

Passed by both Houses



New South Wales

Clubs, Liquor and Gaming Machines Legislation Amendment Bill 2011

Contents

	Page
1 Name of Act	2
2 Commencement	2
Schedule 1 Amendment of Registered Clubs Act 1976 No 31	3
Schedule 2 Amendment of Liquor Act 2007 No 90	15
Schedule 3 Amendment of Gaming Machines Act 2001 No 127	21
Schedule 4 Amendment of Casino, Liquor and Gaming Control Authority Act 2007 No 91	40
Schedule 5 Consequential amendments to other Acts	45
Schedule 6 Repeal of Registered Clubs Amendment Act 2006 No 103	48

I certify that this public bill, which originated in the Legislative Assembly, has finally passed the Legislative Council and the Legislative Assembly of New South Wales.

*Clerk of the Legislative Assembly.
Legislative Assembly,
Sydney, , 2011*



New South Wales

Clubs, Liquor and Gaming Machines Legislation Amendment Bill 2011

Act No , 2011

An Act to make miscellaneous amendments to certain clubs, liquor and gaming legislation; and for other purposes.

I have examined this bill and find it to correspond in all respects with the bill as finally passed by both Houses.

Assistant Speaker of the Legislative Assembly.

The Legislature of New South Wales enacts:**1 Name of Act**

This Act is the *Clubs, Liquor and Gaming Machines Legislation Amendment Act 2011*.

2 Commencement

- (1) This Act commences on a day or days to be appointed by proclamation, except as provided by subsection (2).
- (2) The following provisions commence on the date of assent to this Act:
 - (a) Schedule 1 [3]–[13], [18]–[23], [25]–[27], [33]–[35], [37] and [39],
 - (b) Schedule 2 [3]–[5], [8]–[12], [15]–[18] and [21]–[23],
 - (c) Schedule 3 [4], [8], [37], [49], [50], [52], [55]–[58], [84], [86], [87], [89] and [90] (but only to the extent that it inserts the Part heading and clauses 49, 53 and 54 in Schedule 1 to the *Gaming Machines Act 2001*),
 - (d) Schedule 4 [5]–[8], [10]–[13] and [15]–[18],
 - (e) Schedule 6.

Schedule 1 Amendment of Registered Clubs Act 1976 No 31

- [1] **Sections 1 (note) and 4 (definitions of “close associate” and “inspector”)**
Omit “*Casino, Liquor and Gaming Control Authority*” wherever occurring.
Insert instead “*Gaming and Liquor Administration*”.
- [2] **Section 4 Definitions**
Omit the definition of *Authority*. Insert instead:
Authority means the Independent Liquor and Gaming Authority constituted under the *Gaming and Liquor Administration Act 2007*.
- [3] **Section 4, definition of “Director”**
Omit the definition. Insert instead:
Director-General means the Director-General of the Department of Trade and Investment, Regional Infrastructure and Services.
- [4] **Section 4, definition of “employ”**
Omit the definition.
- [5] **Sections 6A (4), 23A (9) (b), 35A, 41E (2) (a), 41Q (1), 41R, 41S (c), 49, 57F (1) (a) and (3) (h), 57H (2) (i) and 63 (1) (c) and (d)**
Omit “Director” wherever occurring. Insert instead “Director-General”.
- [6] **Section 6A Delegations**
Omit section 6A (5).
- [7] **Part 2, heading**
Insert “, **de-amalgamations**” after “**amalgamations**”.
- [8] **Section 10 Requirements to be met by clubs**
Insert after section 10 (1) (e):
(e1) If the regulations prescribe objects that are to apply in relation to specified types of clubs, the club is, if it is of such a type, to have the objects so prescribed in relation to that type of club.

[9] Section 10 (1) (j)

Omit the paragraph. Insert instead:

- (j) Only the club and its members are to be entitled under the rules of the club or otherwise to derive, directly or indirectly, any profit, benefit or advantage from the ownership or occupation of the premises of the club unless the profit, benefit or advantage is in the form of:
 - (i) reasonable and proper interest paid to a lender on any loan made to the club that is secured against the premises of the club, or
 - (ii) reasonable and proper rent or occupation fees paid to the owner of the premises of the club,being, in either case, a payment arising out of dealings reasonably carried out, or contracts reasonably made, with the club in the ordinary course of its lawful business.

[10] Section 10 (1) (k1)

Insert after section 10 (1) (k):

- (k1) The membership of the governing body of the club must not, on and from such date (or the happening of such event) as may be prescribed by the regulations, exceed 9 persons.

[11] Section 10 (1) (n)

Insert after section 10 (1) (m):

- (n) The business conducted on the premises of the club must not be managed or controlled by any person or body other than:
 - (i) the governing body of the club, or
 - (ii) the secretary of the club, or
 - (iii) the manager (within the meaning of the *Liquor Act 2007*) of the club premises, or
 - (iv) a person acting in a capacity referred to in section 41 (1) in respect of the club, or
 - (v) a person appointed under section 41A in respect of the club, or
 - (vi) a person who is exercising functions relating to the management of the business or affairs of the club under a management contract within the meaning of section 41O.

[12] Section 10 (2)

Omit the subsection. Insert instead:

- (2) For the purposes of determining whether a club is being conducted in good faith as a club, as required by subsection (1) (a), regard is to be had to the following:
 - (a) the nature of the premises of the club,
 - (b) whether the club has been under administration for an extended period of time (whether as an externally-administered body corporate, within the meaning of the *Corporations Act 2001* of the Commonwealth, or otherwise),
 - (c) whether any arrangements relating to the club have resulted in another person or body assuming the effective control of the club and its business,
 - (d) such other matters as may be prescribed by the regulations.

[13] Section 10 (6) (c)

Omit “, seller’s licence or adviser’s”. Insert instead “or adviser’s”.

[14] Section 17AB

Omit the section. Insert instead:

17AB Club amalgamations

- (1) 2 or more registered clubs may amalgamate in accordance with this Division.
- (2) An amalgamation of 2 or more registered clubs:
 - (a) is effected by:
 - (i) the dissolution of each of those clubs and the formation of a new club that owns or occupies the same premises (or part of the same premises) of at least one of the dissolved clubs, and
 - (ii) the transfer, under section 60 of the *Liquor Act 2007*, to the new club of the club licence or licences held by the dissolved club or clubs in respect of those premises, or

- (b) is effected by:
- (i) the continuation of one of those clubs and the dissolution of the other club or clubs, and
 - (ii) the transfer, under section 60 of the *Liquor Act 2007*, of the club licence held by each of those dissolved clubs to the continuing club.

Note. Under section 60 (6) of the *Liquor Act 2007* the club licence held by a dissolved club may be transferred to the parent (or amalgamated) club only if the Authority is satisfied that the requirements of this Division have been complied with.

- (3) This Division (including any regulations made in relation to club amalgamations) extends, with such modifications as are necessary, to a proposed amalgamation in which one of the parties involved comprises those members of an amalgamated club who represent the interests of a proposed de-amalgamated club (being a club that is to result from a de-amalgamation under Division 1B). Accordingly, a reference in this Division (and in any such regulation) to a registered club includes a reference to a proposed de-amalgamated club and the members of that proposed de-amalgamated club are taken to be the members of the amalgamated club before the de-amalgamation.

[15] Section 17AC Definitions

Omit “this Division” from section 17AC (2).

Insert instead “in this Division and in Division 1B”.

[16] Section 17AEB Other matters to be considered in relation to club amalgamations

Omit “(being in each case an approval supported by a majority of the votes cast at the meeting)” from section 17AEB (d).

[17] Part 2, Division 1B

Insert after Division 1A:

Division 1B Provisions relating to club de-amalgamations

17AJ Club de-amalgamations

- (1) An amalgamated club may de-amalgamate in accordance with this Division.

-
- (2) The de-amalgamation of an amalgamated club is effected by:
- (a) the formation of a new registered club (referred to in this Division as the *de-amalgamated club*), and
 - (b) the transfer to the de-amalgamated club of the title to (or of the right to occupy) the premises (or any part of the premises) that were, immediately before the amalgamation with the parent club, owned or occupied by the dissolved club (referred to in this Division as the *relevant premises*), and
 - (c) the transfer to the de-amalgamated club, under section 60 of the *Liquor Act 2007*, of the club licence held by the amalgamated club in respect of the relevant premises.

