



New South Wales

Gaming Machines Amendment Regulation 2009

under the

Gaming Machines Act 2001

Her Excellency the Governor, with the advice of the Executive Council, has made the following Regulation under the *Gaming Machines Act 2001*.

KEVIN GREENE, M.P.,
Minister for Gaming and Racing

Explanatory note

The object of this Regulation is to amend the *Gaming Machines Regulation 2002* as a consequence of the enactment of the *Gaming Machines Amendment Act 2008*. In particular, this Regulation makes provision for or with respect to the following:

- (a) the information to be included in local impact assessments that are required to be provided with gaming machine threshold increase applications under Division 1 of Part 4 of the *Gaming Machines Act 2001*,
- (b) other requirements in relation to threshold increase applications and local impact assessments,
- (c) the removal of provisions relating to gaming machine adviser's licences.

This Regulation also makes a number of amendments in relation to progressive jackpot systems, unclaimed jackpot prizes and the expiration of unclaimed gaming machine tickets.

This Regulation is made under the *Gaming Machines Act 2001*, including sections 35 (as inserted by the *Gaming Machines Amendment Act 2008*) and 210 (the general regulation-making power).

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Clause 1 Gaming Machines Amendment Regulation 2009

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1 Name of Regulation

This Regulation is the *Gaming Machines Amendment Regulation 2009*.

2 Commencement

This Regulation commences on 31 January 2009.

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[1] **Clause 3A**

Insert after clause 3:

3A Definition of “subsidiary equipment”

For the purposes of the definition of *subsidiary equipment* in section 4 (1) of the Act, the following equipment, devices and systems are prescribed:

- (a) a player reward scheme within the meaning of section 45 of the Act,
- (b) a cash-back terminal,
- (c) any device used to display the rules relating to approved gaming machines (including multi-terminal gaming machines).

[2] **Clauses 8 and 8A**

Omit the clauses.

[3] **Clause 13 General requirement to award or pay prizes**

Omit “prize-winner” from clause 13 (1). Insert instead “prizewinner”.

[4] **Clause 18**

Omit the clause. Insert instead:

18 Clubs required to record certain information in relation to gaming machines

- (1) A registered club must ensure that the requirements of this clause are complied with to the extent that they apply to the club.
Maximum penalty: 50 penalty units.
- (2) A registered club must, at monthly intervals, record the following information in respect of each approved gaming machine kept on the premises of the club:
 - (a) a cash flow analysis,
 - (b) a comparison of cancelled credit and jackpot wins meter readings with the corresponding entries in the club’s payout sheets,

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- (c) a comparison of the money out meter reading (in the case of an approved gaming machine that issues gaming machine tickets by means of equipment subsidiary to the gaming machine), or the cancelled credits payments meter reading (in the case of an approved gaming machine that issues gaming machine tickets otherwise than by means of subsidiary equipment), with the total of:
 - (i) the value of the gaming machine tickets issued from the gaming machine, being gaming machine tickets that have been redeemed, and
 - (ii) the value of the unclaimed gaming machine tickets issued from the gaming machine.
- (3) The cash flow analysis must be in or to the effect of a form approved by the Director.
- (4) The information contained in a record referred to in subclause (2) must be reported to the club's board or committee at monthly intervals.
- (5) If a meter of an approved gaming machine kept on the premises of a registered club ceases to function or malfunctions, the club must cause it to be repaired as soon as practicable after it so ceases to function or malfunctions.

[5] Clause 19A

Insert after clause 19:

19A Record of work done by technicians

For the purposes of section 76B of the Act:

- (a) the following work is prescribed:
 - (i) the installation of an approved gaming machine,
 - (ii) the servicing or repair of an area or part of an approved gaming machine that is an area or part referred to in section 77 (1) of the Act,
 - (iii) the servicing or repair of an approved gaming machine that involves the resetting of an electronic meter, and
- (b) the details required to be recorded are as follows:
 - (i) the date the work was carried out,
 - (ii) the technician's name and licence number,
 - (iii) the name and serial number of the gaming machine on which the work was carried out.

