is to be determined in accordance with the regulations.

- (6) The regulations may make provision for or with respect to the following:
 - (a) the information to be provided by a LIA,
 - (b) the requirements that must be complied with in relation to a LIA,
 - (c) the matters to be assessed or addressed by a LIA,
 - (d) the advertising of LIAs,
 - (e) the making of submissions in relation to LIAs.
- (7) The regulations may also create exceptions to this section and provide for the conditions to which any such exception is subject.
- (8) Except to the extent to which the regulations make provision, a LIA is to be provided in the form and manner approved by the Authority.

36 Approval of LIA by Authority

- (1) If a LIA is required to be provided with a threshold increase application, the application cannot be approved unless the Authority approves the LIA.
- (2) The applicant is liable to meet any costs incurred by the Authority in connection with its determination of the LIA. The Authority may refuse to determine the LIA until any such costs are paid or provision, satisfactory to the Authority, has been made for their payment.
- (3) The Authority may approve a LIA only if it is satisfied that:
 - (a) the LIA complies with the requirements of this Division and the regulations in relation to the LIA, and
 - (b) the LIA has demonstrated that gambling activities in the relevant venue will be conducted in a responsible manner, and
 - (c) in the case of a class 1 LIA:
 - (i) the proposed increase in the gaming machine threshold for the relevant venue will provide a positive contribution towards the local community where the venue is situated, and
 - (ii) the relevant venue is not, if the venue comprises the premises of a new club or is a new hotel, situated in the immediate vicinity of a school, hospital or place of worship, and

- (iii) the LIA has adequately addressed any community concerns arising out of the consultation process under the regulations, and
 - (d) in the case of a class 2 LIA:
 - (i) the proposed increase in the gaming machine threshold for the relevant venue will have an overall positive impact on the local community where the venue is situated, and
 - (ii) the relevant venue is not, if the venue comprises the premises of a new club or is a new hotel, situated in the immediate vicinity of a school, hospital or place of worship, and
 - (iii) the LIA has adequately addressed any community concerns arising out of the consultation process under the regulations.
- (4) The regulations may specify other grounds on which the Authority may refuse to approve a LIA.
- (5) If any submissions are made in relation to a LIA in accordance with the regulations, the Authority must take those submissions into consideration in deciding whether to approve the LIA.
- (6) The Authority may, in any case it considers appropriate, partly approve a LIA, in which case the Authority may increase the relevant venue's gaming machine threshold by a number that is less than the number to which the threshold increase application relates.
- (7) Without limiting any other provision of this Division, the approval of a LIA is subject to such conditions as may be specified by the Authority. The LIA has no effect if any such conditions are not complied with.

37 Provisions relating to increased gaming machine thresholds when LIA approved

(1) Class 1 LIA approvals

If a class 1 LIA is approved in connection with a threshold increase application and the relevant venue's gaming machine threshold is increased accordingly, the venue has up to 2 years from the date of the approval in which to acquire poker machine entitlements for the number of gaming machines to which the increase relates (referred to as the venue's *class 1 quota*).

- (2) If, at the end of that 2-year period the relevant venue has not acquired poker machine entitlements for its class 1 quota, the

Authority is to decrease the gaming machine threshold for the venue in accordance with the portion of the class 1 quota that is not used during that period.

(3) **Class 2 LIA approvals**

If a class 2 LIA is approved in connection with a threshold increase application and the relevant venue's gaming machine threshold is increased accordingly, the venue has up to 5 years from the date of the approval in which to acquire poker machine entitlements for the number of gaming machines to which the increase relates (referred to as the venue's *class 2 quota*).

- (4) If, at the end of that 5-year period the relevant venue has not acquired poker machine entitlements for its class 2 quota, the Authority is to decrease the gaming machine threshold for the venue in accordance with the portion of the class 2 quota that is not used during that period.

37A Special provision for clubs establishing in new development areas

- (1) In this section:

new development area means an area of land in a Band 1 LGA that:

- (a) is identified by an environmental planning instrument as an urban release area (or such other description as the Authority considers to be similar), and
- (b) does not, in the opinion of the Authority, have the full benefit of the services and facilities of the kind provided by registered clubs.