Note. Under section 60 (6) of the *Liquor Act 2007* the club licence held by the amalgamated club for the relevant premises may be transferred to the de-amalgamated club only if the Authority is satisfied that the requirements of this Division have been complied with.

- (3) In this Division:
dissolved club and *parent club* have the same meanings as in Division 1A.
- (4) For the purposes of this Division, *the members of the dissolved club* include any person who, following the amalgamation, has become a member of the amalgamated club but only in relation to the relevant premises.

17AK Notification of proposed de-amalgamation and making of submissions

- (1) If an amalgamated club is proposing to de-amalgamate, the club must, in accordance with the regulations, notify its members of the proposed de-amalgamation.
- (2) Any person may, subject to and in accordance with the regulations, make a written submission to the Authority in relation to a proposed de-amalgamation under this Division.
- (3) If any such submission is made to the Authority, the Authority is to take the submission into consideration before deciding whether or not to approve the transfer under section 60 of the *Liquor Act 2007* to the de-amalgamated club of the licence held by the parent club in respect of the relevant premises.

17AL Statement relating to proposed de-amalgamation

- (1) If an amalgamated club is proposing to de-amalgamate, the club must prepare a statement containing the information required by the regulations in relation to the proposed de-amalgamation.
- (2) Any such statement must be made available in the manner required by the regulations.

17AM Other matters to be considered in relation to club de-amalgamations

Without limiting section 60 of the *Liquor Act 2007*, the Authority may not approve the transfer to the de-amalgamated club of the licence held by the parent club in respect of the relevant premises unless the Authority is satisfied that:

- (a) the de-amalgamated club will meet the requirements set out in section 10 (1), and
- (b) the de-amalgamated club will be financially viable, and
- (c) the proposed de-amalgamation is in the interests of the members of the parent club and the dissolved club, and
- (d) the proposed de-amalgamation has been approved in principle at separate extraordinary general meetings of the ordinary members of the parent club and the members of the dissolved club.

17AN Membership of de-amalgamated club

- (1) Without limiting any other provision of this Act relating to the membership of registered clubs, the membership of a de-amalgamated club is, subject to the regulations, taken to include the members of the dissolved club who have continued to be members of the parent club up until the time the de-amalgamation takes effect.
- (2) Any such members of the dissolved club are, on becoming members of the de-amalgamated club, entitled to continue as members of the parent club.

17AO Transfer of relevant premises to de-amalgamated club

Despite section 41J (3) (c), the transfer by an amalgamated club of the relevant premises to the de-amalgamated club may be effected by means of private treaty.

[18] Section 30 Rules of registered clubs

Omit “The governing body” from section 30 (1) (a).

Insert instead “Except as provided by paragraphs (a1) and (a2), the governing body”.

[19] Section 30 (1) (a1) and (a2)

Insert after section 30 (1) (a):

- (a1) If the regulations so provide, any election under paragraph (a) is to be in accordance with Schedule 4.
- (a2) If the regulations so provide, the members of the club who are entitled to vote at an election of the governing body of the club are such members (or class of members) of the club as may be specified in the regulations for the purposes of this paragraph.

[20] Section 30 (1) (b)

Omit “A person”.

Insert instead “Except as provided by paragraph (b1), a person”.

[21] Section 30 (1) (b1)

Insert after section 30 (1) (b):

- (b1) The governing body of the club may include, at any one time, no more than such number of persons (whether or not full members of the club) as may be prescribed by the regulations who are appointed, in accordance with the regulations, by the elected members of the governing body of the club.

[22] Section 30 (2) (j1)

Omit the paragraph.

[23] Section 30 (9A)

Insert after section 30 (9):

- (9A) Subsection (9) (a) is subject to any regulations made under subsection (1) (a2).

[24] Section 30 (13) (c)

Omit “poker”. Insert instead “gaming”.

[25] Section 30A

Omit the section. Insert instead:

30A Honorary membership of RSL or services clubs for serving and ex-service Defence Force personnel

- (1) The rules of each RSL or services club are taken to include a rule that any person attending the club premises who produces evidence that the person is a serving member of the Australian Defence Force is taken to have been admitted as an honorary member of the club for the day the person attends the club premises.
- (2) The rules of each RSL or services club are also taken to include a rule that any person attending the club premises who:
 - (a) is a former member of the Australian Defence Force, and
 - (b) produces evidence that the person is a Service Member of the RSL and a member of at least one other RSL or services club,is taken to have been admitted as an honorary member of the club for the day the person attends the club premises.
- (3) Section 30 (2) (c) does not apply in relation to a person who is taken to be admitted as an honorary member of an RSL or services club under this section.
- (4) In this section:

Australian Defence Force includes the armed forces of the Commonwealth, however described.

RSL means the Returned and Services League of Australia.

RSL or services club means:

 - (a) an RSL, Services, Ex-services, Memorial, Legion or other similar club that is a registered club, or
 - (b) a registered club that has objects similar to, or that amalgamated with, a club of the kind referred to in paragraph (a).

[26] Section 31 Manner of keeping registers relating to members and guests

Omit section 31 (1) (b1).

[27] Section 41J Disposal by club of real property

Omit “defined” from paragraph (a) of the definition of *core property* in section 41J (1).

[28] **Section 41O**

Insert after section 41N:

41O Requirements relating to loan contracts and contracts involving the management of clubs by private businesses

- (1) In this section:
 - loan contract* means a contract under which the core property (within the meaning of section 41J) of a registered club is used as security for a loan of money to the club, but does not include any such contract with a bank, authorised deposit-taking institution or person or body (or class of persons or bodies) prescribed by the regulations.
 - management contract* means a contract under which a person who is not a member of the governing body of a registered club, or the secretary or a manager or employee of a registered club, exercises functions in relation to the management of the business or affairs of the club.
- (2) A registered club must not enter into any loan contract or management contract with any person unless the requirements of this section are complied with.
- (3) At least one month (or such other period as may be prescribed by the regulations) before a registered club enters into any proposed loan contract or management contract, the club must notify the members of the club of the proposed contract by means of a notice:
 - (a) displayed on a notice board on the club's premises, and
 - (b) published on the club's website (if any).
- (4) Any such notice is to be in a form approved by the Director-General.
- (5) At least one month before a registered club enters into any proposed loan contract or management contract, the club must provide the Director-General with a report on the proposed contract.
- (6) Any such report is to be provided in a form approved by the Director-General and comply with such standards and requirements as the Director-General determines.

- (7) If the Director-General is of the opinion that the proposed contract does not comply with the requirements of this Act or is not in the interests of the club or its members, the Director-General may, by notice in writing given to the club, direct the club:
- (a) not to enter into the proposed contract, or
 - (b) to amend the proposed contract in accordance with the Director-General's direction before entering into the contract.
- (8) If the Director-General is of the opinion that a loan contract or management contract entered into by a registered club does not comply with the requirements of this Act or is not in the interests of the club or its members, the Director-General may, by notice in writing given to the club, direct the club:
- (a) to amend the contract, or
 - (b) to terminate the contract,
- in accordance with the terms of the direction.
- Note.** A direction by the Director-General under subsection (7) or (8) is reviewable by the Authority under section 36A of the *Gaming and Liquor Administration Act 2007*.
- (9) The need to protect the interests of the club and its members is to be the paramount consideration in making any decision for the purposes of subsection (7) or (8).
- (10) A registered club must comply with a direction given to it by the Director-General under this section.
- (11) Any costs incurred by the Director-General in reviewing a report under this section are required to be paid by the registered club that provided the report unless the Director-General determines otherwise. Any such costs that are due to be paid may be recovered by the Director-General in a court of competent jurisdiction.

[29] Section 41P General provisions

Insert "(except section 41O)" after "Division" in section 41P (2).

[30] Section 41S Effect of termination or amendment of contract

Insert "under section 41O (8) or" after "is terminated".

[31] Section 41S (2)

Insert at the end of the section:

- (2) Subsection (1) extends to a contract that is amended under section 41O (8), and accordingly a reference in subsection (1) to the termination of a contract includes a reference to a contract that is so amended.

