

[Act 2002 No 102]



New South Wales

Gaming Machines Further Amendment Bill 2002

Explanatory note

This explanatory note relates to this Bill as introduced into Parliament.

Overview of Bill

The object of this Bill is to amend the *Gaming Machines Act 2001* as follows:

- (a) to provide that poker machine entitlements may be transferred between the premises of a registered club that are situated in a country area without forfeiting any entitlements so long as the premises are within 50 kilometres of each other,
 - (b) to provide that the transfer of poker machine entitlements by a large-scale club to another set of the premises of the club is subject to the forfeiture requirements under the Act regardless of where the other premises are situated,
 - (c) to allow hotels and registered clubs to transfer their poker machine entitlements to temporary premises without forfeiture,
 - (d) to restrict the number of approved amusement devices that may be authorised to be kept in a hotel or registered club,
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- (e) to restore the provision of the *Liquor Act 1982* that allows a hotelier to share profits from the operation of gaming machines with persons who have a financial interest in the hotel,
- (f) to make it clear that the Liquor Administration Board is to have regard to the need for gambling harm minimisation and other related matters when exercising its functions in relation to approving technical standards and declaring devices to be approved gaming machines,
- (g) to make a number of other miscellaneous amendments to enhance the operation of the Act.

The Bill also makes a number of minor amendments to the *Registered Clubs Act 1976*, including amendments relating to the information that a club is required to provide to its members.

Outline of provisions

Clause 1 sets out the name (also called the short title) of the proposed Act.

Clause 2 provides for the commencement of the proposed Act on a day or days to be appointed by proclamation.

Clause 3 is a formal provision giving effect to the amendments to the *Gaming Machines Act 2001* set out in Schedule 1.

Clause 4 is a formal provision giving effect to the amendments to the *Registered Clubs Act 1976* set out in Schedule 2.

Schedule 1 Amendment of Gaming Machines Act 2001

Schedule 1 [1] and [2] make it clear that the primary objects of the Act, namely gambling harm minimisation and the fostering of responsible conduct in relation to gambling, have general application in relation to all matters under the Act.

Schedule 1 [4] repeals section 13 of the Act which currently requires a large-scale club with more than 450 gaming machines on any of its premises to reduce the number of gaming machines on those premises. **Schedule 1 [6]** provides instead that any such large-scale club will be required to reduce the number of its poker machine entitlements (which may in some cases be more than the number of gaming machines the club has) by 10% or to a maximum of 450 by 2 April 2007.

Because the new provision is similar to the existing requirement under section 13, it is taken to have commenced on 2 April 2002 which is the date on which the Act commenced.

Schedule 1 [5] provides that the Board is not required to allocate a poker machine entitlement to a venue for each one of its frozen number of poker machines unless the Board is satisfied that the venue was in a position to keep the poker machine at the time the venue was authorised to install it (eg where the venue concerned was not operating at the relevant time as a hotel or club). Poker machine entitlements allocated to a venue must be forfeited if they would not have been allocated had the new provision been in force at that time.

Schedule 1 [7] provides that the certificate issued by the Board under section 16 that specifies the number of poker machine entitlements allocated to a venue may also specify the venue's SIA threshold. This term is defined in section 4 of the Act along with the terms *AAD threshold* and *temporary premises* (see **Schedule 1 [3]**).

Schedule 1 [9] provides that poker machine entitlements that are specially allocated to new or small-scale clubs under section 17 must be forfeited before any other poker machine entitlements allocated to the club can be transferred. **Schedule 1 [8]** is a consequential amendment.

Schedule 1 [10] restates an existing provision of the Act and places it in a more appropriate location. The provision enables poker machine entitlements allocated in respect of a hotelier's licence that is removed to other premises to be transferable to the removed licence.

Schedule 1 [11] provides that a country hotel with a SIA threshold of no more than 8 can transfer one poker machine entitlement in a 12-month period to another country hotel without forfeiting an entitlement for the transfer.

Schedule 1 [12] clarifies the operation of an existing provision which prevents a country hotel from transferring more than one block of poker machine entitlements per year to a metropolitan hotel.

Schedule 1 [13] provides that poker machine entitlements may be transferred between the premises of a registered club (eg where the club has more than one set of premises, but not in the case of a large-scale club) without forfeiting any entitlements so long as the premises are within 1 kilometre of each other (for metropolitan clubs) or 50 kilometres of each other (for country clubs).

Schedule 1 [14] inserts a special provision in relation to the transfer by large-scale clubs of poker machine entitlements. Any transfer by such a club to another set of its premises (regardless of where those premises are situated) will require the forfeiture of one entitlement per transfer block. A class 2 social impact assessment

will also be required to be provided in relation to the keeping of the gaming machines that will be kept in the other set of premises as a result of the transfer.

