



New South Wales

# Casino Control Amendment Bill 2010

## 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 *Casino Control Act 1992* (the *principal Act*) in relation to controlled contracts, training and licensing requirements for special employees, the making and notification of exclusion orders, liability following removal of a person from a casino, penalty notices and other miscellaneous matters.

## 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 the date of assent to the proposed Act.

## Schedule 1      **Amendment of Casino Control Act 1992 No 15**

Division 2 of Part 3 of the principal Act requires a casino operator to give notice to the Casino, Liquor and Gaming Control Authority (the *Authority*) when it enters into, or varies, a controlled contract. Such contracts may be terminated by the

Authority in certain circumstances. **Schedule 1 [1]** substitutes the definition of *controlled contract* so that it covers only contracts relating to the supply or servicing of gaming equipment and contracts that are materially significant to the integrity of the operation of the casino. **Schedule 1 [1], [2] and [3]** make consequential amendments.

**Schedule 1 [5]** amends the requirements relating to the licensing of special employees. Currently, a special employee must be licensed and must carry out his or her functions in accordance with the authority conferred by the licence and the conditions of the licence. The amendment maintains the requirement for special employees to be licensed but also requires special employees to hold a certificate of competency for the functions that the special employee exercises. **Schedule 1 [15]** provides that certificates of competency are to be issued by a casino operator. These certificates may be issued to a person only if the person has completed training in those functions and in responsible practices for the conduct of gaming (being training provided by the casino operator) or if the person has already completed appropriate training or has appropriate qualifications. Any such training or qualifications on the basis of which a certificate of competency is issued must comply with any standards or other requirements set by the Authority from time to time. A casino operator is also required to maintain records of training provided and certificates of competency issued. **Schedule 1 [4] and [6]–[14]** make consequential amendments.

**Schedule 1 [16] and [23]** make provision for certain types of devices or things that fall within the definition of *gaming equipment* (but are not an intrinsic element of gaming) to be excluded from the licence condition that requires all gaming equipment to be approved under the principal Act before being used in accordance with the approval.

**Schedule 1 [17]–[20]** make minor amendments to the licence conditions relating to the conduct of gaming to reflect changes in the way poker is now dealt and changes to the making of wagers.

**Schedule 1 [21]** makes it clear that the licence condition preventing casino employees or agents from inducing people to enter the casino or take part in gaming in the casino applies only in relation to persons outside the casino (the regulations contain a provision prohibiting certain gambling inducements in relation to persons inside the casino).

**Schedule 1 [24]** amends the definition of *junket* so that it includes an arrangement involving a person, or a group of people, who is introduced to a casino operator by a promoter who receives a commission based on the turnover of play in the casino attributable to the persons introduced by the promoter (or otherwise calculated by reference to such play).

**Schedule 1 [26]** requires the Commissioner of Police to notify the relevant authorities in other States and Territories when an order is made (at the direction of the Commissioner) excluding a person from a casino. The Commissioner is also to provide the relevant authorities with the name of the person subject to the exclusion

order and, where practicable, a photograph of that person and notify the relevant authorities when an order is revoked. **Schedule 1 [25]** makes a consequential amendment.

**Schedule 1 [27]** requires the Commissioner of Police to give a direction that a person be excluded from a casino if the person is subject to exclusion from another casino following the making of a similar direction under a corresponding law of another State or a Territory.

**Schedule 1 [28] and [29]** provide certain protections from civil and criminal liability in relation to the exclusion of persons from a casino.

**Schedule 1 [33]** provides that the amount of a penalty prescribed for a penalty notice offence must not exceed the maximum amount of penalty which could be imposed for the offence by a court.

**Schedule 1 [32]** makes a consequential amendment.

**Schedule 1 [22], [30] and [31]** make statute law revision amendments.

**Schedule 1 [34]** enables the making of regulations of a savings or transitional nature consequent on the enactment of the proposed Act.

**Schedule 1 [35]** inserts savings and transitional provisions.

## **Schedule 2      Amendment of Casino Control Regulation 2009**

**Schedule 2 [1] and [2]** make consequential amendments.

**Schedule 2 [3] and [4]** make law revision amendments.



First print



New South Wales

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New South Wales

# Casino Control Amendment Bill 2010

No. , 2010

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## A Bill for

An Act to amend the *Casino Control Act 1992* to make further provision with respect to contracts concerning a casino established under that Act, the training and licensing of certain casino employees, the conduct of gaming within a casino and other matters.

