

# Gaming Machines Act 2001 No 127

[2001-127]



New South Wales

## Status Information

### Currency of version

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### Provisions in force

The provisions displayed in this version of the legislation have all commenced.

### Responsible Minister

- Minister for Gaming and Racing

For full details of Ministerial responsibilities, see the [Administrative Arrangements \(Minns Ministry—Administration of Acts\) Order 2023](#).

### Authorisation

This version of the legislation is compiled and maintained in a database of legislation by the Parliamentary Counsel's Office and published on the NSW legislation website, and is certified as the form of that legislation that is correct under section 45C of the [Interpretation Act 1987](#).

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# Gaming Machines Act 2001 No 127



New South Wales

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# Gaming Machines Act 2001 No 127



New South Wales

An Act to provide for the regulation, control and management of gaming machines in hotels and clubs and for related purposes; to amend the [Liquor Act 1982](#), the [Registered Clubs Act 1976](#), the [Casino Control Act 1992](#) and certain other Acts with respect to gaming machines and other matters; and for other purposes.

## Part 1 Preliminary

### 1 Name of Act

This Act is the [Gaming Machines Act 2001](#).

#### Note—

This Act is part of the gaming and liquor legislation for the purposes of the [Gaming and Liquor Administration Act 2007](#). That Act contains administrative and other relevant provisions that apply in relation to this Act (including investigation and enforcement powers and provisions relating to the probity of officials).

### 2 Commencement

This Act commences on a day or days to be appointed by proclamation.

### 3 Objects of Act

(1) The objects of this Act are as follows—

- (a) to minimise harm associated with the misuse and abuse of gambling activities,
- (b) to foster responsible conduct in relation to gambling,
- (c) to facilitate the balanced development, in the public interest, of the gaming industry,
- (d) to ensure the integrity of the gaming industry,
- (e) to provide for an on-going reduction in the number of gaming machines in the State by means of the tradeable gaming machine entitlement scheme.

(2) The Authority, the Minister, the Secretary, the Commissioner of Police and all other persons having functions under this Act are required to have due regard to the need for gambling harm minimisation and the fostering of responsible conduct in relation to

gambling when exercising functions under this Act.

- (3) In particular, due regard is to be had to the need for gambling harm minimisation when considering for the purposes of this Act what is or is not in the public interest.

#### 4 Definitions

- (1) In this Act—

**approved ancillary CMS service** means an additional service that may be provided by a CMS licensee using CMS infrastructure or CMS information and that is approved by the Minister under section 136D.

**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.

**authorised CMS** means a CMS that is operated under the authority of a CMS licence.

**authorised linked gaming system** means—

- (a) an authorised inter-hotel linked gaming system within the meaning of Part 10, or
- (b) an authorised inter-club linked gaming system within the meaning of that Part.

**Authority** means the Independent Liquor and Gaming Authority constituted under the [Gaming and Liquor Administration Act 2007](#).

**Board** has the meaning given to it under this section immediately before the substitution of this definition by Schedule 3 to the [Miscellaneous Acts \(Casino, Liquor and Gaming\) Amendment Act 2007](#).

**centralised cash control equipment** means any equipment or system by means of which, in return for a cash payment made to a hotelier or club, the operation of an approved gaming machine kept in the hotel or on the premises of the club may, without the insertion of money, be commenced and, at least to the extent of the cash payment, continued.

**centralised monitoring system** (or **CMS**) means a system that—

- (a) monitors the operation and performance of approved gaming machines, and
- (b) facilitates the calculation and collection of tax under the [Gaming Machine Tax Act](#)

[2001](#) that is payable in respect of approved gaming machines, and

(c) is capable of performing other related functions.

**close associate** means a close associate within the meaning of the [Gaming and Liquor Administration Act 2007](#).

**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.

**CMS**—see **centralised monitoring system**.

**CMS information** means information acquired in the course of the operation of an authorised CMS (including any mandatory ancillary CMS services) and includes data derived from that information, but does not include information acquired in providing an approved ancillary CMS service unless the information is also acquired, or could be acquired, in the course of the operation of the authorised CMS (including any mandatory ancillary CMS services).

**CMS infrastructure** means any hardware (including computers and cables) or software used for the purposes of providing an authorised CMS.