[6] Clause 30A

Insert after clause 30:

30A Requirements relating to prize winning cheques

The following statement is prescribed for the purposes of section 47B (b) of the Act :

Prize winning cheque—cashing rules apply

[7] Part 3, Division 3

Omit the Division. Insert instead:

Division 3 Gaming machine threshold scheme**33 Interpretation**

(1) In this Division:

LIA guidelines means the guidelines (as in force from time to time) that are issued by the Authority for the purposes of this Division.

threshold increase application means an application under section 34 of the Act.

venue (or *relevant venue*), in relation to a threshold increase application, means the hotel or club premises to which the application relates.

(2) For the purposes of this Division, the *internal floor space* of a venue includes any outdoor dining area or other unenclosed seating area.

(3) For the purposes of this Division, a reference to a new club includes a reference to a club whose premises are removed under the *Liquor Act 2007* to other premises (whether or not in the same neighbourhood as the previous premises).

Note. The definition of *new hotel* in the Act includes a hotel to which a licence is removed under the *Liquor Act 2007*

34 Threshold increase ranges

For the purposes of section 35 of the Act:

- (a) a low-range increase is any number from 1 to 20, and
- (b) a mid-range increase is any number from 21 to 40, and
- (c) a high-range increase is any number above 40.

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35 Threshold increase applications—general requirements

- (1) A threshold increase application must:
 - (a) specify the internal floor space (in square metres) of the venue, and
 - (b) in the case of an application made by or in relation to a new hotel or new club—provide a map showing the location of the venue and the location of any school, place of public worship or hospital within 200 metres of the venue.
- (2) The gaming machine threshold for a new hotel or the premises of a new club cannot be increased if the hotel or club premises are situated in the immediate vicinity of a school, place of public worship or hospital.
- (3) In the case of a threshold increase application by a registered club, the application must, if the club is proposing to increase the gaming machine threshold for the venue to a number above 450 and the application is not required to be accompanied by a local impact assessment because of section 35 (2) of the Act, demonstrate the following to the satisfaction of the Authority:
 - (a) that consideration has been given to assessing the impact of the additional gaming machines on the amenity of the local area and the action that will be taken to manage any negative impact,
 - (b) that appropriate harm minimisation and responsible gambling measures (in addition to those already required by law) are in place at the venue,
 - (c) that the proposed increase will result in additional benefits to club members or the community.

36 Threshold increase applications—consultation requirements

- (1) This clause applies in relation to a threshold increase application that is required to be accompanied by a class 2 LIA.
- (2) Before any such threshold increase application is made, the proposed applicant must notify each of the following about the proposed application:
 - (a) the local council for the area in which the relevant venue is situated,
 - (b) the local police,
 - (c) the Council of Social Service of New South Wales,
 - (d) the area health service for the area in which the relevant venue is situated,

- (e) any organisation that is located in the local government area in which the relevant venue is situated and that receives funding from the Responsible Gambling Fund under the *Casino Control Act 1992* for the specific purpose of providing gambling-related counselling or treatment services.
- (3) The notice must specify the following:
- (a) the name and address of the venue,
 - (b) an explanation of the nature of the proposed application,
 - (c) the contact details of the person to whom submissions or inquiries about the proposed application may be made,
 - (d) the date on which the proposed application is intended to be made to the Authority.
- (4) If the threshold increase application is made to the Authority, the class 2 LIA that is provided with the application must include a report on the results of the consultation process under subclause (1). Such a report is to include details of any meetings or discussions held in relation to the proposed application and the outcomes of those meetings or discussions.

37 Class 1 LIA—information to be provided

A class 1 LIA must include the following:

- (a) if the threshold increase application to which the LIA relates is made in relation to a new hotel or a new club—a map showing the location of the venue and the location of any school, place of public worship or hospital within 200 metres of the venue,
- (b) details of the benefits that the venue will provide to the local community if the threshold increase application is approved,
- (c) details of the harm minimisation and responsible gambling measures that are in place at the venue.