- (2) A class 1 LIA may be provided with a threshold increase application in relation to the premises of a registered club that are situated in a new development area if:

- (a) the number to which the application relates is not more than 150, and
- (b) the Authority is satisfied that the acquisition of a corresponding number of poker machine entitlements in respect of those premises would not increase the density of gaming machines in the local government area in which the premises are situated to the extent that the classification of the area is affected.

- (3) The following provisions apply if any such class 1 LIA is approved:

- (a) only one poker machine entitlement for every 2 transfer blocks is required to be forfeited to the Authority under

Division 2 of Part 3 in respect of the first 50 poker machine entitlements that are transferred to the premises after the approval of the LIA,

- (b) the club has up to 5 years from the date of the approval in which to acquire poker machine entitlements for the number of gaming machines to which the threshold increase relates (the club's *special class 1 quota*),
 - (c) if, at the end of that 5-year period the club has not acquired poker machine entitlements for its special class 1 quota, the Authority is to decrease the gaming machine threshold for the premises in accordance with the portion of the special class 1 quota that is not used during that period.
- (4) This section has effect despite any other provision of this Division.

37B Restriction on gaming machine thresholds for venues in retail shopping centres

- (1) The gaming machine threshold for a hotel or premises of a registered club cannot be increased if the hotel or premises are part of a retail shopping centre or proposed retail shopping centre.
- (2) If a hotel licence or club licence is granted under the *Liquor Act 2007* for premises that are part of a retail shopping centre or proposed retail shopping centre, the gaming machine threshold for the premises is to be set at zero.
- (3) If an application is granted under the *Liquor Act 2007* that results in the removal of a hotel licence, or the extension of a hotel, to premises that are part of a retail shopping centre or proposed retail shopping centre, the gaming machine threshold for the premises is to be set at zero.
- (4) If an application is granted under the *Liquor Act 2007* that results in the removal of a club licence, or the extension of the premises of a registered club, to premises that are part of a retail shopping centre or proposed retail shopping centre, the gaming machine threshold for the premises is to be set at zero.
- (5) However, subsection (4) does not apply if:
 - (a) the retail shopping centre comprises or will comprise less than such number of shops as may be prescribed by the regulations, and
 - (b) patrons will not be able to gain access to the club's premises directly from the retail shopping centre, and

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- (c) in the case where the club licence is being removed to other premises—the other premises are situated in the same suburb or town as the previous premises, and
 - (d) in the case where the club's premises are being extended—the club's premises remain predominantly where they were before the extension, and
 - (e) the gaming machine threshold for the club's premises is no more than the gaming machine threshold for the club's premises immediately before the club licence was removed or the premises were extended, and
 - (f) such other requirements as may be prescribed by the regulations have been complied with.
- (6) For the purposes of this section, a hotel or the premises of a registered club are taken to be part of a retail shopping centre if the hotel or club premises are located within the retail shopping centre or physically adjoin any part of the retail shopping centre.
- (7) This section has effect despite any other provision of this Division.

[45] Section 43 Prohibition on publishing gaming machine advertising

Insert after section 43 (5):

- (5A) If any gaming machine advertising that consists of internal promotional material appears outside the hotel or the premises of the registered club to which the material relates, it is a defence to a prosecution for an offence under subsection (1) if it is proved that the material was removed from the hotel or club premises by a patron of the hotel or club for his or her personal use or information.
- (5B) For the purposes of subsection (5A), ***internal promotional material*** means any written material (such as a brochure or flyer) that:
 - (a) promotes (or otherwise relates to) the playing of approved gaming machines in a hotel or on the premises of a registered club, and
 - (b) is displayed or distributed by or on behalf of the hotelier or club in the hotel, or on the club premises, only.

[46] Section 44A

Insert after section 44:

44A Location of gaming machines in venues

- (1) If the Director is of the opinion that any approved gaming machine in a hotel or on the premises of a registered club is located in a manner that:
 - (a) is designed to attract the attention of members of the public who are outside the hotel or club premises, and
 - (b) is contrary to the public interest,the Director may, by notice in writing given to the hotelier or club concerned, require the hotelier or club to move or screen the gaming machine in accordance with the notice.

Note. Any such decision by the Director is reviewable by the Authority under section 153 of the *Liquor Act 2007*.
- (2) A hotelier or registered club must comply with a notice given to the hotelier or club under this section.

