

[Act 2002 No 18]



New South Wales

## Gaming Machines Amendment Bill 2002

### Explanatory note

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

#### Overview of Bill

The objects of this Bill are as follows:

- (a) to enable prospective hoteliers to apply for hardship gaming machines under the *Gaming Machines Act 2001*,
- (b) to facilitate the surrender of approved amusement devices by hoteliers in exchange for poker machine entitlements,
- (c) to facilitate the allocation and transfer of poker machine entitlements (in particular, by providing that a hotelier or registered club may transfer in blocks of 2 entitlements so long as one of the entitlements is forfeited),
- (d) to provide that the prohibition on hoteliers and clubs publishing gaming machine advertising is to include other persons,

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\* Amended in committee—see table at end of volume.

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- (e) to create an offence of providing false or misleading statements under the *Gaming Machines Act 2001*,
- (f) to make other miscellaneous amendments to clarify the operation of the *Gaming Machines Act 2001*,
- (g) to make miscellaneous amendments of a minor or consequential nature to the *Casino Control Act 1992*, the *Fines Act 1996*, the *Liquor Act 1982* and the *Registered Clubs Act 1976*.

## 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 set out in Schedule 2 to the Acts specified in that Schedule.

## Schedule 1 Amendment of Gaming Machines Act 2001

**Schedule 1 [1]** makes it clear the definition of *approved gaming machine* includes those gaming machines that are specially approved for the purposes of linked gaming systems under Part 10 of the Act.

**Schedule 1 [2]** simplifies the definition of *gaming machine area* which applies to registered clubs.

**Schedule 1 [3]** makes it clear that the requirement under section 13 of the Act for large-scale clubs to reduce the number of gaming machines that they have by a specified proportion within 5 years also applies to the corresponding number of poker machine entitlements allocated in respect of the club concerned.

**Schedule 1 [4]** replaces the term “gaming machine” with “poker machine” for the purposes of consistency with the other provisions of section 15 of the Act.

**Schedule 1 [5]** provides that poker machine entitlements may be transferred by hoteliers or registered clubs in blocks comprising 2 or 3 entitlements (at present a block must comprise 3 entitlements) while preserving the requirement that one

entitlement per transfer block must be forfeited. **Schedule 1 [6]–[8], [12] and [13]** are consequential amendments. **Schedule 1 [9]** removes a superfluous provision.

**Schedule 1 [10] and [11]** enable hoteliers to pool their authorisations to keep approved amusement devices in order to facilitate the surrender of the required number of approved amusement devices that may be exchanged for poker machine entitlements.

**Schedule 1 [14]** makes it clear that when a hotelier’s licence is removed to other premises the poker machine entitlements allocated in respect of the licence may be transferred in accordance with the requirements of Division 2 of Part 3 of the Act.

**Schedule 1 [15]** makes it clear that hardship applications for gaming machines under Division 3 of Part 3 of the Act may be made by hoteliers and registered clubs that do not have any gaming machines at the time of the application.

**Schedule 1 [16]** makes it clear that hoteliers who, as at 19 April 2001, were authorised to keep 15 or more poker machines cannot make a hardship application for more machines.

**Schedule 1 [17]** makes it clear that prospective hoteliers (eg persons who have a conditional grant for a new or removed hotelier’s licence) may make hardship applications. **Schedule 1 [18]** is a consequential amendment.

**Schedule 1 [19]** provides that the Liquor Administration Board cannot approve of a hotelier keeping hardship gaming machines if the approval would result in the hotelier having more than 15 poker machines at the time the approval is given.

**Schedule 1 [20]** makes it clear that a social impact assessment can be provided before the application for authorisation under Part 5 of the Act to keep gaming machines is made. **Schedule 1 [21]** also makes it clear that prospective hoteliers and registered clubs may provide social impact assessments in relation to the prospective keeping of gaming machines.

**Schedule 1 [22]** makes it clear that social impact assessments must comply with the requirements of Division 1 of Part 4 of the Act.

**Schedule 1 [23]** enables the regulations to provide for the manner in which the approval of a social impact assessment will operate.

**Schedule 1 [24]** makes it clear that the approval under section 41 of the Act of an “early opener” hotel or club having a different shutdown period for its gaming machines is an approval for those days only that the hotel or club continues to open and close in accordance with the specified “early opener” criteria.

**Schedule 1 [25]** extends the prohibition on hoteliers and clubs publishing gaming machine advertising to other persons (such as gaming machine dealers and manufacturers). **Schedule 1 [27]** replaces the existing definition of *gambling-related advertising* in section 43 of the Act with a definition of *gaming machine advertising* that covers any form of advertising about the playing of gaming machines in hotels and clubs as well as the supply, sale and manufacture of gaming machines. **Schedule 1 [26], [29] and [30]** are consequential amendments.

**Schedule 1 [28] and [31]** make it clear that sections 43 (Prohibition on publishing gaming machine advertising) and 44 (Prohibition on displaying gambling-related sign) of the Act prevail over the provisions of the *Business Names Act 1962*.

**Schedule 1 [32]–[34]** make minor amendments to section 46 of the Act.

**Schedule 1 [35]** makes it clear that patron “self-exclusion” schemes in hotels and clubs are to be conducted in accordance with section 49 of the Act and the regulations.

**Schedule 1 [36]** extends to registered clubs (which are corporate entities) the protection from liability that is given to certain persons under section 49 of the Act in relation to self-exclusion schemes and also makes it clear that no liability is incurred if a participant in such a scheme enters or remains in a nominated area of a hotel or club.

**Schedule 1 [37] and [38]** are amendments for the purposes of statute law revision.

**Schedule 1 [39]** creates an offence of making a statement that is false or misleading in any application or other instrument or document made under the Act or the regulations.

**Schedule 1 [40]** enables regulations of a savings or transitional nature to be made as a consequence of the proposed Act.

**Schedule 1 [41]** validates certain things (such as hardship applications by prospective hoteliers) that are done before the proposed Act commences.

## **Schedule 2 Amendment of other Acts**

**Schedule 2.1** amends section 76A of the *Casino Control Act 1992* which regulates the provision of promotional prizes by the casino operator in relation to the playing of gaming machines as well as the conduct of gaming machine player reward schemes. The requirements under the section are currently expressed as being

conditions of the casino licence. The amendments provide instead for the requirements under section 76A to be expressed as offences (with a maximum penalty of 100 penalty units) which will not apply in relation to the casino operator until 2 October 2002.

**Schedule 2.2** amends Schedule 1 to the *Fines Act 1996* (which contains a list of the statutory provisions under which penalty notices are issued) to include the relevant provisions of the *Casino Control Act 1992* and the *Gaming Machines Act 2001*. The amendment will enable penalty notices issued under these Acts to be enforced in accordance with the scheme under Part 3 of the *Fines Act 1996*.

**Schedule 2.3** contains minor amendments to the *Liquor Act 1982* that are consequential on the enactment of the *Gaming Machines Act 2001*.

**Schedule 2.4** amends the *Registered Clubs Act 1976* to make it clear that the prohibition under section 33A of that Act on holding a hotelier's licence or having a financial interest in a hotel applies only to the secretary of a registered club and not to managers of clubs. Section 39A of that Act is also amended to provide that the requirement to declare any financial interest in a hotel to the governing body of a registered club will not apply to the secretary of the club because the secretary is prohibited under section 33A from having such an interest.