[32] Section 41T Offence of giving effect to terminated contract

Insert “under section 41O (8) or” after “terminated”.

[33] Part 4A, Division 6 Inquiries in relation to registered clubs

Omit the Division.

[34] Section 45 Unauthorised persons using club premises

Omit section 45 (1) (a1). Insert instead:

- (a1) is not an honorary member of the club as referred to in section 30A, or

[35] Section 73 Regulations

Insert after section 73 (1) (l):

- (m) requiring members of the governing bodies of registered clubs, secretaries of clubs or persons appointed under the *Liquor Act 2007* as managers of club premises to undergo training courses relating to financial management and other matters that are relevant to their functions,

[36] Section 73 (1) (o)

Omit the paragraph. Insert instead:

- (o) the amalgamation of registered clubs under Division 1A of Part 2 and the de-amalgamation of amalgamated clubs under Division 1B of Part 2.

[37] Schedule 2 Savings, transitional and other provisions

Insert at the end of clause 1A (1):

Clubs, Liquor and Gaming Machines Legislation Amendment Act 2011, to the extent that it amends this Act

[38] Schedule 2, Part 21

Insert after Part 20:

**Part 21 Provisions consequent on enactment of
Clubs, Liquor and Gaming Machines
Legislation Amendment Act 2011**

101 Definition

In this Part:

amending Act means the *Clubs, Liquor and Gaming Machines
Legislation Amendment Act 2011*.

102 Pending club de-amalgamations

- (1) Subject to the regulations and this clause, Division 1B of Part 2 of this Act (as inserted by the amending Act) does not apply to or in respect of the de-amalgamation of an amalgamated club if the de-amalgamation process was commenced before the date of introduction into the Legislative Assembly of the Bill for the amending Act.
- (2) Section 17AM (as inserted by the amending Act) extends to the de-amalgamation of an amalgamated club if the de-amalgamation was initiated, but not completed, before the commencement of that section.

[39] Schedule 4 Rules for election to governing body for term of 3 years

Insert at the end of clause 7:

- (2) The triennial rule cannot be revoked by a club if the rule is taken to apply to the club pursuant to a regulation made for the purposes of section 30 (1) (a1).

Schedule 2 Amendment of Liquor Act 2007 No 90

[1] Sections 1 (note), 4 (definitions of “close associate” and “inspector”), 152 (1) (p) and 157 (1) (note)

Omit “*Casino, Liquor and Gaming Control Authority*” wherever occurring.

Insert instead “*Gaming and Liquor Administration*”.

[2] Section 4 Definitions

Omit the definition of *Authority*. Insert instead:

Authority means the Independent Liquor and Gaming Authority constituted under the *Gaming and Liquor Administration Act 2007*.

[3] Section 4, definition of “Director-General”

Omit “Communities NSW”.

Insert instead “the Department of Trade and Investment, Regional Infrastructure and Services”.

[4] Section 6 Exemptions from Act

Omit section 6 (1) (i).

[5] Section 6 (1A)

Insert after section 6 (1):

(1A) Exemption for gift services in certain circumstances

This Act does not apply to or in respect of the sale or supply of liquor that is part of a sale of flowers or food designed to be delivered as a gift to a person (other than the purchaser) specified by the purchaser, but only if the following requirements are complied with:

- (a) the business of the vendor is promoted or marketed as a genuine gift service,
- (b) the gift is packaged and presented in such a manner that any person receiving it would assume it to be a genuine gift,
- (c) the gift is delivered to the person specified by the purchaser at a place other than the premises at which the business of the vendor is conducted,
- (d) the person to whom the gift is delivered is an adult,

- (e) the gift is delivered between 7am and 7pm (except in the case where unforeseen circumstances have delayed the delivery of the gift during that period),
- (f) the volume of liquor supplied as part of the gift does not exceed 2 litres,
- (g) the liquor has been purchased by the vendor on a retail basis.

[6] Section 15 Hotel licence—general provisions

Insert “except as provided by section 15A,” before “the primary purpose” in section 15 (1) (a).

[7] Section 15A

Insert after section 15:

15A Cessation of liquor sales during trading hours

(1) Extended trading periods

A hotelier may, at any time during the period that an extended trading authorisation is in force in relation to the licensed premises:

- (a) cease to sell or supply liquor on the licensed premises, and
- (b) continue to provide, or make available, other services and facilities on the licensed premises (such as food and non-alcoholic beverages, entertainment and the use of the premises for conferences or meetings and for gambling activities that are otherwise permitted on the premises).

(2) Authority may approve of cessation of liquor sales during standard trading period

A hotelier may, at any time during the standard trading period:

- (a) cease to sell or supply liquor on the licensed premises, and
- (b) continue to provide, or make available, other services and facilities on the licensed premises (such as food and non-alcoholic beverages, entertainment and the use of the premises for conferences or meetings and for gambling activities that are otherwise permitted on the premises),

but only with the approval of the Authority.

- (3) An application for the approval of the Authority under subsection (2) may be made by the hotelier concerned. Any such application must be accompanied by the fee prescribed by the regulations.

-
- (4) The Authority may give its approval only if it is satisfied that:
- (a) the operation of gaming machines on the licensed premises during the period to which the approval relates will not detract unduly from the character of the hotel, and
 - (b) gambling activities on the licensed premises will be conducted in a responsible manner.

(5) **Cessation of liquor sales during standard trading period without gambling activities**

A hotelier may, at any time during the standard trading period:

- (a) cease to sell or supply liquor on the licensed premises, and
- (b) continue to provide, or make available, other services and facilities on the licensed premises (such as food and non-alcoholic beverages, entertainment and the use of the premises for conferences or meetings).

However, it is a condition of the licence that the licensed premises must not be used for the purposes of any gambling activities during any such time that liquor is not being sold or supplied unless an approval is in force under subsection (2) in relation to the licensed premises.

[8] Section 47H Restrictions on licence conditions imposed by Director-General

Omit “of Communities NSW” from section 47H (1).

[9] Section 48 Community impact

Insert after section 48 (6):

- (7) Without limiting subsection (6), the regulations may provide that the matters to be addressed by a community impact statement are, in the case of an application for an extended trading authorisation in relation to a hotel licence, to include matters relating to gambling activities on the licensed premises during the period that the authorisation is proposed to be in force.

[10] Section 53 Authority may impose, vary or revoke licence conditions

Omit “not inconsistent with this Act to which a licence is to be subject” from section 53 (1).

Insert instead “on a licence”.

[11] Section 53 (1A)

Insert after section 53 (1):

- (1A) The conditions that may be imposed by the Authority on a licence under this section include, but are not limited to, conditions:
- (a) prohibiting the sale or supply of liquor on the licensed premises before 10 am or after 11 pm (or both), and
 - (b) restricting the trading hours of, and public access to, the licensed premises.

[12] Section 54A

Insert after section 54:

54A Directions relating to “sale on other premises” authorisations

- (1) The Director-General may give a licensee who is the holder of an authorisation under section 25 (6), or any employee or agent of such a licensee, a written direction that relates to the operation of the authorisation.
- (2) Without limitation, any such direction may prohibit or restrict the sale of liquor under the authorisation during such times, or on such premises, as may be specified in the direction.
- (3) A direction under this section:
 - (a) takes effect when it is given to the licensee or person concerned or on a later date specified in the direction, and
 - (b) may be varied or revoked by the Director-General, and
 - (c) has effect despite the authority conferred by the authorisation concerned.
- (4) A licensee or person who fails to comply with a direction under this section is guilty of an offence.
Maximum penalty: 50 penalty units.

[13] Section 60 Transfer of licence

Omit section 60 (6). Insert instead:

- (6) A club licence may be transferred to another club only if the Authority is satisfied that the requirements of Division 1A or 1B of Part 2 of the *Registered Clubs Act 1976* and of any regulations made for the purposes of this section have, to the extent that they apply in relation to the transfer, been complied with.

Note. Division 1A of Part 2 of the *Registered Clubs Act 1976* relates to club amalgamations and Division 1B relates to the de-amalgamation of amalgamated clubs.

