

[Act 2001 No 27]



New South Wales

Casino Control Amendment Bill 2001

Explanatory note

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

Overview of Bill

The object of this Bill is to amend the *Casino Control Act 1992* so as:

- (a) to abolish the statutory office of Director of Casino Surveillance, and to transfer the Director's functions to the Casino Control Authority, and to transfer to the Authority certain staff who are currently employed within the Department of Gaming and Racing, and
- (b) to identify certain primary objects of the Act, and to ensure that persons exercising functions under the Act must do so having regard to those objects, and
- (c) to facilitate the conduct of regular probity checks on persons engaged in the administration of the Act, and
- (d) to enable witnesses at an inquiry conducted by the Authority to be compelled to attend and give evidence, and to restrict the publication of information

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

concerning evidence given at an inquiry or the identity of witnesses attending an inquiry, and

- (e) to enable the Authority to refer certain information to the Commissioner of Police for investigation and report, and
- (f) to exclude from review such of the Authority's or Commissioner of Police's decisions as relate to the exclusion of persons from a casino, and
- (g) to make other minor, consequential and ancillary amendments to the Act.

The Bill also makes consequential amendments to the *Public Sector Management Act 1988* and to a number of regulations.

Outline of provisions

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

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

Clause 3 is a formal provision giving effect to the amendments to the *Casino Control Act 1992* set out in Schedules 1 and 2.

Clause 4 is a formal provision giving effect to the amendments to other Acts and instruments set out in Schedule 3.

Abolition of office of Director of Casino Surveillance and transfer of functions and staff to Casino Control Authority

Schedule 1 repeals the provisions establishing the office of Director of Casino Surveillance (Division 1 of Part 7) and amends a number of other provisions so as to provide for the exercise by the Casino Control Authority of functions formerly exercised by the Director. The savings and transitional provisions enacted by **Schedule 2 [23]** formally abolish the office of Director and provide that any act or omission of the Director is taken to be an act or omission of the Authority (**proposed clause 12 of Schedule 4**). They also provide for certain of the Public Service positions in the Casino Surveillance division of the Department of Gaming and Racing to become equivalent positions in the Casino Control Authority, and for the holders of those positions to be transferred from the Department to the Authority. Transferred officers will retain their Public Service conditions of service and a right of return to the Public Service (**proposed clauses 9, 10 and 11 of Schedule 4**).

Primary objects of Act

Schedule 2 [1] inserts proposed section 4A. The proposed section states that among the primary objects of the Act are:

- (a) ensuring that the management and operation of a casino remain free from criminal influence or exploitation, and
- (b) ensuring that gaming in a casino is conducted honestly, and
- (c) containing and controlling the potential of a casino to cause harm to the public interest and to individuals and families.

The proposed section further provides that all persons having functions under the Act are required to have due regard to the objects referred to in subsection (1) when exercising those functions.

Conduct of probity checks on persons engaged in administration of Act

Schedule 2 [9], [10], [11], [12] and [13] amend section 136 so as to allow the Authority to conduct probity checks not only on any person who seeks appointment as a member or employee of the Casino Control Authority, as a consultant to the Authority or as an inspector (as is currently the case) but also on any person who holds such a position. This will ensure that the holder of such a position continues to meet the standards of integrity required for appointment to the position. Probity checks by the Authority will be required to be conducted in accordance with guidelines established by the Authority. Failure to co-operate with a probity check will preclude a person from appointment to such a position and allow the holder of such a position to be removed from the position, with no entitlement to compensation.

Casino Control Authority to compel witnesses to attend and give evidence at its inquiries

Schedule 2 [14] inserts proposed section 143A. The proposed section gives the person presiding at an inquiry being conducted by or on behalf of the Authority under section 143 the powers, authorities, protections and immunities conferred on a commissioner by Division 1 of Part 2 of the *Royal Commissions Act 1923* and, if the person is a Supreme Court Judge or a legal practitioner of at least 7 years' standing, the powers and authorities conferred by Division 2 of Part 2 of that Act. Those provisions will allow witnesses to be compelled to attend and give evidence at such an inquiry, and will ensure that witnesses who do so have the same protections as witnesses who give evidence in Supreme Court proceedings.

