



New South Wales

# Gaming Machines Amendment (Miscellaneous) Bill 2003

## 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 prevent any increase in the number of gaming machines that may be kept on the premises of a large-scale club,
- (b) to clarify that certain special arrangements in relation to large-scale clubs apply only until such time as the club complies with the existing requirement to reduce its allocated number of poker machine entitlements,
- (c) to allow the transfer, through a class 1 social impact assessment, of any number of poker machine entitlements between different premises of a registered club if the premises are situated in a non-metropolitan area and are within 50 kilometres of each other,
- (d) to make a number of other miscellaneous amendments to enhance or clarify the operation of the Act.

## 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 that gives effect to the amendments to the *Gaming Machines Act 2001* set out in Schedule 1.

**Clause 4** omits section 68 (1) (g) of the *Liquor Act 1982* which provides for the making of a complaint to the Licensing Court on the ground that a hotelier has failed to pay gaming machine tax in accordance with the *Gaming Machine Tax Act 2001*. Such a complaint may lead to the Court taking disciplinary action against the hotelier. The provision will, however, be included in the *Gaming Machines Act 2001* (see **Schedule 1 [36]**).

## Schedule 1 Amendment of Gaming Machines Act 2001

**Schedule 1 [1]** provides that the Act does not prohibit the keeping or operation of a gaming machine that is used for research purposes.

**Schedule 1 [3]** makes it clear that the number of gaming machines that may be kept on the relevant premises of a large-scale club (ie premises with more than 450 gaming machines) may not be increased during the 5-year period in which the club is, under section 15A of the Act, required to reduce the number of poker machine entitlements allocated in respect of those premises by 10% or to 450 (the *individual venue cap*). The amendment also makes it clear that once the club complies with the requirement under section 15A, the maximum number of gaming machines that the Liquor Administration Board may authorise the club to keep on those premises will be the individual venue cap. **Schedule 1 [2]** is a consequential amendment.

**Schedule 1 [5]** provides that if the number of poker machine entitlements allocated in respect of a large-scale club's relevant premises is not reduced in accordance with the requirement under section 15A, the remaining number of entitlements that the club was required to transfer in order to reach the reduced number are to be forfeited to the Board. **Schedule 1 [4]** makes it clear that the requirement under section 15A for a large-scale club to reduce its allocated number of poker machine entitlements applies only in relation to those premises with more than 450 gaming machines.

At present under section 17 of the Act, a registered club that had less than 10 gaming machines immediately before the commencement of that section (which was 2 April 2002) may apply for additional poker machine entitlements (which are referred to as *free club entitlements*) so as to bring its number of entitlements to 10. **Schedule 1 [6]** prevents such a club from applying for free club entitlements once the club transfers any of its allocated entitlements.

Section 21A (2) of the Act provides that any transfer of poker machine entitlements by a large-scale club to another set of its premises will require the forfeiture of one entitlement per transfer block regardless of the distance between the premises involved. **Schedule 1 [8]** provides that this special qualification applies in relation to a large-scale club only until such time as the club complies with the requirement under section 15A of the Act to reduce its allocated number of poker machine entitlements. **Schedule 1 [7]** is a consequential amendment.

**Schedule 1 [9]** makes it clear that a class 2 social impact assessment is required in connection with the transfer by a large-scale club of more than 4 (rather than 4 or more) poker machine entitlements to another set of its premises.

**Schedule 1 [10]** makes it clear that the pooling by hoteliers of approved amusement devices (*AADs*) for the purposes of section 22 of the Act (which allows a hotelier to exchange a certain number of AADs for one poker machine entitlement) will apply only in relation to remnant AADs. As a result of the proposed amendment, a hotelier who surrenders AADs in combination with another hotelier cannot be allocated a poker machine entitlement if either of the hoteliers has 3 or more AADs (in the case of metropolitan hotels) or 2 or more AADs (in the case of country hotels).

**Schedule 1 [11], [12], [16] and [17]** remove references to a hotelier's or registered club's authorisation to keep gaming machines being surrendered by the hotelier or club. The Act does not provide for the surrendering of any such authorisation.

**Schedule 1 [14]** provides that if a registered club has ceased to trade the club will be able to transfer its poker machine entitlements within 12 months (or such longer period as the Board may allow) of ceasing to trade. **Schedule 1 [13]** is a consequential amendment.