[14] Section 66 Appointment of managers

Omit section 66 (6). Insert instead:

- (6) In this section:
metropolitan area means an area described by the regulations as a metropolitan area.

[15] Section 76 Self-exclusion of patrons from licensed premises

Insert after section 76 (7):

- (7A) 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.

[16] Section 99 Responsible sale, supply, service or promotion of liquor

Insert after section 99 (3):

- (4) The regulations under subsection (2) (c) may create offences punishable by a penalty not exceeding 100 penalty units.
Note. The penalty for any other offence created by the regulations cannot exceed 50 penalty units—see section 159 (3).

[17] Section 147 Maximum penalties for certain offences

Insert “or the regulations” after “this Act” in section 147 (1) and (3) (b) wherever occurring.

[18] Section 149A

Insert after section 149:

149A General defence available to managers of club premises

- (1) It is a sufficient defence to a prosecution of a manager of club premises for an offence under this Act or the regulations (including any offence for which the manager is liable because of section 91 or 149) if it is proved that:
- (a) the manager had taken all reasonable precautions to avoid commission of the alleged offence, and
 - (b) at the time of the alleged offence the manager did not know, and could not reasonably be expected to have known, that the alleged offence had been committed.
- (2) However, subsection (1) does not apply in relation to any of the following offences:
- (a) an offence under section 73 (1) (a) (permitting intoxication on licensed premises),

- (b) an offence under section 75 (3) (failure to comply with direction by Director-General),
- (c) any offence under this Act or the regulations in respect of which a defence is specifically available to the manager of club premises,
- (d) any other offence under this Act or the regulations that is prescribed by the regulations for the purposes of this subsection.

[19] Section 153 Review by Authority of Director-General's decisions

Omit the section.

[20] Section 155 Procedure for dealing with matters under Act to be informal

Omit the section.

[21] Schedule 1 Savings and transitional provisions

Insert at the end of clause 1 (1):

Clubs, Liquor and Gaming Machines Legislation Amendment Act 2011, to the extent that it amends this Act

[22] Schedule 1

Insert at the end of the Schedule with appropriate Part and clause numbering:

**Part Provision consequent on enactment of
Clubs, Liquor and Gaming Machines
Legislation Amendment Act 2011**

Conditions imposed by Authority to reduce trading hours

Any condition imposed by the Authority under section 53 that would have been validly imposed had section 53 (1A) (as inserted by the *Clubs, Liquor and Gaming Machines Legislation Amendment Act 2011*) been in force when the condition was imposed is validated.

[23] Schedule 4 Special licence conditions for declared premises

Omit "Attorney General's Department" from clause 9 (3).

Insert instead "Department of Attorney General and Justice".

Schedule 3 Amendment of Gaming Machines Act 2001 No 127

- [1] Long title, sections 4 (definitions of “centralised cash control equipment” and “gaming machine area”), 7 (a), 9, 20 (7), 21 (5), 32 (5), 34 (1), 37A (1) and (2), 37B (1), (4) and (6), 39–47A, 47C–52, 53 (3), 56 (1)–(3), 57 (1), 58 (1B), 61, 61A, 64 (4) and (8), 66 (1), 67 (4), 70 (1) (b), 71 (3) and (5), 72–76, 76B, 77 (2A)–(2C), 80, 80A, 85 (5) (a), 106, 122 (1), 123 (b), 126 (1), 127 (1), 129 (3) (b)–(d), 131 (2) (b) and (c), 132 (2) (c), 133, 133A (1) and (3), 134 (1) and (2), 141 (definitions of “authorised inter-club linked gaming system” and “participating club”), 142 (2) (b) and (3), 148–153, 158 (1), 158A, 177 (1) (a), 194 (1) (c)–(c2) and (i), 198, 199 (3) (b), 201 (1), 203 (1), 204 (1) (b), 205 (2) (a) and (6) (b), 205B, 209 and 210

Omit “registered” wherever occurring.

- [2] Sections 1 (note), 4 (definitions of “close associate” and “inspector”) and 67 (5)

Omit “*Casino, Liquor and Gaming Control Authority*” wherever occurring.

Insert instead “*Gaming and Liquor Administration*”.

- [3] Sections 3 (1) (e), 4 (definition of “subsidiary equipment”), 8, 10, 19–21, 31C (2), 32 (4), 37, 37A (2) (b) and (3), 58 (1) (c), 61A, 64 (1) and (3), 66 (3), 69 (2), 83 (1) (a) (i), 84 (1) and (2), 102 (3), 121, 194 (1) (a) and 210 (2) (z)

Omit “poker” wherever occurring. Insert instead “gaming”.

- [4] Section 3 Objects of Act

Omit “the Director,” from section 3 (2).

- [5] Section 4 Definitions

Omit the definition of *Authority*. Insert instead:

Authority means the Independent Liquor and Gaming Authority constituted under the *Gaming and Liquor Administration Act 2007*.

[6] Section 4

Omit the definitions of *approved amusement device*, *approved gaming machine*, *approved poker machine*, *hardship gaming machine*, *Liquor Act poker machine permit*, *poker machine* and *poker machine entitlement*.

Insert instead in alphabetical order:

approved gaming machine means a gaming machine declared under section 64 to be an approved gaming machine and includes:

- (a) any subsidiary equipment approved by the Authority for use in connection with the gaming machine, and
- (b) any component of the gaming machine (other than a component prescribed by the regulations as not being part of the gaming machine), and
- (c) any specially approved gaming machine within the meaning of section 141.

gaming machine means a device that is designed:

- (a) for the playing of a game of chance or a game that is partly a game of chance and partly a game requiring skill, and
 - (b) for paying out money or tokens or for registering a right to an amount of money or money's worth to be paid,
- and includes any subsidiary equipment.

gaming machine entitlement (or *entitlement*) means a gaming machine entitlement that is held in respect of a hotel licence or club licence under Part 3.

permit (when used in or in relation to Part 3) means a permit issued and in force under section 182C of the *Liquor Act 1982* before the repeal of that section by this Act.

[7] Section 4, definitions of “club”, “club licence” and “club premises”

Insert in alphabetical order:

club means a club that holds a club licence.

club licence means a club licence granted under the *Liquor Act 2007* and *club premises* (or *premises of a club*) means the premises to which any such licence relates.

[8] Section 4, definitions of “Director” and “Director-General”

Omit the definitions. Insert instead:

Director-General means the Director-General of the Department of Trade and Investment, Regional Infrastructure and Services.

[9] Section 4, definition of “metropolitan area”

Omit the definition. Insert instead:

metropolitan area means an area described by the regulations as a metropolitan area.

[10] Section 4, definition of “new club”

Omit the definition. Insert instead:

new club premises means:

- (a) club premises that become licensed for the first time under the *Liquor Act 2007* (otherwise than because of the operation of clause 93 of Schedule 2 to the *Registered Clubs Act 1976*), or
- (b) the premises to which a club licence is removed under the *Liquor Act 2007*.

[11] Section 4, definition of “registered club”

Omit the definition.

[12] Sections 4 (definition of “subsidiary equipment”), 58 (1) (c), 64 (1) and (3) and 121

Omit “or approved amusement device” wherever occurring.

[13] Section 4, definition of “temporary premises”

Omit “registered club”. Insert instead “club premises”.

[14] Section 8 Gaming machines not used for purposes of gambling

Omit “or a device that is in the nature of an approved amusement device” from section 8 (1) and (2) wherever occurring.

[15] Sections 8, 66 (3), 69 (2) (b) and (c) and 121 (1) and (4)

Omit “or device” wherever occurring.

[16] Section 8 (4)

Omit “or a device in the nature of an approved amusement device”.

[17] Part 3, heading

Omit “Poker machine entitlements and hardship gaming machines”.

Insert instead “Gaming machine entitlements and permits”.

[18] Section 14

Omit the section. Insert instead:

14 Restrictions on number of gaming machine entitlements and permits held

- (1) The number of gaming machine entitlements held under this Act in respect of hotel and club licences cannot exceed the overall State cap.
- (2) The number of gaming machine entitlements held in respect of a club licence cannot exceed the gaming machine threshold for the club premises.
- (3) The number of gaming machine entitlements and permits held in respect of a hotel licence cannot exceed the gaming machine threshold for the hotel.