Casino Control Authority to restrict publication of information

Schedule 2 [14] inserts proposed section 143B. The proposed section gives the person presiding at an inquiry being conducted by or on behalf of the Authority under section 143 the power to prohibit the publication of:

- (a) any evidence given at the inquiry, or
- (b) the contents of any document, or a description of any thing, produced at the inquiry, or
- (c) any information that might enable a person who has given or may be about to give evidence at the inquiry to be identified or located, or
- (d) the fact that any person has given or may be about to give evidence at the inquiry,

if satisfied that it is necessary to do so in the public interest. Contravention of such a prohibition will be punishable by a fine of 50 penalty units (\$5,500) or imprisonment for 12 months, or both.

Casino Control Authority to refer information to Commissioner of Police for investigation and report

Schedule 2 [14] inserts proposed section 143C. The proposed section enables the Authority to refer to the Commissioner of Police, for investigation and report, any information as to the existence, or possible existence, of major or systemic criminal activity in connection with gaming at a casino, and requires the Authority to have regard to any such report before taking any action in relation to the matters to which the information relates. **Schedule 2 [15]** amends section 148 to ensure that any such information may not be divulged under section 148 (2) (which enables otherwise confidential information to be disclosed to certain persons) except with the consent of the Commissioner of Police.

Exclusion from review of Authority's or Commissioner of Police's decisions as relate to the exclusion of persons from casino

Schedule 2 [4], [5] and **[6]** amend sections 80 and 81 so as to ensure that any direction given by the Commissioner of Police requiring a casino operator to exclude a person from a casino, and any exclusion order given by the Authority or by a casino operator on the basis of a direction given by the Commissioner of Police, are not reviewable by any court or tribunal.

Minor, consequential and ancillary amendments

Schedule 2 [2] amends section 19 so as to repeal a provision that currently restricts the boundaries of a casino from extending beyond the boundaries of the location for which its casino licence was originally granted.

Schedule 2 [3] amends section 76 so as to allow regulations to be made that regulate or prohibit not only individual inducements to gamble (as is presently the case) but also collective inducements.

Schedule 2 [7] amends section 84 so as to increase the penalty for entering a casino in contravention of an exclusion order from 20 penalty units (\$2,200) to 50 penalty units (\$5,500) or imprisonment for 12 months, or both.

Schedule 2 [8] amends section 124 so as to ensure that approved systems of controls and procedures may allow for different controls and procedures for different parts of the same casino.

Schedule 2 [16], [18] and [19] amend section 148 so as to replace certain bulleted items with numbered paragraphs and subparagraphs.

Schedule 2 [17] amends section 148 so as to provide that the Police Service, the police forces of other States and Territories and the Australian Federal Police are each added to the list of law enforcement bodies to whom otherwise secret information may be released.

Schedule 2 [20] amends Schedule 3 so as to enable regulations to be made with respect to the publication of certain information and the display of certain notices.

Schedule 2 [21] amends Schedule 3 so as to enable regulations to be made with respect to the payment of expenses to witnesses attending inquiries conducted by or on behalf of the Authority.

Schedule 2 [22] amends clause 1 of Schedule 4 so as to enable regulations to be made with respect to savings and transitional matters arising from the enactment of the proposed Act.

Schedule 2 [23] inserts a new Part 6 into Schedule 4, containing a number of savings and transitional matters arising from the enactment of the proposed Act.

Consequential amendment of other Acts and instruments

Schedule 3 makes consequential amendments to the following Act and instruments:

Criminal Records Regulation 1999

Liquor Regulation 1996

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Public Sector Management Act 1988

Registered Clubs Regulation 1996