Section 30 of the Act currently exempts large-scale clubs from the requirement that the approval to keep any hardship gaming machines under Division 3 of Part 3 of the Act must be forfeited before any poker machine entitlements can be transferred from the club concerned. **Schedule 1 [15]** provides that this exemption has effect in relation to a large-scale club only until such time as the club complies with the requirement under section 15A of the Act to reduce its allocated number of poker machine entitlements.

**Schedule 1 [18]** makes it clear that a social impact assessment is required to be provided in connection with an application to keep gaming machines for the first time on any temporary premises, or for the first time on the premises of a new hotel or new club, and is subsequently required only in connection with an application that would increase the SIA threshold (as defined in the Act) for those temporary premises or for the new hotel or new club.

**Schedule 1 [20]** provides that a class 1 social impact assessment is required in connection with the transfer of any number of poker machine entitlements from one set of premises of a registered club to another set of its premises if both sets of premises are situated in a non-metropolitan area and are within 50 kilometres of each other. At present under the Act and the regulations, a class 2 social impact assessment would be required if more than 4 poker machine entitlements are being transferred. **Schedule 1 [19]** clarifies the circumstances generally in which a class 1 social impact assessment is required.

**Schedule 1 [21]** enables the regulations to specify a time within which the Board is required to determine social impact assessments under Division 1 of Part 4 of the Act.

**Schedule 1 [22]** inserts a definition of *public holiday* for the purposes of the provisions that deal with the mandatory shutting down of gaming machines.

**Schedule 1 [23]** makes it clear that the authorisation to keep a gaming machine ceases to have effect if the Board authorises the disposal of the gaming machine.

**Schedule 1 [24] and [25]** restate provisions that refer to a registered club moving to other premises so as to more accurately reflect the scheme under the *Registered Clubs Act 1976*.

**Schedule 1 [28]** makes it clear that an interim work permit may be cancelled for late payment of the periodic licence fee in relation to the permit. **Schedule 1 [29]** enables an application to be made for the reinstatement of an interim work permit that has been cancelled because of the late payment of the periodic licence fee and **Schedule 1 [33] and [34]** extend the provisions relating to the refunding of fees on the suspension, cancellation or surrender of gaming-related licences so that they apply also to interim work permits. **Schedule 1 [26], [27], [30]–[32] and [35]** are consequential amendments.

**Schedule 1 [36]** enables a complaint to be made to the Licensing Court that a hotelier or registered club has not paid gaming machine tax, or a penalty or interest due for late payment of gaming machine tax, under the *Gaming Machine Tax Act 2001*. **Schedule 1 [37]** provides that the disciplinary action that the Court may impose in relation to such a complaint may include cancelling the hotelier's or club's authorisation or approval to keep gaming machines.

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**Schedule 1 [38]** enables regulations of a savings or transitional nature to be made as a consequence of the enactment of the proposed Act. **Schedule 1 [39]** inserts savings and transitional provisions consequent on the enactment of the proposed Act.

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New South Wales

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New South Wales

## **Gaming Machines Amendment (Miscellaneous) Bill 2003**

No. , 2003

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### **A Bill for**

An Act to amend the *Gaming Machines Act 2001* to make further provision with respect to the allocation, transfer and forfeiture of poker machine entitlements, the requirement for large-scale clubs to reduce their allocated number of entitlements, the provision and determination of social impact assessments and other administrative matters; and for other purposes.

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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>Gaming Machines Amendment (Miscellaneous) Act 2003</i> .	3 4
<b>2 Commencement</b>	5
This Act commences on a day or days to be appointed by proclamation.	6 7
<b>3 Amendment of Gaming Machines Act 2001 No 127</b>	8
The <i>Gaming Machines Act 2001</i> is amended as set out in Schedule 1.	9 10
<b>4 Amendment of Liquor Act 1982 No 147</b>	11
The <i>Liquor Act 1982</i> is amended by omitting section 68 (1) (g).	12

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**Schedule 1 Amendment of Gaming Machines Act 2001**  
(Section 3)