[19] Part 3, Division 2, heading

Omit “**poker**”. Insert instead “**gaming**”.

[20] Sections 15, 15AA and 18

Omit the sections.

[21] Section 16

Omit the section. Insert instead:

16 Certificate of gaming machine entitlements

- (1) The number of gaming machine entitlements held in respect of a hotel licence or club licence from time to time is to be specified in a certificate issued by the Authority to the hotelier or club concerned. The certificate may be incorporated in the relevant hotel or club licence.
- (2) Any such certificate may also specify the gaming machine threshold for the hotel or club premises concerned.

[22] Section 19 Transfer of gaming machine entitlements

Omit section 19 (1). Insert instead:

- (1) A gaming machine entitlement held in respect of a hotel licence or club licence is transferable.

[23] Sections 19 (3) (c), 20 (6) and 21 (1), (4) and (5)

Omit “allocated” wherever occurring. Insert instead “held”.

[24] Section 19 (4)

Omit the subsection.

[25] Section 20 General requirements relating to transfer of gaming machine entitlements

Omit section 20 (1), (1A) and (2). Insert instead:

- (1) Gaming machine entitlements held in respect of a hotel licence may only be transferred to another hotel licence.
- (2) Gaming machine entitlements held in respect of a club licence may only be transferred to another club licence.
- (2A) If a hotel licence or a club licence is removed under the *Liquor Act 2007* to other premises, any gaming machine entitlements held in respect of the premises from which the licence is removed may only be transferred to the premises to which the licence is removed if they are transferred in accordance with this Division.

[26] Section 20 (4)

Omit “have been allocated”. Insert instead “are held”.

[27] Section 20 (4)

Omit “set of club premises”. Insert instead “club licence”.

[28] Section 20 (5)

Omit “allocated in respect of a hotel licence that is held in relation”.

Insert instead “held in respect of a hotel licence that relates”.

[29] Section 21 Other provisions relating to transfer of gaming machine entitlements

Omit “is held in relation” from section 21 (1). Insert instead “relates”.

[30] Section 21 (1A)

Insert after section 21 (1):

- (1A) If, in the case of the removal of a hotel licence or club licence under the *Liquor Act 2007*:
 - (a) any gaming machine entitlements held in respect of the premises from which the licence is removed are transferred to other premises, and

(b) those other premises are situated in the same local government area as the previous premises,
the forfeiture to the Authority of one gaming machine entitlement per transfer block is not required.

[31] Section 21 (2) and (3)

Omit section 21 (2). Insert instead:

(2) If, in the case of a club that holds more than one club licence, gaming machine entitlements held in respect of one of those licences are transferred to another one of the club's licences, the forfeiture to the Authority of one entitlement per transfer block is not required.

Note. Section 19 (2) of the *Liquor Act 2007* provides that each set of premises owned or occupied by a club must be separately licensed under that Act.

(3) If:

(a) an amalgamated club (within the meaning of the *Registered Clubs Act 1976*) de-amalgamates in accordance with Division 1B of Part 2 of that Act, and

(b) any gaming machine entitlements held in respect of the club licence for the relevant premises (as referred to in that Division) are, in connection with the de-amalgamation, transferred to the club licence held by the de-amalgamated club for those premises,

the forfeiture to the Authority of one entitlement per transfer block is not required.

[32] Section 21 (4)

Omit "the premises of a registered club" wherever occurring.

Insert instead "a club licence".

[33] Section 21 (5)

Omit "of the premises of the club".

Insert instead "club licence held by the club".

[34] Section 21 (6)

Omit the subsection.

[35] Section 22 Exchange of AADs for poker machine entitlements

Omit the section.

[36] Sections 23 and 24

Omit the sections. Insert instead:

23 Transfer of gaming machine entitlements when hotel or club licence surrendered or cancelled

- (1) If a hotel licence or club licence is surrendered or cancelled any gaming machine entitlements held in respect of the licence concerned may, in accordance with this Division, be transferred.
- (2) If any such gaming machine entitlements have not been transferred at the end of the period of 12 months immediately following the surrender or cancellation of the hotel or club licence concerned, the remaining entitlements are forfeited to the Authority.
- (3) However, a remaining entitlement may be retained for a further period of up to 12 months if a levy is paid to the Authority to retain the entitlement for that period. The levy is \$500 for each of the remaining entitlements intended to be retained.
- (4) The Authority may, in the case of a club, allow a gaming machine entitlement to be retained for the further period without requiring the payment of the levy under subsection (3) if the Authority is satisfied that the delay in transferring the remaining entitlements is due to circumstances beyond the control of the proposed transferor of the entitlements.
- (5) If the remaining gaming machine entitlements have not been transferred by the end of the further 12-month period under subsection (3) the entitlements are forfeited to the Authority.
- (6) Any levy paid under this section is to be paid into the Community Development Fund.

[37] Section 24A Transfer of poker machine entitlements when club permanently ceases to trade

Omit the section.

[38] Sections 25 and 25A

Omit the sections.

[39] Part 3, Division 3

Omit the Division. Insert instead:

Division 3 Transfer of permits

26 Transfer of permits generally

- (1) A permit that is held in respect of a hotel licence may be transferred to another hotel licence but only in accordance with such arrangements as are approved by the Director-General.
- (2) Any such arrangements may, without limitation, provide for the charging of fees in connection with an application for the approval of the transfer of permits.

27 Hotel's gaming machine threshold to be decreased when permits transferred to another hotel

If any permits held in respect of a hotel licence are transferred to another hotel licence in accordance with the arrangements referred to in section 26, the Authority is to decrease, by the number of permits transferred, the gaming machine threshold for the hotel from which the permits are transferred.

28 Transfer of permits when hotel licence surrendered or cancelled

- (1) If a hotel licence is surrendered or cancelled, any permits held in respect of the licence may, in accordance with such arrangements as are approved by the Director-General, be transferred to another hotel licence.
- (2) If, at the end of the period of 12 months immediately following the surrender or cancellation of the hotel licence, any such permits have not been transferred, the remaining permits are forfeited to the Authority.
- (3) However, any such remaining permit may be retained for a further period of up to 12 months if a levy is paid to the Authority to retain the permit for that period. The levy is \$500 for each of the remaining permits intended to be retained.
- (4) If the remaining permits have not been transferred by the end of the further 12-month period under subsection (3), the permits are forfeited to the Authority.
- (5) Any levy paid under this section is to be paid into the Community Development Fund.

-
- [40] Section 31A Forfeiture of other entitlements in certain circumstances**
Omit the section.
- [41] Section 31B Transfer of Liquor Act poker machine permits when hotel licence surrendered or cancelled**
Omit the section.
- [42] Section 31C Consequences of moving to temporary premises**
Omit section 31C (1). Insert instead:
- (1) If the business under a hotel licence or a club licence is carried on at temporary premises, any gaming machine entitlements held in respect of the licence concerned may, in accordance with Division 2 of this Part, be transferred to the temporary premises without the forfeiture of any of the entitlements to the Authority.
- [43] Section 31C (3)**
Omit the subsection.
- [44] Section 32 Gaming machine thresholds for venues**
Omit “premises of a registered club” from section 32 (1).
Insert instead “club premises”.
- [45] Section 32 (4)**
Omit “the premises of a new club”. Insert instead “new club premises”.
- [46] Section 32 (6)**
Insert after section 32 (5):
- (6) For the purposes of this Division and any regulations made under this Division, a hotel or club premises cease to be a new hotel or new club premises (as the case requires) once the gaming machine threshold for the hotel or club premises is increased.
- Note.** If the licence for the venue is subsequently removed under the *Liquor Act 2007* to another venue, the other venue would be considered a new hotel or new club premises (as the case requires).

[47] Section 35 Requirements relating to threshold increase applications

Omit section 35 (2). Insert instead:

(2) When LIA is not required

A threshold increase application is not required to be accompanied by a LIA if the application is made together with a transfer application and either or both of the following apply:

- (a) 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,
- (b) the relevant venue and the hotel or the club premises from which the gaming machine entitlements or permits are proposed to be transferred by the transfer application are situated in the same local government area.