38 Class 2 LIA—information to be provided

(1) **General information**

A class 2 LIA must include the following information:

- (a) the gaming machine threshold for the venue and the number by which it is proposed to be increased,
- (b) the name, address and licence number of the venue,

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- (c) the name of the local government area in which the venue is situated and the name of any other local government area within 5 kilometres of the venue,
- (d) a map of the area within a radius of 1 kilometre of the venue that shows the location of the venue and the location and name of any of the following that are situated in that area:
 - (i) any other licensed premises,
 - (ii) any school, hospital or place of public worship,
 - (iii) any sporting or community facility,
- (e) the name and address of the owner of the business carried on under the licence for the venue (referred to as *the business owner*),
- (f) the contact details of the business owner or person representing the business owner.

(2) **Specific information about the relevant venue**

A class 2 LIA must include the following information:

- (a) a description of the facilities provided by the venue and the activities conducted at the venue,
- (b) the trading hours of the venue,
- (c) details (including a floor plan) of the area or areas of the venue set aside or proposed to be set aside for playing gaming machines,
- (d) a current patron profile (based on a survey of patrons conducted in accordance with the LIA guidelines) that shows the distribution of places of residence, gender, occupation and age of patrons and other relevant information (such as cultural or ethnic background) relating to the venue's patrons,
- (e) an outline of any expected increase in patronage should the threshold increase application be approved,
- (f) details of appropriate harm minimisation and responsible gambling measures (in addition to those already required by law) that are in place at the venue.

(3) **Gaming machine data and social profile information**

A class 2 LIA must include the following information (as provided to the applicant by the NSW Office of Liquor, Gaming and Racing):

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- (a) information relating to gaming machines and poker machine entitlements in the relevant area for the venue,
 - (b) demographic and other social and economic information relating to the relevant area for the venue.
- (4) For the purposes of subclause (3), the *relevant area* for a venue is:
- (a) the local government area in which the venue is situated, and
 - (b) any other local government area within 5 kilometres of the venue.
- (5) **Assessment**
- A class 2 LIA must:
- (a) specify the positive impact (both social and economic) that the proposed increase in the gaming machine threshold for the relevant venue will have on the local community (including details of the benefits that the venue will provide), and
 - (b) specify any negative social or economic impact that the proposed increase may have on the local community and the action that will be taken to address that impact.
- (6) For the purposes of subclause (5), the *local community* comprises the following:
- (a) the people in the area (or in the group) from which the persons using the services and facilities of the venue concerned are likely to be drawn,
 - (b) the people in the area (or in the group):
 - (i) that is to derive, or that the Authority considers is likely to derive, social or economic benefit if the threshold increase application is approved, or
 - (ii) that is to suffer, or that the Authority considers is likely to suffer, social or economic detriment if the threshold increase application is approved.

39 Consultation and advertising requirements

- (1) This clause applies in relation to a threshold increase application if a local impact assessment is required to be provided with the application.

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- (2) If such an application is made to the Authority, the applicant must, within 2 working days of making the application:
 - (a) provide a copy of the application and the LIA to each of the following:
 - (i) the local council for the area in which the relevant venue is situated,
 - (ii) the local police, and
 - (b) notify each of the following that the application has been made, that the LIA has been provided with the application and that the application and the LIA may be inspected on the website of the NSW Office of Liquor, Gaming and Racing:
 - (i) the Council of Social Service of New South Wales,
 - (ii) the area health service for the area in which the relevant venue is situated,
 - (iii) any organisation that is located in the local government area in which the relevant venue is situated and that receives funding from the Responsible Gambling Fund under the *Casino Control Act 1992* for the specific purpose of providing gambling-related counselling or treatment services.
- (3) The applicant must advise any such person or body referred to in subclause (2) that the person or body may, within 30 days after receiving (or being notified of) the application and the LIA, make a written submission to the Authority in relation to the application and the LIA.
- (4) In addition to subclause (2), the applicant must, within 2 working days of making the application:
 - (a) place an advertisement in a local newspaper circulating in the area in which the relevant venue is situated, and
 - (b) display a notice in a conspicuous area outside the relevant venue (or on the perimeter of the site if the venue has not been built).
- (5) The advertisement and notice must:
 - (a) state that the application has been made and that the LIA has been provided with the application, and
 - (b) explain the nature of the application, and