- [1] Section 8 Gaming machines not used for purposes of gambling** 3  
Insert “research,” before “educational” in section 8 (2) (b). 4
- [2] Section 12 Limit on number of gaming machines in clubs** 5  
Insert “(other than a large-scale club’s relevant premises)” after “club” in 6  
section 12 (1). 7
- [3] Section 12 (2)** 8  
Omit the subsection. Insert instead: 9  
(2) In the case of a large-scale club’s relevant premises: 10  
(a) the Board may not, during the 5-year period referred to 11  
in section 15A, authorise any increase in the number of 12  
approved gaming machines that may be kept on those 13  
premises, and 14  
(b) once section 15A (1) is complied with in relation to 15  
those premises, the maximum number of approved 16  
gaming machines that the Board may authorise the club 17  
to keep on those premises is the number that 18  
corresponds to the reduced number of poker machine 19  
entitlements that the club is required to reach in 20  
accordance with that section. 21
- [4] Section 15A Large-scale clubs required to reduce their allocated 22  
number of poker machine entitlements** 23  
Omit “the premises of the club” from section 15A (1). 24  
Insert instead “the large-scale club’s relevant premises”. 25
- [5] Section 15A (2A)** 26  
Insert after section 15A (2): 27  
(2A) Despite any other provision of this section or the regulations, 28  
if a large-scale club has not, by 2 July 2007, reduced the 29  
number of poker machine entitlements allocated in respect of 30  
its relevant premises to the number required under subsection 31  
(1), the remaining number of entitlements that the club was 32  
required to transfer in order to reach that reduced number are 33  
forfeited to the Board. 34

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<b>[6] Section 17 Allocation of free poker machine entitlements in respect of certain clubs</b>	1 2
Insert “and, in the case of a registered club referred to in subsection (1) (c), may not be made by such a club if any of the poker machine entitlements allocated under section 15 in respect of the premises concerned have been transferred to another set of the club’s premises or to the premises of another registered club” after “concerned” in section 17 (2).	3 4 5 6 7
<b>[7] Section 21 Other provisions relating to transfer of poker machine entitlements</b>	8 9
Insert “to which section 21A applies” after “club” in section 21 (3).	10
<b>[8] Section 21A Special provisions relating to transfer by large-scale clubs of poker machine entitlements</b>	11 12
Insert “, but only until such time as the club complies with the requirement under section 15A (1) in relation to the large-scale club’s relevant premises” after “1976)” in section 21A (1).	13 14 15
<b>[9] Section 21A (3)</b>	16
Omit “as the result of the transfer of 4 or more”.	17
Insert instead “in connection with the transfer of more than 4”.	18
<b>[10] Section 22 Hoteliers may exchange AADs for poker machine entitlements</b>	19 20
Insert after section 22 (1A):	21
(1B) If, in relation to an application by a hotelier under this section, a hotelier surrenders, in combination with another hotelier, any such authorisation to keep approved amusement devices, the Board may not allocate a poker machine entitlement under this section in respect of that application if:	22 23 24 25 26
(a) in the case of hotels situated in a metropolitan area—either one of the hoteliers is, at the time of the application, authorised to keep 3 or more approved amusement devices, or	27 28 29 30
(b) in the case of country hotels—either one of the hoteliers is, at the time of the application, authorised to keep 2 or more approved amusement devices.	31 32 33

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<b>[11] Section 23 Transfer of poker machine entitlements when hotelier's licence surrendered or cancelled</b>	1 2
Omit section 23 (1) and (2). Insert instead:	3
(1) If:	4
(a) a hotelier's licence is surrendered or cancelled, or	5
(b) a hotelier's authorisation under Part 5 to keep approved gaming machines is cancelled,	6 7
any poker machine entitlements allocated in respect of the licence concerned may, in accordance with this Division, be transferred.	8 9 10
(2) If, at the end of the period of 12 months immediately following the surrender or cancellation of the hotelier's licence, or the cancellation of the hotelier's authorisation under Part 5, any such poker machine entitlements have not been transferred, the remaining entitlements are forfeited to the Board.	11 12 13 14 15 16
<b>[12] Section 24 Transfer of poker machine entitlements when club registration surrendered or cancelled</b>	17 18
Omit section 24 (1) and (2). Insert instead:	19
(1) If:	20
(a) the certificate of registration of a club is surrendered or cancelled, or	21 22
(b) a registered club's authorisation under Part 5 to keep approved gaming machines is cancelled,	23 24
any poker machine entitlements allocated in respect of any of the premises of the club may, in accordance with this Division, be transferred.	25 26 27
(2) If, at the end of the period of 12 months immediately following the surrender or cancellation of the club's certificate of registration, or the cancellation of the club's authorisation under Part 5, any such poker machine entitlements have not been transferred, the remaining entitlements are forfeited to the Board.	28 29 30 31 32 33
<b>[13] Section 24 (3) (b) (ii)</b>	34
Omit the subparagraph.	35