Maximum penalty: 50 penalty units.

[47] Section 46 Provision of problem gambling counselling services

Omit “A hotelier or registered club” from section 46 (1).

Insert instead “If a hotelier or registered club is authorised to keep approved gaming machines, the hotelier or club”.

[48] Section 46 (3)

Insert after section 46 (2):

- (3) A hotelier or registered club must provide an inspector with written evidence of the arrangements entered into by the hotelier or club under this section if requested to do so by an inspector.

Maximum penalty: 100 penalty units.

[49] Section 47A Prohibition on accepting transfer of prize winning cheques

Insert “and section 47B” after “In this section” in section 47A (3).

[50] Sections 47B and 47C

Insert after section 47A:

47B Requirements relating to prize winning cheques

A person must not issue a prize winning cheque unless:

- (a) it is clearly identified as a prize winning cheque, and

-
- (b) the statement prescribed by the regulations for the purposes of this section appears on the cheque.

Maximum penalty: 50 penalty units.

47C Prohibition on certain cash dispensing facilities

- (1) A hotelier or registered club must not permit a cash dispensing facility to be installed or located in any part of the hotel or club premises if the facility is capable of providing cash from a credit card account.

Maximum penalty: 100 penalty units.

- (2) In this section, *cash dispensing facility* means a facility (such as an ATM or EFTPOS terminal) for the withdrawal of cash from a bank or authorised deposit-taking institution.

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

Omit paragraph (b) of the definition of *self-exclusion scheme* from section 49 (1).

Insert instead:

- (b) that is established and conducted in accordance with the regulations.

[52] Section 49 (3)

Omit the subsection. Insert instead:

- (3) If a hotelier or registered club is authorised to keep approved gaming machines, the hotelier or club must:
- (a) ensure that patrons of the hotel or club have access to a self-exclusion scheme, 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.

[53] Sections 50 (2), 51 (3), 52 (4) (a), 77 (4) and (6) (definition of “authorised person”), 80 (2) (a), 140 (2) (b) and 156 (2) (b)

Omit “the holder of a technician’s licence” wherever occurring.

Insert instead “a technician”.

[54] Section 58 Cancellation of authorisations

Insert at the end of section 58 (1B) (b):

, or

- (c) fails to comply with any condition imposed by the Authority in relation to the approval of a local impact assessment under Division 1 of Part 4.

[55] Section 59 Authorisation to keep gaming machines in hotel subject to primary purpose test

Omit “Director” from section 59 (4) and (6) wherever occurring.

Insert instead “Authority”.

[56] Section 59A Restrictions on authorisation to keep approved amusement devices

Insert “(as defined under section 4 immediately before the repeal of that definition by the *Gaming Machines Amendment Act 2008*)” after “AAD threshold”.

[57] Section 60 Gaming machines not permitted in retail shopping centres

Omit the section.

[58] Section 60A SIA threshold for hotel or club to be decreased if poker machine entitlements are transferred from retail shopping centre

Omit the section.

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

Insert “(or *MTGM*)” before “means” in the definition of *multi-terminal gaming machine* in section 61 (1).

[60] Section 61 (3)

Omit the subsection.

[61] Section 61A

Omit the section. Insert instead:

61A Limit on number of MTGMs in clubs

- (1) An application for authorisation to keep a MTGM on the premises of a registered club cannot be granted if:

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- (a) the total number of terminals forming part of MTGMs kept on the premises is more than 15% of the total number of poker machine entitlements allocated for those premises, or
 - (b) the authorisation would result in the total number of terminals forming part of MTGMs kept on the premises being more than 15% of the total number of poker machine entitlements allocated for those premises.
- (2) Subsection (1) applies only if the application relates to an increase in the number of MTGMs authorised to be kept on the club premises.
 - (3) If, at the commencement of this section (as substituted by the *Gaming Machines Amendment Act 2008*) the total number of terminals forming part of MTGMs kept on the premises of a registered club is more than 15% of the total number of poker machine entitlements allocated for those premises, the club must, within 5 years of that commencement, reduce the total number of those terminals to no more than 15% of the total number of entitlements so allocated.
 - (4) If, by the end of that 5-year period, the club has not reduced the total number of terminals in accordance with subsection (3), the authorisation to keep any MTGM that is over the 15% threshold is automatically cancelled.