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<b>The Legislature of New South Wales enacts:</b>	1
<b>1 Name of Act</b>	2
This Act is the <i>Casino Control Amendment Act 2010</i> .	3
<b>2 Commencement</b>	4
This Act commences on the date of assent to this Act.	5



<b>Schedule 1</b>	<b>Amendment of Casino Control Act 1992</b>	1
	<b>No 15</b>	2
<b>[1] Section 36 Definitions</b>		3
	Omit the definitions of <i>controlled contract</i> and <i>notifiable contract</i> .	4
	Insert in alphabetical order:	5
	<i>controlled contract</i> means:	6
	(a) a contract that relates to the supply or servicing of gaming equipment that has been approved by the Authority under section 68 (1), or	7 8 9
	(b) a contract, or class of contracts, that, in the opinion of the Authority, is materially significant to the integrity of the operation of a casino and that the Authority declares, by notice in writing to the casino operator, to be a controlled contract.	10 11 12 13 14
<b>[2] Section 37A Requirements for notifiable contracts</b>		15
	Omit the section.	16
<b>[3] Section 42 Parties to contracts may be required to provide information</b>		17
	Omit “or notifiable contract”.	18
<b>[4] Section 43 Definitions</b>		19
	Insert in alphabetical order in section 43 (1):	20
	<i>certificate of competency</i> means a certificate of competency issued under section 64.	21 22
<b>[5] Section 44</b>		23
	Omit the section. Insert instead:	24
	<b>44 Special employees to be licensed and hold certificate of competency</b>	25 26
	(1) A special employee must hold both a licence and a certificate of competency for the functions that the special employee exercises. A licence authorises the holder of the licence to exercise in or in relation to a casino the functions for which the licensee holds a certificate of competency, subject to the functions being exercised in accordance with the provisions of this Act and the conditions of the licence.	27 28 29 30 31 32 33

Casino Control Amendment Bill 2010

Schedule 1      Amendment of Casino Control Act 1992 No 15

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(2)	A person must not exercise in or in relation to a casino any of the functions of a special employee except in accordance with the authority conferred on the person by a licence. Maximum penalty: 50 penalty units.	1 2 3 4
(3)	A casino operator must not:	5
(a)	employ or use the services of a person to exercise any function of a special employee in or in relation to the casino, or	6 7 8
(b)	allocate or permit or suffer to be allocated to a person the exercise of any function of a special employee in or in relation to the casino, unless the person is authorised by a licence to exercise the function concerned. Maximum penalty: 100 penalty units.	9 10 11 12 13 14
<b>[6]</b>	<b>Section 46 Application for licence</b> Omit “application, and” from section 46 (1) (b). Insert instead “application.”.	15 16
<b>[7]</b>	<b>Section 46 (1) (c)</b> Omit the paragraph.	17 18
<b>[8]</b>	<b>Section 47 Direction to apply for licence—persons who have special relationship with casino</b> Insert after section 47 (3): (3A) A person who is regarded as exercising the functions of a special employee under this section is not required to hold a certificate of competency in relation to those functions.	19 20 21 22 23 24
<b>[9]</b>	<b>Section 47 (5)</b> Insert “and hold certificate of competency” after “licensed”.	25 26
<b>[10]</b>	<b>Section 52 Determination of applications</b> Omit “exercise the functions that the proposed licence will authorise the person to exercise” from section 52 (2). Insert instead “hold a licence”.	27 28 29 30
<b>[11]</b>	<b>Section 52 (3) (b)</b> Omit “integrity, and”. Insert instead “integrity.”.	31 32

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<b>[12] Section 52 (3) (c)</b>	1
Omit the paragraph.	2
<b>[13] Section 57 Variation of licence</b>	3
Omit the section.	4
<b>[14] Section 59 Disciplinary action against licensee</b>	5
Omit paragraph (b) from the definition of <i>disciplinary action</i> in section 59 (1).	6
<b>[15] Section 64</b>	7
Omit the section. Insert instead:	8
<b>64 Training courses and certificates of competency for employees</b>	9
(1) Certificates of competency for the functions of special employees are issued by a casino operator.	10 11
(2) A casino operator may issue a certificate of competency to a person for any functions of a special employee only if satisfied that:	12 13 14
(a) the person has completed training in those functions and in responsible practices for the conduct of gaming, being training provided by the casino operator, or	15 16 17
(b) the person has completed other training, or has qualifications, that the casino operator considers appropriate for the exercise of those functions and that include training or qualifications in responsible practices for the conduct of gaming.	18 19 20 21 22
(3) A casino operator must not issue a certificate of competency unless the training or qualifications on the basis of which the certificate is to be issued complies with any standards or other requirements set by the Authority from time to time.	23 24 25 26
(4) A certificate of competency must specify the functions of a special employee for which it is issued and the date of its issue.	27 28
(5) A casino operator must maintain records of all training provided and certificates issued by the operator under this section and must at the request of the Authority provide the Authority with access to those records (including records maintained in an electronic format).	29 30 31 32 33
(6) It is a condition of a casino licence that the casino operator must comply with the requirements of this section.	34 35