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- (c) advise that the application and the LIA may be inspected on the website of the NSW Office of Liquor, Gaming and Racing, and
 - (d) advise that any person may make a submission to the Authority in relation to the application and the LIA within 30 days following the date on which the advertisement is published or the notice is displayed (as the case requires).

40 LIA not required with threshold increase applications relating to Liquor Act poker machine permits

- (1) A threshold increase application is not required to be accompanied by a LIA if the application is made together with an application under and in accordance with the arrangements referred to in clause 5 of Schedule 1 to the Act for the acquisition by the relevant venue of Liquor Act poker machine permits and either or both of the following apply:
 - (a) the relevant venue and the hotel from which the permits are proposed to be transferred are situated in the same local government area,
 - (b) 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.
- (2) A threshold increase application is not required to be accompanied by a LIA if:
 - (a) the Authority is satisfied that the proposed increase relates only to the use of Liquor Act poker machine permits that are, at the time of the application, held by the relevant venue in a dormant capacity, and
 - (b) the relevant venue is situated in a Band 1 LGA, and
 - (c) 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.
- (3) A threshold increase application is not required to be accompanied by a LIA if:
 - (a) the gaming machine threshold for the relevant venue has been decreased as a result of the transfer of poker machine entitlements from the venue, and

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- (b) the Authority is satisfied that the proposed increase in the venue's gaming machine threshold relates only to the use of Liquor Act poker machine permits that are, at the time of the application, held by the relevant venue in a dormant capacity, and
 - (c) the threshold increase application, if approved, would not result in the gaming machine threshold for the venue being increased by more than the number by which the threshold was decreased as a result of the transfer of poker machine entitlements from the venue.
- (4) For the purposes of subclauses (2) and (3), a Liquor Act poker machine permit is held in a dormant capacity if an approved gaming machine is not authorised to be kept under the Act in relation to the permit.

40A Restriction on approving threshold increase applications for small venues—floor space requirements

The Authority may not approve a threshold increase application:

- (a) in the case of a venue with an internal floor space of less than 250 square metres—if the approval would result in the gaming machine threshold for the venue being increased to more than 2, or
- (b) in the case of a venue with an internal floor space of more than 250 square metres but less than 300 square metres—if the approval would result in the gaming machine threshold for the venue being increased to more than 4, or
- (c) in the case of a venue with an internal floor space of more than 300 square metres but less than 350 square metres—if the approval would result in the gaming machine threshold for the venue being increased to more than 6, or
- (d) in the case of a venue with an internal floor space of more than 350 square metres but less than 400 square metres—if the approval would result in the gaming machine threshold for the venue being increased to more than 8.

40B Exemption from operation of section 37B (4) of the Act for club premises in retail shopping centres

For the purposes of section 37B (5) (a) of the Act, the prescribed number of shops is 40.

[8] Clause 41 Gaming machine advertising and signs—exclusions

Insert after clause 41 (1) (a):

- (a1) in any promotional material provided by a registered club to a member of the club in accordance with subclause (1C), or

[9] Clause 41 (1C) and (1D)

Insert after clause 41 (1B):

- (1C) A registered club may send (whether by post or electronic means) promotional material that contains gaming machine advertising (as referred to in section 43 (6) of the Act) to a member of the club but only if:
 - (a) the member has expressly consented to receiving the promotional material and that consent has not been withdrawn, and
 - (b) the promotional material contains a statement to the effect that player activity statements are available on request in accordance with clause 42, and
 - (c) the promotional material contains a statement to the effect that the member may at any time withdraw his or her consent to receiving any further promotional material, and
 - (d) the promotional material includes information or advertising apart from gaming machine advertising, and
 - (e) the club keeps a written record of the member's consent to receiving the promotional material.
- (1D) Unless withdrawn by the member concerned, any such consent by a member of a registered club continues until the end of the membership period but may be renewed at the time the membership is renewed.