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<b>[14] Section 24A</b>	1
Insert after section 24:	2
<b>24A Transfer of poker machine entitlements when club ceases to trade</b>	3 4
(1) If a registered club ceases to trade on any of its premises, any poker machine entitlements allocated in respect of those premises may, in accordance with this Division, be transferred.	5 6 7 8
(2) If, at the end of the period of 12 months immediately following the date on which the club ceased to trade on those premises (or such longer period as may be allowed by the Board), any such poker machine entitlements have not been transferred, the remaining entitlements are forfeited to the Board.	9 10 11 12 13 14
<b>[15] Section 30 Requirement to forfeit hardship gaming machines in certain circumstances</b>	15 16
Insert after section 30 (2):	17
(2A) However, the exemption under subsection (2) (b) has effect only until such time as the large-scale club complies with the requirement under section 15A (1) in relation to its relevant premises.	18 19 20 21
<b>[16] Section 31B Transfer of Liquor Act poker machine permits when hotelier's licence surrendered or cancelled</b>	22 23
Omit "surrendered or" from section 31B (2) (b).	24
<b>[17] Section 31B (3)</b>	25
Omit the subsection. Insert instead:	26
(3) If, at the end of the period of 12 months immediately following the surrender or cancellation of the hotelier's licence, or the cancellation of the hotelier's authorisation under Part 5, any such Liquor Act poker machine permits have not been transferred, the remaining permits are forfeited to the Board.	27 28 29 30 31 32

<b>[18] Section 32 Application and operation of Division</b>	1
Omit section 32 (1) (b) and (c). Insert instead:	2
(b) in the case of temporary premises—that would, if granted by the Board:	3
(i) initially authorise the keeping of approved gaming machines on those premises by the applicant, or	4
(ii) once approved gaming machines have been initially authorised to be kept on those premises—increase the SIA threshold for those premises, or	5
(iii) once approved gaming machines have been initially authorised to be kept on those premises—increase the SIA threshold for those premises, or	6
(c) in the case of a new hotel or new club—that would, if granted by the Board:	7
(i) initially authorise the keeping of approved gaming machines in the hotel or on the premises of the club, or	8
(ii) once approved gaming machines have been initially authorised to be kept in the hotel or on those premises—increase the SIA threshold for the hotel or those premises.	9
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<b>[19] Section 34 Classes of social impact assessment</b>	21
Omit “has resulted from” from section 34 (2) (b).	22
Insert insert “is made in connection with”.	23
<b>[20] Section 34 (3)</b>	24
Insert after section 34 (2):	25
(3) Despite any other provision of this Act or the regulations, a class 1 social impact assessment is required to be provided if, in the case of a registered club that has more than one set of premises or that establishes new or additional premises:	26
(a) the application has resulted from the transfer of poker machine entitlements from one of those sets of premises ( <i>the transferring premises</i> ) to another set of the club’s premises, and	27
(b) the other set of premises is situated within 50 kilometres of the transferring premises, and	28
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	(c) neither the transferring premises nor the other set of premises are situated in a metropolitan area.	1 2
<b>[21]</b>	<b>Section 35 Requirements in relation to social impact assessments</b>	3
	Insert after section 35 (d):	4
	(e) the time within which the Board is to determine a social impact assessment.	5 6
<b>[22]</b>	<b>Section 42 General provisions</b>	7
	Insert in appropriate order:	8
	(4) In this Division:	9
	<i>public holiday</i> means a bank or public holiday under the <i>Banks and Bank Holidays Act 1912</i> that is observed throughout the State, but does not include a Saturday or a Sunday or 1 August (or such other day that is a bank holiday instead of 1 August).	10 11 12 13 14
<b>[23]</b>	<b>Section 58 Cancellation of authorisations</b>	15
	Insert after section 58 (1):	16
	(1A) Without limiting subsection (1), an authorisation by the Board to keep an approved gaming machine ceases to have effect if the disposal of the gaming machine is authorised by the Board.	17 18 19 20
<b>[24]</b>	<b>Section 58 (3)</b>	21
	Omit the subsection. Insert instead:	22
	(3) If, under the <i>Registered Clubs Act 1976</i> , a registered club moves to other premises (whether or not those other premises are outside the neighbourhood of the previous premises), the removal has the effect of cancelling the club's authorisation to keep any approved gaming machine in the previous premises.	23 24 25 26 27
<b>[25]</b>	<b>Section 58 (4) (b)</b>	28
	Omit "the premises of a registered club being removed".	29
	Insert instead "a registered club moving".	30