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<b>[16] Section 70 Conduct of gaming</b>	1
Insert “(except secondary gaming equipment)” after “gaming equipment” in section 70 (1) (a).	2 3
<b>[17] Section 70 (1) (b)</b>	4
Omit “any other device approved by the Authority for the purpose”.	5
Insert instead “by using any other device or method that may be required or allowed under the rules of the relevant game (as approved under section 66 (1))”.	6 7 8
<b>[18] Section 70 (1) (c)</b>	9
Insert “unless the game rules require or provide for another method” after “operator”.	10 11
<b>[19] Section 70 (1) (d)</b>	12
Omit “in money”. Insert instead “by any other means”.	13
<b>[20] Section 70 (1) (f)</b>	14
Omit “or non-monetary prize”.	15
Insert instead “, non-monetary prize or other means”.	16
<b>[21] Section 70 (1) (g)</b>	17
Omit “patrons”. Insert instead “persons outside the casino”.	18
<b>[22] Section 70 (2)</b>	19
Insert at the end of the subsection:	20
<b>Note.</b> The requirements in subsection (2) are subject to the operation of the <i>Anti-Money Laundering and Counter-Terrorism Financing Act 2006</i> of the Commonwealth.	21 22 23
<b>[23] Section 70 (3)</b>	24
Insert after section 70 (2):	25
(3) In this section, <i>secondary gaming equipment</i> means gaming equipment that is not an intrinsic element of gaming and is of a class that the Authority has identified as secondary gaming equipment by notice in writing to the casino operator.	26 27 28 29

<b>[24] Section 76 Junkets and inducements</b>	1
Omit the definition of <i>junket</i> from section 76 (3). Insert instead:	2
<i>junket</i> means:	3
(a) an arrangement involving a person (or a group of people) who is introduced to a casino operator by a promoter who receives a commission based on the turnover of play in the casino attributable to the person or persons introduced by the promoter (or otherwise calculated by reference to such play), or	4 5 6 7 8 9
(b) an arrangement for the promotion of gaming in a casino by groups of people (usually involving arrangements for the provision of transportation, accommodation, food, drink and entertainment for participants in the arrangements, some or all of which are paid for by the casino operator or are otherwise provided on a complimentary basis).	10 11 12 13 14 15
<b>[25] Section 79 Exclusion of persons from casino</b>	16
Insert after section 79 (4):	17
(4A) It is a condition of a casino licence that the casino operator must, as soon as practicable after a written order is given to a person under this section by the operator following a direction given under section 81, cause notice of the order to be given to the Commissioner of Police.	18 19 20 21 22
<b>[26] Section 81 Commissioner of Police may direct that person be excluded from casino and casino precinct</b>	23 24
Omit section 81 (8). Insert instead:	25
(8) The Commissioner of Police is to:	26
(a) notify the appropriate authority in each State or Territory of the making of an exclusion order following a direction given under subsection (1) and the revocation of any such order, and	27 28 29 30
(b) provide the appropriate authorities with the name of the person subject to the exclusion order and, where practicable, a photograph of that person.	31 32 33
(9) In this section:	34
<i>appropriate authority</i> means:	35
(a) in relation to the Australian Capital Territory—the Commissioner of the Australian Federal Police, or	36 37

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(b)	in relation to a State or Territory (other than the Australian Capital Territory)—an authority exercising, in relation to the police force of that State or Territory, functions corresponding to those of the Commissioner of Police in relation to the NSW Police Force.	1 2 3 4 5
<b>[27]</b>	<b>Section 81A</b>	6
	Insert after section 81:	7
<b>81A</b>	<b>Direction to be made in relation to exclusion orders in other States and Territories</b>	8 9
(1)	The Commissioner of Police is to give a direction under section 81 (1) in relation to a person if the Commissioner becomes aware that the person is subject to exclusion from another casino following the giving of a similar direction under a corresponding law.	10 11 12 13 14
(2)	The direction is to be made as soon as practicable after the Commissioner becomes aware that the similar direction under a corresponding law has been given.	15 16 17
(3)	The Commissioner is to advise the Authority of any direction given in accordance with this section as soon as practicable.	18 19
(4)	A direction given in accordance with this section in relation to a person cannot be revoked under section 82 while the person remains subject to exclusion from another casino following the giving of a similar direction under a corresponding law.	20 21 22 23
(5)	In this section:	24
	<i>another casino</i> means premises, or part of premises, defined as a casino for the time being under an Act of another State, or a Territory, corresponding to this Act.	25 26 27
	<i>corresponding law</i> means a provision of an Act of another State, or a Territory, corresponding to section 81.	28 29
<b>[28]</b>	<b>Section 85 Removal of excluded person from casino</b>	30
	Insert after section 85 (3):	31
(4)	No civil or criminal liability is incurred by a person to whom this section applies for any act done or omitted to be done in good faith, and in accordance with this section, to or in respect of a person.	32 33 34 35
(5)	This section does not limit or otherwise affect the civil liability of a person for negligence that causes personal injury to a person or the death of a person.	36 37 38