(2A) For the purposes of subsection (2), a *transfer application* means either or both of the following:

- (a) an application under section 19 for the Authority's approval of the transfer of gaming machine entitlements to the relevant venue,
- (b) an application under and in accordance with the arrangements referred to in section 26 for the acquisition by the relevant venue of permits.

[48] Section 36 Approval of LIA by Authority

Omit "comprises the premises of a new club or is a new hotel" from section 36 (3) (c) (ii) and (d) (ii) wherever occurring.

Insert instead "is a new hotel or comprises new club premises".

[49] Section 36 (3) (c) (ii) and (d) (ii)

Insert "public" after "place of" wherever occurring.

[50] Section 37 Provisions relating to increased gaming machine thresholds when LIA approved

Insert after section 37 (4):

- (5) A reference in this section to gaming machine entitlements includes, if the relevant venue is a hotel, a reference to permits.

[51] Section 37C

Insert after section 37B:

37C Special provision relating to de-amalgamated clubs

- (1) A threshold increase application by a de-amalgamated club in respect of the premises that are transferred to it under the de-amalgamation (the *relevant premises*) is not required to be accompanied by a LIA if the relevant premises:
 - (a) are situated in the same local government area as the premises of the amalgamated club from which gaming machine entitlements are proposed to be transferred to the relevant premises, or
 - (b) are situated in a Band 1 LGA and the threshold increase application, if approved, would not result in the gaming machine threshold for the premises 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 premises, or
 - (c) are situated in a Band 1 or Band 2 LGA and the threshold increase application, if approved, would not result in the gaming machine threshold for the relevant premises exceeding the gaming machine threshold for the premises of the dissolved club immediately before it amalgamated with the parent club concerned.
- (2) If a LIA is required to be provided with any such threshold increase application because paragraphs (a)–(c) of subsection (1) do not apply in relation to the relevant premises, a class 1 LIA is required to be provided with the threshold increase application concerned.
- (3) Subsections (1) and (2) have effect despite any other provision of this Division but apply only if the threshold increase application by the de-amalgamated club is made:
 - (a) in connection with the de-amalgamation, and
 - (b) together with an application under section 19 for the Authority's approval of the transfer of gaming machine entitlements to the relevant premises from the premises of the amalgamated club.
- (4) A word or expression used in this section that has a meaning under the *Registered Clubs Act 1976* has the same meaning given to it under that Act.

- [52] **Sections 44A (1), 77 (2B) (a), 94, 95 (1), 96, 113, 125, 128, 129 (1) (a) and (3) (k), 131 (2) (i), 133A (2) (b) and 194 (1) (g)**
Omit “Director” wherever occurring. Insert instead “Director-General”.
- [53] **Section 44A Location of gaming machines in venues**
Omit the note to section 44A (1). Insert instead:
Note. Any such decision is reviewable by the Authority under section 36A of the *Gaming and Liquor Administration Act 2007*.
- [54] **Section 46 Provision of problem gambling counselling services**
Insert “premises” after “hotel or club” in section 46 (1).
- [55] **Section 47 Responsible conduct in relation to gaming machines**
Omit section 47 (3). Insert instead:
(3) The regulations under this section (other than subsection (2) (c)) may create offences punishable by a penalty not exceeding 50 penalty units.
Note. The penalty for any other offence created by the regulations (including regulations under subsection (2) (c)) cannot exceed 100 penalty units—see section 210 (3).
- [56] **Sections 48 (5) and 204A (1)**
Omit “the Arts, Sport and Recreation” wherever occurring.
Insert instead “Trade and Investment, Regional Infrastructure and Services”.
- [57] **Section 49 Self-exclusion of patrons from hotels and clubs**
Insert “a” after “in the case of” in paragraph (a) of the definition of *responsible person* in section 49 (1).
- [58] **Section 49 (6)**
Insert after section 49 (5):
(6) 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.

[59] Section 56 Requirement for authorisation to keep or dispose of gaming machines

Omit section 56 (4). Insert instead:

- (4) The total number of approved gaming machines that the Authority may authorise to be kept in a hotel from time to time consists of the following:
- (a) the number of approved gaming machines that corresponds to the number of gaming machine entitlements held in respect of the hotel licence,
 - (b) the number of approved gaming machines that corresponds to the number of permits (as referred to in Part 3) held in respect of the hotel licence.

[60] Section 56 (5)

Omit the subsection. Insert instead:

- (5) The total number of approved gaming machines that the Authority may authorise to be kept on any club premises from time to time is the number of approved gaming machines that corresponds to the number of gaming machine entitlements held in respect of the club licence.

[61] Section 58 Suspension or cancellation of authorisations

Insert after section 58 (1B):

- (1C) Section 56 (1) does not prohibit the keeping of an approved gaming machine during any period that the authorisation to keep the gaming machine is suspended so long as the gaming machine is not operated at any time during that period of suspension.

[62] Section 58 (3)

Omit the subsection. Insert instead:

- (3) If, under the *Liquor Act 2007*, a club licence is removed to other premises (whether or not those other premises are outside the neighbourhood of the previous premises), the removal of the club licence has the effect of cancelling the club's authorisation to keep any approved gaming machine on the previous premises.

[63] Section 59A Restrictions on authorisation to keep approved amusement devices

Omit the section.

[64] Section 61A Limit on number of MTGMs in clubs

Omit “allocated for those premises” from section 61A (1) and (3) wherever occurring.

Insert instead “held in respect of the club licence concerned”.

[65] Section 61A (3)

Omit “so allocated”. Insert instead “so held”.

[66] Section 62 Authority may approve technical standards

Omit section 62 (1). Insert instead:

- (1) The Authority may, from time to time, approve of technical standards in relation to gaming machines for the purposes of ensuring the integrity of gaming by the use of gaming machines.

[67] Section 63 Application for declaration of device as approved gaming machine

Omit section 63 (1). Insert instead:

- (1) The holder of a dealer’s licence may apply to the Authority for the declaration of a device as an approved gaming machine.

[68] Section 66 Non-approved gaming machines may be kept on trial basis

Omit section 66 (1) and (2). Insert instead:

- (1) A hotelier or club may, with the approval of the Authority and subject to compliance with any conditions imposed by the Authority, keep on a trial basis for a period fixed by the Authority a gaming machine that is not an approved gaming machine.

[69] Section 69 Possession etc of gaming machines that are not approved

Omit section 69 (1). Insert instead:

- (1) A person (including a hotelier or club) must not possess, supply, sell or install a gaming machine unless it is an approved gaming machine.
Maximum penalty: 100 penalty units or imprisonment for 12 months, or both.

[70] Section 69 (2)

Omit “or device that is in the nature of an approved amusement device”.

[71] Section 69A Sale etc of unapproved gaming machine components

Omit section 69A (1). Insert instead:

(1) In this section:

component means any component of a gaming machine.

relevant device, in relation to a component, means the gaming machine to which the component has been, or is intended to be, added.

[72] Section 83 Types of gaming-related licences and authority they confer

Omit “and devices in the nature of approved amusement devices” from section 83 (1) (a) (i).

[73] Section 83 (1) (e)

Omit “poker machines or devices that are in the nature of approved amusement devices”.

Insert instead “gaming machines”.

[74] Section 83 (1) (e)

Omit “the poker machines or devices”. Insert instead “the gaming machines”.

[75] Section 84 Manufacturing or assembling of gaming machines

Omit “or a device that is in the nature of an approved amusement device” from section 84 (1).

[76] Section 84 (2)

Omit “or device that is in the nature of an approved amusement device”.

[77] Section 84 (3)

Omit the subsection. Insert instead:

(3) Subsection (2) does not apply to the manufacture or assembly of a gaming machine by the holder of a dealer’s licence if:

(a) the Authority has agreed to the making of an application by the licensee to have the gaming machine declared as an approved gaming machine, and

(b) the manufacture or assembly of the gaming machine is for the purposes of the application and its investigation.