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<b>[26] Section 82 Definitions</b>	1
Insert “or work permit” after “gaming-related licence” in the definition of <i>licence fee</i> .	2 3
<b>[27] Section 108 Periodic licence fee</b>	4
Omit “, and for a work permit,” from section 108 (1).	5
Insert instead “or work permit”.	6
<b>[28] Section 109 Cancellation for late payment of periodic licence fee</b>	7
Insert “or work permit” after “licence” wherever occurring.	8
<b>[29] Section 110 Application for reinstatement of cancelled gaming-related licence or work permit</b>	9 10
Insert “or work permit” after “licence” wherever occurring in section 110 (1), (5) and (7).	11 12
<b>[30] Section 110 (2)</b>	13
Insert “or work permit” after “licence” where firstly occurring.	14
<b>[31] Section 110 (4)</b>	15
Insert “or work permit” after “licence” where firstly, thirdly and fourthly occurring.	16 17
<b>[32] Section 110 (6), definition of “trading days”</b>	18
Insert “or work permit” after “licence”.	19
<b>[33] Section 111 Board may refund licence fee</b>	20
Insert “or work permit” after “licence” wherever occurring.	21
<b>[34] Section 112 Refund of licence fee on surrender of gaming-related licence or work permit</b>	22 23
Insert “or work permit” after “gaming-related licence” in section 112 (1).	24
<b>[35] Section 112 (4)</b>	25
Insert “or work permit” after “licence”.	26

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<b>[36] Section 129 Grounds for making complaint</b>	1
Insert after section 129 (3) (c):	2
(c1) that the hotelier or registered club has failed to pay tax within the meaning of the <i>Gaming Machine Tax Act 2001</i> , or an instalment of any such tax, within the time allowed by or under that Act, or has failed to pay a penalty or interest due for late payment of any such tax or instalment,	3 4 5 6 7 8
<b>[37] Section 131 Disciplinary powers of Licensing Court</b>	9
Omit “or (c)” from section 131 (2) (c). Insert instead “, (c) or (c1)”.	10
<b>[38] Schedule 1 Savings, transitional and other provisions</b>	11
Insert at the end of clause 1 (1):	12
<i>Gaming Machines Amendment (Miscellaneous) Act 2003</i>	13
<b>[39] Schedule 1</b>	14
Insert at the end of the Schedule with appropriate Part and clause numbers:	15
<b>Part Provisions consequent on enactment of Gaming Machines Amendment (Miscellaneous) Act 2003</b>	16 17 18
<b>Definition</b>	19
In this Part:	20
<i>amending Act</i> means the <i>Gaming Machines Amendment (Miscellaneous) Act 2003</i> .	21 22
<b>Exchange of AADs for poker machine entitlements</b>	23
Section 22 (1B), as inserted by the amending Act:	24
(a) applies to or in respect of an application under section 22 (1) made on or after the date of introduction into the Legislative Assembly of the Bill for the amending Act, and	25 26 27 28

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- (b) extends to an application made under section 22 (1) before that introduction date if the application has not been approved by the Board before the commencement of section 22 (1B).

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**Transfer of poker machine entitlements between country clubs**

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Anything done:

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- (a) by a registered club in connection with the provision of a social impact assessment, or
- (b) by the Board in connection with the determination or approval of a social impact assessment,

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that would have been validly done had section 34 (3) (as inserted by the amending Act) been in force when the thing was done is validated.

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**Continuation of existing complaints about non-payment of gaming machine tax**

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The repeal by the amending Act of section 68 (1) (g) of the *Liquor Act 1982* does not affect any proceedings brought in connection with that provision that were commenced before its repeal, and any such proceedings may continue to be dealt with as if that provision had not been repealed.

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