[62] Section 62 Authority may approve technical standards

Omit “Director” from section 62 (1). Insert instead “Authority”.

[63] Section 69 Possession etc of poker machines that are not approved

Omit “be in possession of” from section 69 (1).

Insert instead “possess, supply, sell or install”.

[64] Section 69 (2) (b1)

Insert after section 69 (2) (b):

- (b1) in accordance with the approval of the Authority under section 66 (1), or

[65] Section 69A Sale etc of unapproved gaming machine components

Insert “sell or” before “supply” in section 69A (2).

[66] Sections 69A (3), 86 (2), 106 (3) and 126 (1)

Omit “technician’s licence” wherever occurring. Insert instead “a technician”.

[67] Section 70 Possession of approved gaming machine by unauthorised person

Omit “a reasonable time” from section 70 (3) wherever occurring.

Insert instead “21 days”.

[68] Section 76 Defective gaming machines

Omit “programmed” from section 76 (1).

Insert instead “approved by the Authority”.

[69] Sections 76A and 76B

Insert after section 76:

76A Causing defects in gaming machines

- (1) A technician must not, in carrying out any work on an approved gaming machine, do anything that causes, or is likely to cause, the gaming machine to function in a manner other than the manner in which it was designed and approved by the Authority to function.

Maximum penalty: 100 penalty units.

- (2) It is a defence to a prosecution for an offence under subsection (1) if it is proved:
 - (a) that the operation of the approved gaming machine was for testing or maintenance purposes, or
 - (b) that the technician:
 - (i) took all reasonable precautions to ensure that the approved gaming machine was functioning properly, and
 - (ii) at the time of the alleged offence did not know, and could not reasonably be expected to have known, that the machine was not functioning properly.

76B Hoteliers and registered clubs to record work done by technicians

- (1) A hotelier or registered club must keep a written record containing the details of any work of the kind prescribed by the regulations that is carried out by a technician on any approved gaming machine kept in the hotel or on the premises of the club.

Maximum penalty: 50 penalty units.

- (2) The regulations may prescribe the details that are required to be recorded under subsection (1).

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

Insert after section 77 (4) (d):

- (e) temporarily removing the compliance plate in order to update or correct the particulars shown on the plate.

[71] Section 78 Modification of gaming machines

Omit section 78 (1) (a). Insert instead:

- (a) the person is a technician, and

[72] Section 78 (2)

Omit “The holder of a technician’s licence”. Insert instead “A technician”.

[73] Section 78 (2)

Omit “there is returned within a reasonable time”.

Insert instead “, within 14 days of the modification, there is returned”.

[74] Section 79 Consignment or movement of gaming machines

Omit section 79 (1). Insert instead:

- (1) The holder of a dealer’s licence or seller’s licence who consigns or moves an approved gaming machine:
 - (a) to or from any place at which the licensee carries on the business authorised by the licence, or
 - (b) from outside the State to a place within the State, or
 - (c) to any place outside the State,must give the Authority (and, if the gaming machine is being consigned or moved to any place outside the State, the manufacturer of the gaming machine) a written notification stating the particulars required by this section no later than 7 clear days before the consignment or movement or within such other time as may be approved by the Authority.

Maximum penalty: 50 penalty units.

[75] Section 79 (3)

Omit “Director”. Insert instead “Authority”.

[76] Section 80A

Insert after section 80:

80A False claims for prizes

A person who claims a prize from the playing of an approved gaming machine in a hotel or on the premises of a registered club knowing that the claim is false or misleading in a material respect is guilty of an offence.

Maximum penalty: 100 penalty units.

[77] Section 81 Illegal advantage gained during design etc of gaming machines

Omit section 81 (1) and (2). Insert instead:

- (1) A person who, during the design, manufacture, assembly, maintenance or repair of an approved gaming machine, does anything to fraudulently gain an advantage (whether or not for another person) in the operation of the gaming machine is guilty of an offence.

[78] Section 81 (3)

Omit “or (2)”.

[79] Section 82 Definitions

Omit the definition of *gaming machine adviser*.