- [78] Section 102 Granting of testing facility licence**
Omit “poker machines and devices in the nature of approved amusement devices” from section 102 (1) (b).
Insert instead “gaming machines”.
- [79] Section 194 Evidentiary provisions**
Omit section 194 (1) (b).
- [80] Section 194 (1) (h)**
Omit the paragraph.
- [81] Section 196 Prosecution of unincorporated clubs**
Omit the section.
- [82] Section 205 Additional functions of Authority**
Omit section 205 (1) (a).
- [83] Section 205 (1) (e)**
Omit “poker machines or”.
- [84] Section 208 Delegations**
Omit “, the Director” from the definition of *office holder* in section 208 (3).
- [85] Section 210 (2) (z)**
Omit “allocation,”.
- [86] Section 210 (2) (z1)**
Insert after section 210 (2) (z):
(z1) requiring the payment of specified fees in relation to applications made, approvals and certificates given, and other matters arising, under this Act.
- [87] Schedule 1 Savings, transitional and other provisions**
Insert at the end of clause 1 (1):
Clubs, Liquor and Gaming Machines Legislation Amendment Act 2011, to the extent that it amends this Act

[88] **Schedule 1, clause 5**

Omit the clause. Insert instead:

5 Saving of permits issued under section 182C of former Liquor Act

The repeal of section 182C of the *Liquor Act 1982* by this Act does not affect the acquisition of any permit issued under that section before its repeal.

[89] **Schedule 1, clause 45**

Insert after clause 45 (4):

- (4A) For the purposes of facilitating the operation of any SIA as referred to in subclause (2), permits may, in the case of a hotel to which any such SIA applies, be acquired by the hotelier, in addition to the acquisition of gaming machine entitlements, to fill any quota set by the regulations (as in force immediately before the relevant date) in relation to the SIA.

[90] **Schedule 1, Part 13**

Insert after Part 12:

**Part 13 Provisions consequent on enactment of
Clubs, Liquor and Gaming Machines
Legislation Amendment Act 2011**

49 Definitions

In this Part:

amending Act means the *Clubs, Liquor and Gaming Machines Legislation Amendment Act 2011*.

permit means a permit issued and in force under section 182C of the *Liquor Act 1982* before its repeal.

50 Effect of previous permit transfers on transferring hotel's gaming machine threshold

- (1) Subject to the regulations, if the gaming machine threshold or the SIA threshold (within the meaning of clause 45 of this Schedule) for a hotel was not, before the commencement of this clause, decreased as a result of the transfer of permit from the hotel in accordance with the relevant arrangements, the Authority is, on the first anniversary of that commencement, to decrease the gaming machine threshold for the hotel by a number that is equal to so much of the unused portion of the hotel's gaming machine

threshold or SIA threshold as was not decreased as the result of the transfer.

- (2) In this clause:
relevant arrangements means the arrangements applying under clause 5 of this Schedule immediately before the substitution of that clause by the amending Act.
unused portion of a gaming machine threshold or SIA threshold means any portion of the threshold concerned for which a gaming machine entitlement or permit has not been acquired.

51 Calculation of hotel gaming machine threshold—exclusion of excess permits

- (1) For the purposes of section 14 (3) (as inserted by the amending Act), the gaming machine threshold for a hotel does not include the number of any excess permits held in respect of the hotel licence immediately before the date of commencement of this clause. An *excess permit* is a permit that, when added to the total number of gaming machine entitlements held in respect of the licence as at that date, would amount to a number that is greater than the gaming machine threshold for the hotel as at that date.
- (2) For the avoidance of doubt, any such excess permit may be transferred in accordance with the arrangements approved under section 26 (as substituted by the amending Act).
- (3) This clause does not affect the operation of clause 50.

52 Hardship gaming machine approvals

- (1) The approval under Division 3 of Part 3 of this Act (as in force immediately before its repeal by the amending Act) of the keeping of a hardship gaming machine expires on the tenth anniversary of the date of the approval.
- (2) Despite their repeal by the amending Act, sections 31 and 56 (4) (c) and (5) (b) continue to apply to or in respect of a hardship gaming machine until such time:
- (a) as the approval of the keeping of the gaming machine expires in accordance with this clause, or
- (b) as the approval of the keeping of the gaming machine is forfeited in accordance with section 31 as so continued, whichever occurs first.
- (3) For the purposes of subclause (2), a reference in section 31 (as continued by that subclause) to a poker machine entitlement is taken to be a reference to a gaming machine entitlement.

53 Effect of surrender or disposal of AADs

- (1) Subject to the regulations, if the AAD threshold or gaming machine threshold for a hotel or club premises (*the venue*) was not, before the commencement of this clause, decreased:
- (a) as a result of the surrender under section 22 (as in force before its repeal by the amending Act) of an authorisation under Part 5 of this Act to keep approved amusement devices in the venue, or
 - (b) following the authorisation under Part 5 of this Act for the disposal of approved amusement devices kept in the venue,

the Authority is, on the first anniversary of that commencement, to decrease the gaming machine threshold for the venue by a number that is equal to so much of the unused portion of the venue's AAD threshold or gaming machine threshold as was not decreased as the result of the surrender or disposal.

- (2) In this clause:
- AAD threshold* for a venue means the AAD threshold (as defined under section 4 of this Act immediately before the repeal of that definition by the *Gaming Machines Amendment Act 2008*) for the venue.
- unused portion* of an AAD threshold or gaming machine threshold means any portion of the threshold concerned for which a gaming machine entitlement or, in the case of a hotel, a permit has not been acquired.

54 Acquisition of permits to fill existing SIA quotas

Anything done under clause 45 (4A) (as inserted by the amending Act) that would have been validly done had that subclause been in force when it was done is validated.

Schedule 4 Amendment of Casino, Liquor and Gaming Control Authority Act 2007 No 91

[1] Long title

Omit “Casino, Liquor and Gaming Control”.

Insert instead “Independent Liquor and Gaming”.

[2] Section 1 Name of Act

Omit “*Casino, Liquor and Gaming Control Authority*”.

Insert instead “*Gaming and Liquor Administration*”.

[3] Section 3 Definitions

Omit the definition of *Authority* from section 3 (1). Insert instead:

Authority means the Independent Liquor and Gaming Authority constituted under this Act.

[4] Section 3, definition of “Chief Executive”

Omit “Casino, Liquor and Gaming Control”.

Insert instead “Independent Liquor and Gaming”.

[5] Section 3, definition of “Director-General”

Omit “Communities NSW”.

Insert instead “the Department of Trade and Investment, Regional Infrastructure and Services”.

[6] Sections 3 (definition of “inspector” and paragraph (d) of the definition of “key official”), 16 (4) (paragraph (a) of the definition of “appropriate authority”), 20 and 38

Omit “relevant Division Head” wherever occurring.

Insert instead “Director-General”.

[7] Section 3, paragraph (b) of the definition of “key official”

Omit the paragraph.

[8] Section 3, definition of “relevant Division Head”

Omit the definition.

[9] Section 6 Constitution of Authority

Omit “Casino, Liquor and Gaming Control” from section 6 (1).

Insert instead “Independent Liquor and Gaming”.

[10] Section 9 General functions of Authority

Omit “(by secondment or otherwise)” from section 9 (3) (b).

[11] Section 17 Secrecy

Omit section 17 (2) (a). Insert instead:

- (a) to a particular person or body (or to a particular class of persons or bodies) if the Authority or the Director-General certifies that it is necessary in the public interest that the information be divulged to the person or body or class of persons or bodies, or

[12] Section 20 Appointment and identification of inspectors

Omit “the Division Head” from section 20 (3).

Insert instead “the Director-General”.

[13] Section 36 False or misleading statements

Omit “, the Director-General or the relevant Division Head” from the definition of *official document* in section 36 (2).

Insert instead “or the Director-General”.