[10] Clause 45 Transitional exemption—redeeming existing player reward scheme bonus points for cash

Omit the clause.

[11] Clause 49A

Insert after clause 49:

49A Location of jackpot prize monitors for linked gaming systems under Part 10 of Act

- (1) A hotelier or registered club must not permit any monitor that is used to display the jackpot prize from a linked gaming system

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operating in the hotel or on the club premises to be located in any part of the hotel or club premises other than:

- (a) the bar area (within the meaning of the *Liquor Act 2007*) of the hotel or club premises, or
- (b) in the case of a hotel that is required to have a gaming room under section 68 of the Act—the gaming room.

Maximum penalty: 50 penalty units.

- (2) In this clause:

linked gaming system means an authorised inter-hotel linked gaming system, or an authorised inter-club linked gaming system, within the meaning of Part 10 of the Act, but does not include an authorised progressive system within the meaning of Part 5 of this Regulation.

- (3) This clause commences on 1 May 2009.

[12] **Clause 55 Application for technician's licence**

Omit “or adviser’s licence”.

[13] **Clauses 68A and 68B**

Insert after clause 68:

68A Display of information in relation to progressive systems

A hotelier or registered club must ensure that each approved gaming machine that is part of an authorised progressive system operated in the hotel or on the premises of club clearly indicates:

- (a) the progressive system to which the gaming machine is linked, and
- (b) the identifying number of the gaming machine in relation to the progressive system.

Maximum penalty: 50 penalty units.

68B Location of jackpot prize monitors for progressive systems

- (1) A hotelier or registered club must not permit any monitor that is used to display the jackpot prize from an authorised progressive system kept in the hotel or on the club premises to be located in any part of the hotel or club premises other than:

- (a) the bar area (within the meaning of the *Liquor Act 2007*) of the hotel or club premises, or

- (b) in the case of a hotel that is required to have a gaming room under section 68 of the Act—the gaming room.

Maximum penalty: 50 penalty units.

- (2) This clause commences on 1 May 2009.

[14] Clause 72A

Insert after clause 72:

72A Unclaimed jackpot prizes

- (1) If a jackpot prize won on any authorised progressive gaming machine or authorised progressive system kept or operated by a hotelier or registered club is not claimed by the prizewinner within the period of 12 months after the prize was won, the hotelier or registered club must, within 3 months after the end of that 12-month period, pay the amount of the unclaimed jackpot prize to the Director-General.

Maximum penalty: 50 penalty units.

- (2) Any amount paid to the Director-General under this clause is to be paid into the Community Development Fund.

[15] Clauses 74 (2) (a), 75 (2) (a), 77 (2) (a) and 78 (2) (a)

Omit “the turnover meters (both electro-mechanical and electronic)” wherever occurring.

Insert instead “the electronic turnover meters”.

[16] Clause 100

Omit the clause. Insert instead:

100 Expiry of unclaimed gaming machine tickets

- (1) An unclaimed gaming machine ticket expires 12 months after the date on which it was issued and cannot be redeemed after it expires.
- (2) A hotelier or registered club must, for the period of at least 1 month immediately before the date on which an unclaimed gaming machine ticket is due to expire, post in a conspicuous place in the hotel or on the premises of the club a notice, in a form approved by the Authority, indicating:
- (a) that the unclaimed gaming machine ticket is due to expire on the date specified in the notice, and
 - (b) that a claim in respect of the ticket cannot be made after it expires.