[80] Section 83 Types of gaming-related licences and authority they confer

Omit section 83 (1) (a). Insert instead:

- (a) gaming machine dealer’s licence—authorises the licensee:
 - (i) to manufacture and assemble poker machines and devices in the nature of approved amusement devices in or on the premises specified in the licence, and
 - (ii) to sell, or negotiate the sale of, approved gaming machines (whether or not manufactured or assembled by the licensee), and
 - (iii) to service, repair and maintain approved gaming machines in or on the premises specified in the licence,

- [81] Section 83 (1) (b) (i)**
Omit “, seller’s licence or adviser’s licence”.
Insert instead “or seller’s licence”.
- [82] Section 83 (1) (d)**
Omit the paragraph.
- [83] Section 83 (4)**
Omit “place or places referred to in subsection (1) (a) (i)”.
Insert instead “premises referred to in subsection (1) (a)”.
- [84] Section 85 Sale of gaming machines**
Omit “, seller’s licence or adviser’s licence” from section 85 (1) (a) and (4) wherever occurring.
Insert instead “or seller’s licence”.
- [85] Section 85 (2)**
Omit “or adviser’s licence”.
- [86] Section 85 (3)**
Omit the subsection.
- [87] Section 86 Servicing and repair of gaming machines**
Omit “technician’s licence” from section 86 (1) (a).
Insert instead “is a technician”.
- [88] Section 86 (1) (b)**
Omit “such a licence”. Insert instead “a dealer’s licence or a technician”.
- [89] Section 87 Advice relating to gaming machines**
Omit the section.
- [90] Section 89 Interim work permits**
Omit section 89 (1) (c).
- [91] Section 89 (2)**
Omit “issuing the permit”.
Insert instead “the permit is issued or at any later time”.

[92] Section 91 Disclosure of interested parties

Omit section 91 (1) (c). Insert instead:

- (c) if there are any such persons, their names and dates of birth and:
 - (i) in the case of a proprietary company—the names of the directors and those shareholders who have a substantial holding (within the meaning of the *Corporations Act 2001* of the Commonwealth) in the company, and
 - (ii) in the case of a public company—the names of the directors.

[93] Section 96

Insert after section 95A:

96 Costs of investigation by Director or Commissioner of Police to be paid by applicant

- (1) The reasonable costs incurred by the Director or the Commissioner of Police in investigating and inquiring into an application for a gaming-related licence are payable to the Authority by the applicant, unless the Authority determines otherwise in a particular case.
- (2) The Authority may require part or full payment in advance of the amount it estimates will be payable by the applicant and may refuse to deal with the application until the required payment is made.
- (3) Investigation and inquiry costs incurred by the Director or the Commissioner of Police may include travelling expenses within or outside the State.
- (4) It is a condition of any licence granted to the applicant that any amount payable under this section by the applicant is paid.

[94] Section 102 Granting of testing facility licence

Insert at the end of the section:

- (2) The holder of a testing facility licence may apply to the Authority to change the premises specified in the licence.
- (3) The Authority may approve the application only if the Authority is satisfied that the premises concerned are suitable for the testing of poker machines.

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- [95] **Section 105 Special condition relating to dealer’s licence**
Omit the section.
- [96] **Section 106 Authority may require dealers to alter certain gaming machines**
Insert after section 106 (4):
(5) A reference in this section to the holder of a dealer’s licence includes a reference to a person acting under the authority of the licence.
- [97] **Section 112 Refund of licence fee on surrender of gaming-related licence or work permit**
Omit the section.
- [98] **Section 122 Provision of financial assistance by gaming-related licensee**
Omit “20 penalty units” wherever occurring. Insert instead “50 penalty units”.
- [99] **Section 123 Cessation of employment of seller or technician**
Omit section 123 (a). Insert instead:
(a) a technician or the holder of a seller’s licence, and
- [100] **Section 124**
Omit the section. Insert instead:
124 Notification of change of employer
If a person who is a technician or the holder of a seller’s licence commences or ceases employment with the holder of a dealer’s licence, the person must, before the commencement of or within 7 days after the cessation of the employment, as the case may be, notify the Authority, in the form and manner approved by the Authority, of the commencement or cessation of the employment.
Maximum penalty: 20 penalty units.
- [101] **Section 132 Meaning of “connected” to authorised CMS**
Omit section 132 (1). Insert instead:
(1) For the purposes of this Part, an approved gaming machine is *connected* to an authorised CMS if information in respect of the gaming machine is provided to the authorised CMS in accordance with arrangements approved by the Minister.