[14] Sections 36A and 36B

Insert after section 36:

36A Review by Authority of certain decisions by Director-General under gaming and liquor legislation

(1) In this section:

reviewable decision means:

- (a) any of the following decisions of the Director-General under the *Liquor Act 2007*:
 - (i) a decision under section 54 to impose a condition on a licence or to vary or revoke any such condition,
 - (ii) a decision under section 54A to give a direction relating to the operation of a “sale on other premises” authorisation,
 - (iii) a decision under section 75 to give a direction relating to licensed premises,

- (iv) a decision under section 81 in relation to a disturbance complaint,
 - (v) a decision under section 87 to make a late hour entry declaration,
 - (vi) a decision under section 90 to vary or revoke a late hour entry declaration,
 - (vii) a decision under section 101 to restrict or prohibit the sale or supply of undesirable liquor products,
 - (viii) a decision under section 102 to restrict or prohibit the undesirable promotion of liquor,
 - (ix) a decision under section 136 to give a direction to contribute to the costs of promoting or giving effect to a local liquor accord,
 - (x) a decision under section 136F to give a direction to contribute to the costs associated with the operation of a precinct liquor accord, or
 - (b) a decision of the Director-General to give a direction under section 44A (Location of gaming machines in venues) of the *Gaming Machines Act 2001*, or
 - (c) a decision of the Director-General to give a direction under section 41O (Requirements relating to loan and management contracts) of the *Registered Clubs Act 1976*.
- (2) Any person who is aggrieved by a reviewable decision may, in accordance with the regulations and on payment of such fee as may be prescribed by the regulations, apply in writing to the Authority for a review of the decision.
- (3) An application for such a review does not operate to stay the reviewable decision of the Director-General unless the Authority otherwise directs.
- (4) In determining an application for review under this section, the Authority may:
- (a) confirm the decision the subject of the application, or
 - (b) vary the decision, or
 - (c) revoke the decision.
- (5) However, in the case of a review of a decision of the Director-General under section 136F of the *Liquor Act 2007*, the Authority may vary or revoke the Director-General's decision only if the Authority is satisfied that the amount of the contribution directed to be paid was not determined in

accordance with the terms of the relevant precinct liquor accord (within the meaning of that Act).

- (6) The Director-General is to give effect to any decision of the Authority under this section to vary or revoke the decision the subject of the application for review.
- (7) The Authority may not make any decision in relation to an application for review under this section unless a member of the Authority who is or has been a Judge, or has been an Australian lawyer for at least 7 years, is present at the meeting of the Authority or the committee of the Authority at which the decision of the Authority is made.

36B Procedure for dealing with matters under gaming and liquor legislation to be informal

- (1) A formal hearing involving the legal representation of parties is not required to be held in relation to any application or other matter (including the taking of any disciplinary action) that may be dealt with or decided by the Authority or the Director-General under the gaming and liquor legislation.
- (2) However, subsection (1) does not prevent the Authority or the Director-General, in such cases as the Authority or the Director-General considers appropriate:
 - (a) from conducting an interview or convening a conference or meeting, or
 - (b) from receiving submissions,in relation to any application or other matter that may be dealt with or decided by the Authority or the Director-General under the gaming and liquor legislation.
- (3) Any such conference or meeting is to be presided over by the Authority or the Director-General, as the case requires, and the procedure at the conference or meeting is to be determined by the Authority or the Director-General, as the case requires.
- (4) This section is subject to any other provision of the gaming and liquor legislation.

[15] Section 38 Delegation by Director-General

Omit “Division Head’s”. Insert instead “Director-General’s”.

[16] Section 38A

Insert after section 38:

38A Fees for services provided under the gaming and liquor legislation

- (1) A fee may be charged for services provided, on request, by a member of staff in connection with the administration of the gaming and liquor legislation. Any such fee cannot exceed the amount determined by the Director-General as a reasonable fee for the service provided.
- (2) This section does not apply in relation to any service for which a fee or charge is prescribed by the regulations under the gaming and liquor legislation.

[17] Section 39 Annual report

Omit “Department of the Arts, Sport and Recreation”.

Insert instead “Department of Trade and Investment, Regional Infrastructure and Services”.

[18] Schedule 2 Savings, transitional and other provisions

Insert at the end of clause 1 (1):

Clubs, Liquor and Gaming Machines Legislation Amendment Act 2011, to the extent that it amends this Act

Schedule 5 Consequential amendments to other Acts

5.1 Casino Control Act 1992 No 15

- [1] **Sections 1 (note), 3 (definitions of “close associate”, “inspector”, “key official” and “member of staff”) and 149 (5)**

Omit “*Casino, Liquor and Gaming Control Authority*” wherever occurring.

Insert instead “*Gaming and Liquor Administration*”.

- [2] **Section 3 Definitions**

Omit the definition of *Authority*. Insert instead:

Authority means the Independent Liquor and Gaming Authority constituted under the *Gaming and Liquor Administration Act 2007*.

5.2 Duties Act 1997 No 123

- [1] **Sections 11 (1) (h1), 36, 37 and 65 (7) (a) (ii) and note to section 65**

Omit “poker” wherever occurring. Insert instead “gaming”.

- [2] **Section 65 Exemptions from duty**

Omit section 65 (7) (a) (i). Insert instead:

- (i) a permit under Division 3 of Part 3 of the *Gaming Machines Act 2001*, or

5.3 Fines Act 1996 No 99

Schedule 1 Statutory provisions under which penalty notices issued

Omit the matter relating to the *Casino, Liquor and Gaming Control Authority Act 2007*.

Insert instead in alphabetical order:

Gaming and Liquor Administration Act 2007, section 46

5.4 Gaming Machine Tax Act 2001 No 72

Section 3 Definitions

Omit the definition of *Authority*. Insert instead:

Authority means the Independent Liquor and Gaming Authority constituted under the *Gaming and Liquor Administration Act 2007*.

5.5 Government Information (Public Access) Act 2009 No 52

Schedule 1 Information for which there is conclusive presumption of overriding public interest against disclosure

Omit the matter relating to the *Casino, Liquor and Gaming Control Authority Act 2007* from clause 1.

Insert instead in alphabetical order:

Gaming and Liquor Administration Act 2007—section 17 (Secrecy)

5.6 Law Enforcement (Powers and Responsibilities) Act 2002 No 103

Schedule 2 Search warrants under other Acts

Omit the matter relating to the *Casino, Liquor and Gaming Control Authority Act 2007*.

Insert instead in alphabetical order:

Gaming and Liquor Administration Act 2007, section 27

5.7 Parliamentary Precincts Act 1997 No 66

Section 27A Memorandum of understanding with Director-General of Department of Trade and Investment, Regional Infrastructure and Services

Omit section 27A (1). Insert instead:

- (1) The Presiding Officers may enter into a memorandum of understanding with the Director-General of the Department of Trade and Investment, Regional Infrastructure and Services regarding the exercise in the Parliamentary precincts of functions by inspectors (within the meaning of the *Gaming and Liquor Administration Act 2007*) in relation to any licence under the *Liquor Act 2007* that authorises the sale of liquor in the Parliamentary precincts.

5.8 Police Integrity Commission Act 1996 No 28

Section 61 Secrecy provisions in other Acts

Omit section 61 (1) (a). Insert instead:

- (a) section 17 of the *Gaming and Liquor Administration Act 2007*,

5.9 Public Finance and Audit Act 1983 No 152

Schedule 2 Statutory bodies

Omit “Casino, Liquor and Gaming Control Authority”.

Insert instead in alphabetical order:

Independent Liquor and Gaming Authority

5.10 Royal Commission (Police Service) Act 1994 No 60

Section 32 Secrecy provisions in other Acts

Omit “Casino, Liquor and Gaming Control Authority” from section 32 (1).

Insert instead “*Gaming and Liquor Administration*”.

5.11 Statutory and Other Offices Remuneration Act 1975 (1976 No 4)

Schedule 3 Public offices

Omit “Casino, Liquor and Gaming Control” from Part 2.

Insert instead “Independent Liquor and Gaming”.

5.12 Unlawful Gambling Act 1998 No 113

[1] Section 7 Lawful forms of gambling

Omit “Casino, Liquor and Gaming Control” from section 7 (g) (ii).

Insert instead “Independent Liquor and Gaming”.

[2] Section 7 (h)

Omit the paragraph. Insert instead:

- (h) the possession, keeping, use or operation of a gaming machine within the meaning of the *Gaming Machines Act 2001* in the circumstances referred to in section 8 of that Act.

Schedule 6 Repeal of Registered Clubs Amendment Act 2006 No 103

The *Registered Clubs Amendment Act 2006* is repealed.