**CMS licence** means a licence in force under Part 9, and **CMS licensee** means the holder of a CMS licence.

**Community Development Fund** means the fund established under section 204A.

**country hotel** means a hotel that is not situated in a metropolitan area.

**dealer's licence** means a gaming machine dealer's licence in force under Part 7.

**exercise** a function includes perform a duty.

**financial institution** means—

- (a) a banking business within the meaning of the [Banking Act 1959](#) of the Commonwealth or a bank constituted under a law of a State or Territory, or
- (b) a building society within the meaning of the [Financial Institutions \(NSW\) Code](#) or a law of another State, or of a Territory, that corresponds to that Code, or
- (c) a credit union within the meaning of the [Financial Institutions \(NSW\) Code](#) or a law of another State, or of a Territory, that corresponds to that Code.

**function** includes a power, authority or duty.

***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 area***, in relation to a club, means any part of the premises of the club in which approved gaming machines are located.

***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.

***gaming machine threshold***—see section 32.

***gaming-related licence*** means any of the following types of licences in force under Part 7—

- (a) a dealer's licence,
- (b) a seller's licence,
- (c) a technician's licence,
- (d) (Repealed)
- (e) a testing facility licence.

***hotel*** and ***hotelier*** have the same meanings as in the [Liquor Act 2007](#), and ***hotel licence*** means a hotel licence (other than a general bar licence) under that Act.

***hotelier's licence*** has the meaning given to it under this section immediately before the substitution of this definition by Schedule 3 to the [Miscellaneous Acts \(Casino, Liquor and Gaming\) Amendment Act 2007](#).

***inspector*** means an inspector within the meaning of the [Gaming and Liquor Administration Act 2007](#).

***keep*** an approved gaming machine includes acquire or possess the gaming machine.

***links licence*** means an inter-hotel links licence or inter-club links licence in force under Part 10.

***liquor*** has the same meaning as in the [Liquor Act 2007](#).

***local statistical area*** means a geographical area defined for the time being as a Statistical Area Level 2 under the Australian Statistical Geography Standard published

by the Australian Bureau of Statistics.

**manager** in relation to a hotel has the same meaning as in the [Liquor Act 2007](#).

**mandatory ancillary CMS service** means an additional service that a CMS licensee is directed to provide in accordance with section 136C.

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

**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](#).

**new hotel** means—

- (a) (Repealed)
- (b) a hotel that becomes licensed for the first time under the [Liquor Act 2007](#) (otherwise than because of the operation of clause 3 of Schedule 1 to that Act), or
- (c) a hotel to which a licence is removed under that Act.

**operate** an approved gaming machine includes use or play the gaming machine.

**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.

**retail shopping centre** means a cluster of premises promoted as, or generally regarded as constituting, a shopping centre, shopping mall or shopping arcade, but does not include anything excluded from this definition by the regulations.

**Secretary** means the Secretary of the Department of Enterprise, Investment and Trade.

**sell** includes any of the following—

- (a) barter or exchange,
- (b) offer, agree or attempt to sell,
- (c) expose, send, forward or deliver for sale,
- (d) cause or permit to be sold or offered for sale,



(e) in relation to an approved gaming machine—supply under financial and other arrangements approved by the Authority.

**seller's licence** means a gaming machine seller's licence in force under Part 7.

**subsidiary equipment** means—

- (a) centralised cash control equipment, or
- (b) any equipment, device or system (or any component of a system) that affects—
  - (i) the playing or result of any game playable on a gaming machine, or
  - (ii) the meters of a gaming machine,

and includes any other equipment, device or system prescribed by the regulations for the purposes of this definition.

**technician** means the holder of a technician's licence.

**technician's licence** means a gaming machine technician's licence in force under Part 7.

**temporary premises**, in relation to a hotel or club premises, means any premises approved by the Authority under section 96 of the [Liquor Act 2007](#).

**testing facility licence** means a gaming machine testing facility licence in force under Part 7.

**threshold increase application**—see section 34.

**venue** means a hotel or the premises of a club.

**work permit** means a work permit issued under section 89.

**Note—**

The [Interpretation Act 1987](#) contains definitions and other provisions that affect the interpretation and application of this Act.

(2) Notes included in this Act do not form part of this Act.

(3) A reference in this Act to a gaming machine entitlement held by a hotel or club, or to a gaming machine entitlement of a hotel or club, is a reference to a gaming machine entitlement held in respect of the hotel or club licence.