[102] Section 133A Technicians required to connect gaming machines to authorised CMS

Omit section 133A (5).

[103] Section 156A

Insert after section 156:

156A Stand alone play on gaming machines that are part of linked gaming system

- (1) A participating hotelier or participating club must not permit an approved gaming machine that is part of an authorised linked gaming system to be used for the purposes of gambling during any period that the linked gaming system is not in operation in the hotel or club premises concerned.

Maximum penalty: 100 penalty units.

- (2) Subsection (1) does not apply:
- (a) in such circumstances as may be approved by the Minister, and
 - (b) if the gaming machine is operated in accordance with that approval.

- (3) If an approved gaming machine that is part of an authorised linked gaming system ceases to operate as part of the system for any period (whether or not the system itself is in operation), the participating hotelier or participating club concerned must not permit the approved gaming machine to be used for the purposes of gambling during that period.

Maximum penalty: 100 penalty units.

[104] Section 158A

Insert after section 158:

158A Technicians required to reconnect to authorised linked gaming system

If a technician carries out any work on an authorised linked gaming system in a hotel or on the premises of a registered club, the technician must, after completing that work, ensure:

- (a) that all components of the system are properly connected to the linked gaming system, and
- (b) that the linked gaming system and its components are operating properly.

Maximum penalty: 100 penalty units.

[105] Section 194 Evidentiary provisions

Insert after section 194 (1) (c):

- (c1) that a specified hotelier or registered club has or has not entered into arrangements under section 46 for problem gambling counselling services to be made available for patrons of the hotel or club concerned,
- (c2) that a specified hotelier or registered club has or has not entered into an arrangement under section 49 for the establishment and conduct of self-exclusion schemes in the hotel or on the premises of the club,

[106] Section 194 (1) (e1)

Insert after section 194 (1) (e):

- (e1) that a specified person is or is not a CMS licensee,

[107] Section 194 (1) (k)

Insert after section 194 (1) (j):

- (k) that a specified form is or is not a form approved by the Authority.

[108] Section 204A

Insert after section 204:

204A Community Development Fund

- (1) There is established a fund, to be called the Community Development Fund, that is to be administered by the Department of the Arts, Sport and Recreation.
- (2) The Community Development Fund is to consist of any money required to be paid into the Fund by or under this or any other Act.
- (3) Money held in the Community Development Fund may be applied:
 - (a) for such community benefits as the Director-General considers appropriate, or
 - (b) for such other purposes as may be authorised or permitted by or under this or any other Act.
- (4) The Community Development Fund established under this section is a continuation of the fund established under section 15B (as in force immediately before the repeal of that section by the *Gaming Machines Amendment Act 2008*).

[109] Section 205 Additional functions of Authority

Omit section 205 (1). Insert instead:

- (1) The Minister may, after consultation with the Authority, give directions and furnish guidelines to the Authority as to how the Authority is to exercise its functions in relation to the following:
 - (a) hardship gaming machines,
 - (b) classifying local government areas for the purposes of Division 1 of Part 4,
 - (c) approving local impact assessments under Division 1 of Part 4,
 - (d) determining whether an area of land is a new development area for the purposes of section 37A,
 - (e) declaring poker machines or devices as approved gaming machines under Division 2 of Part 5.

[110] Section 206 Secrecy

Insert after section 206 (5) (c):

- (c1) the NSW Police Force or the police force of another State or a Territory,
- (c2) the Australian Federal Police,

[111] Section 210 Regulations

Insert after section 210 (2) (g):

- (g1) the operation of temporary self-exclusion schemes for the patrons of hotels and clubs,

[112] Section 210 (2) (x)

Insert after section 210 (2) (w):

- (x) any matter relating to the operation of an authorised linked gaming system,

[113] Section 210 (2) (y)

Omit “(as referred to in section 15B)”.

[114] Section 210 (2) (z)

Insert after section 210 (2) (y):

- (z) the allocation, transfer and forfeiture of poker machine entitlements.