Schedule 1 [15] will prevent hoteliers who surrender their approved amusement devices in exchange for poker machine entitlements from applying for authorisation for approved amusement devices to replace the surrendered AAD entitlements.

Schedule 1 [16] makes it clear that poker machine entitlements allocated in respect of a venue can only be transferred to new premises in accordance with the usual requirements (eg forfeiture of one entitlement per transfer block). However, forfeiture is not required if the new (or in the case of hotels) removed premises are within 1 kilometre of the previous premises.

Schedule 1 [17] makes it clear that the Board's approval of the keeping of hardship gaming machines is subject to conditions imposed by the Board.

Schedule 1 [18] provides that the Board is not to allocate a poker machine entitlement in relation to a hardship gaming machine unless the Board is satisfied that any conditions of the Board's approval for the keeping of the gaming machine have been complied with.

Schedule 1 [19] inserts special provisions relating to the forfeiting of "non-transferable" gaming machine entitlements (eg hardship gaming machines), the transferring of Liquor Act poker machine permits (which are distinct from poker machine entitlements under the *Gaming Machines Act 2001*) and the consequences of a hotelier's licence or club moving to temporary premises.

Schedule 1 [20] extends the circumstances in which a social impact assessment in relation to the keeping of gaming machines must be provided to the Board. A social impact assessment must be provided if the SIA threshold for the venue concerned would be increased or if a hotelier or registered club is applying for authorisation to keep gaming machines on temporary premises.

Schedule 1 [21] removes the requirement that the application to the Board for authorisation to keep gaming machines must be advertised when a social impact assessment is required. Only the social impact assessment that is provided in connection with the application will need to be advertised in accordance with section 36 of the Act. **Schedule 1 [22] and [23]** are consequential amendments.

Schedule 1 [24] makes it clear that the applicant who provides a social impact assessment is liable for the costs incurred by the Board in determining the assessment regardless of whether it is approved by the Board. **Schedule 1 [25]** is a consequential amendment.

Schedule 1 [26] provides that the Board may not approve a social impact assessment if it relates to the keeping of gaming machines in a retail shopping centre.

Schedule 1 [27] provides that the moving of a hotelier's licence or a registered club to temporary premises has the effect of cancelling the hotelier's or club's authorisation to keep gaming machines.

Schedule 1 [28] provides that an approved amusement device cannot be authorised to be kept in a hotel or registered club if the venue's AAD threshold would be increased.

Schedule 1 [31] provides that the SIA threshold for a hotel or registered club that is part of a retail shopping centre is to be decreased if poker machine entitlements are transferred away from the venue. **Schedule 1 [29] and [30]** are consequential amendments.

Schedule 1 [32] makes it clear that the Board is to have due regard to the need for gambling harm minimisation and other related matters when exercising its functions in relation to approving technical standards and declaring devices as approved gaming machines.

Schedule 1 [33] makes it clear that a hotelier may share the profits from operating gaming machines in the hotel with persons who have a financial interest in the hotel.

Schedule 1 [34] makes it clear that the Licensing Court may, in addition to any penalty it may impose on a hotelier or registered club for an offence, cancel any authorisation or approval that the hotelier or club has to keep gaming machines or disqualify the hotelier or club from keeping gaming machines for any period. These powers are similar to the disciplinary powers that the Court has under section 131 of the Act in dealing with a complaint against a hotelier or club. **Schedule 1 [35]** is a consequential amendment.

Schedule 1 [36] enables regulations of a savings or transitional nature to be made as a consequence of the amendments to the *Gaming Machines Act 2001* made by the proposed Act. **Schedule 1 [37]** inserts savings and transitional provisions relating to the application of some of the amendments made by the proposed Act.

Schedule 2 Amendment of Registered Clubs Act 1976

Schedule 2 [1] provides that the information relating to certain matters that must be included in the club's annual report to its members (namely the salaries of club employees, overseas travel by club directors or employees and gaming machine profits and expenditure) must also be provided to the members before each annual general meeting.

Schedule 2 [2] clarifies certain requirements in relation to the reporting of the total remuneration packages of a registered club's 5 highest paid employees.

Schedule 2 [3] provides that the information relating to gaming machine profits and related matters that must be included in the club's annual report and provided to members is to refer to the previous gaming machine tax period (ie the period of 12 months ending 30 November).

Schedule 2 [4] provides that, in the case of a proposed amalgamation where the clubs are not situated in the same area, it is up to the club that would be dissolved by the amalgamation to satisfy the Licensing Court that the club should be able to amalgamate with another club that is not in the same area.

Schedule 2 [5] enables regulations of a savings or transitional nature to be made as a consequence of the amendments to the *Registered Clubs Act 1976* made by the proposed Act.