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<b>[29] Section 85A</b>	1
Insert after section 85:	2
<b>85A Protection from liability—exclusion of persons from casino</b>	3
(1) No civil liability is incurred by a protected person for any loss arising from or in connection with gaming in a casino that an excluded person suffers as a result of:	4
(a) an innocent failure to prevent the excluded person from entering or remaining in a casino, or	5
(b) an innocent failure to remove the excluded person from the casino.	6
(2) A failure is an <i>innocent failure</i> only if the person responsible for the failure did not know and did not have reasonable cause to suspect, at the time of the failure, that the person concerned was an excluded person.	7
(3) In this section:	8
<i>excluded person</i> means a person who is the subject of an exclusion order.	9
<i>protected person</i> means each of the following persons:	10
(a) the person for the time being in charge of a casino,	11
(b) a casino operator,	12
(c) an agent of a casino operator,	13
(d) a casino employee.	14
<b>[30] Section 124 Approved system of controls and procedures to be implemented</b>	15
Insert “, on the Authority’s own initiative or on the application of the casino operator concerned” after “fit” in section 124 (2).	16
<b>[31] Section 154 Matters to be included in Authority’s annual report</b>	17
Omit “review” from section 154 (g). Insert instead “inquiry”.	18

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<b>[32] Section 164</b>	1
Insert after section 163:	2
<b>164 Simulated gaming allowed for certain purposes</b>	3
(1) A casino operator may conduct gaming on a simulated basis for the purpose of training employees, testing gaming equipment and gaming procedures and demonstrating the conduct and playing of games, but only if:	4
(a) the casino operator has given notice to the Authority of the operator's intention to conduct gaming on a simulated basis, and	5
(b) no money is used and no chips are used in place of money.	6
(2) Despite the provisions of any other law, the possession and use of gaming equipment as authorised by subsection (1) is lawful.	7
<b>[33] Section 168A Penalty notices</b>	8
Omit section 168A (8). Insert instead:	9
(8) The amount of a penalty prescribed under this section for an offence must not exceed the maximum amount of penalty that could be imposed for the offence by a court.	10
<b>[34] Schedule 4 Savings and transitional provisions</b>	11
Insert at the end of clause 1 (1):	12
<i>Casino Control Amendment Act 2010</i>	13
<b>[35] Schedule 4, Part 10</b>	14
Insert after clause 32:	15
<b>Part 10 Provisions consequent on enactment of Casino Control Amendment Act 2010</b>	16
<b>33 Definition</b>	17
In this Part:	18
<i>amending Act</i> means the <i>Casino Control Amendment Act 2010</i> .	19
<b>34 Existing controlled contracts</b>	20
The substitution of the definition of <i>controlled contract</i> by the amending Act does not apply in respect of a contract entered into before the substitution of that definition.	21
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<b>35 Existing special employees</b>	1
A person who is the holder of a licence (an <i>existing licence</i> ) under Part 4 of this Act immediately before the commencement of section 44 (as substituted by the amending Act) is deemed to have been issued on that commencement with:	2
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(a) a licence under that Part (as amended by the amending Act), and	6
	7
(b) a certificate of competency for the functions of a special employee that the person was authorised to exercise under the existing licence.	8
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<b>36 Protection from liability</b>	11
(1) Section 85 (4) and (5) (as inserted by the amending Act) do not apply to liability for loss that a person suffers as a result of a failure that occurs before the commencement of those subsections.	12
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	15
(2) Section 85A (as inserted by the amending Act) does not apply to liability for loss that a person suffers as a result of a failure that occurs before the commencement of that section.	16
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<b>Schedule 2</b>	<b>Amendment of Casino Control Regulation 2009</b>	1
		2
<b>[1]</b>	<b>Clause 9 Certain contracts not controlled contracts</b>	3
	Omit the clause.	4
<b>[2]</b>	<b>Clause 13 Required details of notifiable contracts and variations of notifiable contracts</b>	5
	Omit the clause.	6
<b>[3]</b>	<b>Schedule 7 Penalty notice offences</b>	8
	Omit “(Clause 53)”. Insert instead “(Clause 54)”.	9
<b>[4]</b>	<b>Schedule 7, Part 2, Column 1</b>	10
	Omit “Clause 35 (1)”. Insert instead “Clause 36 (1)”.	11