[115] Schedule 1 Savings, transitional and other provisions

Insert at the end of clause 1 (1):

Gaming Machines Amendment Act 2008

[116] Schedule 1, Part 11

Insert after Part 10:

**Part 11 Provisions consequent on enactment of
Gaming Machines Amendment Act 2008**

43 Definition

In this Part:

amending Act means the *Gaming Machines Amendment Act 2008*.

44 Special provisions relating to entitlements retained by clubs under former section 15B

(1) In this clause:

retained entitlement means a poker machine entitlement retained by a registered club in accordance with section 15B (as in force before its repeal by the amending Act).

(2) If a registered club:

(a) forfeited poker machine entitlements in accordance with section 15B (4) (d) (as in force before its repeal by the amending Act), and

(b) subsequently transfers, in accordance with Division 2 of Part 3 of this Act, any of its retained entitlements, each of those forfeited entitlements is, for the purposes of the subsequent transfer of the retained entitlements, taken to be one of the entitlements that the club is required to forfeit to the Authority because of section 20 (3) (b).

(3) Accordingly, the registered club is exempt from the operation of section 20 (3) (b) to the extent that the club is not required to forfeit poker machine entitlements from a transfer block under that section if those entitlements are, because of subclause (2), already taken to have been forfeited under this clause.

(4) A registered club may, in accordance with Division 1 of Part 4 of this Act (as inserted by the amending Act), apply to the Authority to increase the gaming machine threshold for the premises of the

club by a number that corresponds to all or any of the number of retained entitlements held by the club.

- (5) If the Authority approves the threshold increase application, the Authority is to convert the relevant number of retained entitlements into poker machine entitlements that are allocated in respect of the club's premises and that are transferrable by the club under Division 2 of Part 3 of this Act.
- (6) In converting any such retained entitlements into tradeable poker machine entitlements, one out of every 6 of the converted entitlements must be forfeited to the Authority.

45 Existing SIA thresholds and pending SIA applications

- (1) The SIA threshold for a venue immediately before the relevant date is, as at that date, taken to be the gaming machine threshold for the venue.
- (2) Except as provided by subclause (3), the amendments made by the amending Act do not affect the operation of any SIA that was approved before the relevant date and had effect immediately before that date.
- (3) If, before the relevant date, the SIA threshold for a venue was not decreased as a result of the transfer of poker machine entitlements from the venue in accordance with Division 2 of Part 3, the Authority is, on the second anniversary of the relevant date, to decrease the gaming machine threshold for the venue by a number that is equal to so much of the unused portion of the venue's SIA threshold as was not decreased as the result of the transfer.
- (4) Any SIA that was provided to the Board or the Authority in accordance with this Act before the relevant date, but not determined by that date, is to be assessed by the Authority, and otherwise be dealt with, as if it were a local impact assessment accompanying a gaming machine threshold application under Division 1 of Part 4 (as inserted by the amending Act).
- (5) This clause is subject to the regulations.
- (6) In this clause:

relevant date means the date on which this clause commences.

SIA means a social impact assessment provided under Division 1 of Part 4 (as in force before its repeal by the amending Act).

SIA threshold has the meaning given to it under section 4 (1) before the repeal of that definition by the amending Act.

unused portion of a SIA threshold means any portion of the threshold for which a poker machine entitlement has not been acquired.

venue means a hotel or the premises of a registered club.

46 Existing free club entitlements and pending applications

- (1) In this clause:
existing free club entitlement means a poker machine entitlement allocated under section 17 (as in force before its repeal by the amending Act) in respect of the premises of a registered club.
- (2) An existing free club entitlement cannot be transferred during the period of 3 years immediately following the date on which it was allocated.
- (3) A registered club must forfeit to the Authority all of its existing free club entitlements before any other poker machine entitlements allocated in respect of the club's premises can be transferred under Division 2 of Part 3 of this Act.
- (4) Any application made (but not determined) under section 17 before its repeal by the amending Act has no effect.

47 Existing advisers' licences and work permits

An adviser's licence (or work permit issued in relation to an application for such a licence) in force immediately before the commencement of this clause is, on that commencement, taken to be a seller's licence or a work permit issued in relation to an application for a seller's licence, as the case requires.

[Agreement in principle speech made in Legislative Assembly on 29 October 2008
Second reading speech made in Legislative Council on 26 November 2008]

BY AUTHORITY