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- (3) If an unclaimed gaming machine ticket is not redeemed before it expires, the hotelier or registered club must, within 3 months of the expiration of the ticket, pay to the Director-General the amount that the hotelier or club would have paid had the ticket been redeemed.
- (4) Any amount paid to the Director-General under this clause is to be paid into the Community Development Fund.
- (5) This clause extends to gaming machine tickets issued before the commencement of this clause (as substituted by the *Gaming Machines Amendment Regulation 2009*).
- (6) However, in the case of any such gaming machine ticket that would, because of subclause (1), expire at any time during the period of 3 months immediately following the commencement of this clause, the ticket does not expire until after the end of that 3-month period.

[17] Clause 101 Disposal of money payable in respect of unclaimed gaming machine tickets

Omit the clause.

[18] Clause 128 Fees for grant of gaming-related licence

Omit clause 128 (1) (d).

[19] Clause 130 Amount of periodic licence fees

Omit clause 130 (1) (d).

[20] Clause 132A Application fee for variation or revocation of condition of gaming-related licence

Omit clause 132A (d).

[21] Clause 135A Exclusion of certain persons from definition of “gaming machine adviser”

Omit the clause.

[22] Clause 137 General requirement for records to be kept for 3 years

Insert “the Act or” after “required by” in clause 137 (1).

[23] Clause 138 Exclusion of Sydney CBD from definition of “retail shopping centre”

Omit “section 60” from clause 138 (1). Insert instead “section 4 (1)”.

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- [24] **Clause 138AA Exclusion from definition of “retail shopping centre”**
Omit the clause.
- [25] **Clause 138A Exclusion of retail shopping centres with less than 40 shops**
Omit “section 60” from clause 138A (1). Insert instead “section 4 (1)”.
- [26] **Clause 138A (2) and (3)**
Omit the subclauses. Insert instead:
- (2) Any threshold increase application under section 34 of the Act in respect of any such hotel or premises of a registered club must be accompanied by a class 2 LIA under section 35 of the Act.
 - (3) Subclause (2) has effect despite anything to the contrary in section 35 of the Act.
- [27] **Clause 138B**
Omit the clause. Insert instead:
- 138B Exclusion of unenclosed pedestrian malls from definition of “retail shopping centres**
- An outdoor or unenclosed pedestrian mall consisting of:
- (a) a road that is closed to vehicular traffic, and
 - (b) retail shops,
- is excluded from the definition of *retail shopping centre* in section 4 (1) of the Act.
- [28] **Clause 138C Exemption from operation of section 60 (5) of the Act**
Omit the clause.
- [29] **Clause 140 Disclosure of information**
Omit clause 140 (2). Insert instead:
- (2) For the purposes of section 206 (5) (e) of the Act, a person who makes a threshold increase application under section 35 of the Act is prescribed, but only in relation to the disclosure of such information as is necessary to enable the person to provide a local impact assessment with the threshold increase application.

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[30] Clause 151

Insert after clause 150:

151 Savings provision—construction of certain references to Licensing Court and Liquor Administration Board

- (1) A reference to the Licensing Court or to the Liquor Administration Board in the arrangements referred to in clause 5 of Schedule 1 to the Act is to be construed as a reference to the Authority.
- (2) This clause is taken to have commenced on 1 January 2009.

[31] Schedule 3 Penalty notice offences

Insert in appropriate order under the heading “**Offences under the Act**” in Columns 1 and 2 respectively:

Section 44A (2)	\$550
Section 46 (3)	\$1,100
Section 47B	\$550
Section 47C (1)	\$1,100
Section 76A (1)	\$1,100
Section 76B (1)	\$550
Section 80A	\$1,100
Section 156A (1) and (3)	\$1,100
Section 158A	\$1,100

[32] Schedule 3

Omit the matter relating to section 87 (1) and (2) under the heading “**Offences under the Act**”.

[33] Schedule 3

Omit “\$220” from the matter relating to section 122 under the heading “**Offences under the Act**”.

Insert instead “\$550”.

[34] Schedule 3

Insert in appropriate order under the heading “**Offences under this Regulation**” in Columns 1 and 2 respectively:

Clause 49A	\$550
Clause 68A	\$550
Clause 68B	\$550
Clause 72A (1)	\$500