## **5, 6 (Repealed)**

## **7 Lawful keeping and operation of gaming machines**

Despite anything in the [Community Gaming Act 2018](#), the [Unlawful Gambling Act 1998](#) or

any other Act or law (other than this Act), it is lawful—

- (a) to keep or operate an approved gaming machine in a hotel or on the premises of a club, and
- (b) to pay or present prizes and bonuses won as a direct or indirect consequence of operating the approved gaming machine,

if the approved gaming machine is kept or operated, and the prizes and bonuses are paid or presented, in accordance with this Act.

## **8 Gaming machines not used for purposes of gambling**

(1) Nothing in this Act prohibits the keeping or operation of a gaming machine if—

- (a) the gaming machine is not used for the purposes of gambling, and
- (b) the gaming machine is used only for such therapeutic purposes as may be approved by the Authority in writing before the machine is so used, and
- (c) any conditions imposed by the Authority when giving the approval are complied with.

(2) Nothing in this Act prohibits the keeping or operation of a gaming machine if—

- (a) the gaming machine is not used for the purposes of gambling, and
- (b) the gaming machine is used only for research, educational or cultural purposes or for the purpose of promoting the machine (but not for the purpose of promoting other goods or services), and
- (c) the Authority has been notified in writing, at least 7 working days in advance, of the kind of use intended and the Authority has not, within that period, refused to allow the use, and
- (d) any conditions imposed by the Authority within that period are complied with.

(3) In a particular case or a particular class of cases, the Authority may waive compliance with the requirement for giving notice under subsection (2) and may impose conditions for operation of the waiver.

(4) Nothing in this Act prohibits the keeping or operation of a gaming machine if—

- (a) the gaming machine is being displayed or promoted at a gaming industry trade show or exhibition, and
- (b) the gaming machine is not used for the purposes of gambling or the distributing of prizes, and
- (c) in the case where the gaming machine has not been approved in the State—a

notice is attached to the gaming machine indicating that it is not an approved gaming machine.

### **9 Subsidiary equipment not included in calculation of gaming machine numbers**

In calculating (for the purposes of this Act) the number of approved gaming machines in a hotel or on the premises of a club, any subsidiary equipment—

- (a) kept in the hotel or on the premises of the club, and
- (b) approved by the Authority for use in connection with such gaming machines,

is to be disregarded.

## **Part 2 Limitations on gaming machine numbers**

### **10 Overall State cap on gaming machine entitlements**

- (1) The maximum number of gaming machine entitlements is set at 99,000 or such lower number as may be prescribed by the regulations (***the overall State cap***).
- (2) The Authority is to review the overall State cap at least once every 5 years following the commencement of this section (as substituted by the [Gaming Machines Amendment Act 2008](#)).

### **11 Limit on number of gaming machines in hotels**

The maximum number of approved gaming machines that the Authority may authorise under Part 5 to be kept in any one hotel is 30.

### **12, 13 (Repealed)**

## **Part 3 Gaming machine entitlements and permits**

### **Division 1 Preliminary**

#### **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.

#### **Note—**

When gaming machine entitlements are leased, the gaming machine threshold for the lessor is reduced by the

number of entitlements leased, and the gaming machine entitlements are considered to be held by the lessee during the lease. See Division 2A.

## **Division 2 Tradeable gaming machine entitlement scheme**

### **15-15B (Repealed)**

### **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.

### **17, 18 (Repealed)**

### **19 Transfer of gaming machine entitlements**

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

**Note—**

Division 2A also provides for the leasing of gaming machine entitlements.

- (2) The transfer of a gaming machine entitlement does not have any effect unless the transfer—
  - (a) is approved by the Authority, and
  - (b) complies with the requirements of this Division and any requirements specified in the regulations.
- (3) An application for the Authority's approval of the transfer of a gaming machine entitlement must—
  - (a) be accompanied by the fee (if any) prescribed by the regulations, and
  - (b) be accompanied by such particulars or other matter as may be required by the Authority in relation to the proposed transfer, and
  - (c) in the case of an application for the transfer of an entitlement held in respect of a hotel licence—demonstrate, to the satisfaction of the Authority, that the proposed transfer is supported by each person who, in the opinion of the Authority, has a financial interest in the hotel licence, and
  - (d) be in the form and manner determined by the Authority from time to time.

(4) (Repealed)

(5) For the purposes of subsection (3) (c), a person is taken to have a financial interest in a hotel licence if the person is entitled to receive any income derived from the business carried on under the authority of the licence or any other financial benefit or financial advantage from the carrying on of the business (whether the entitlement arises at law or in equity or otherwise).

(6) However, a person is not, for the purposes of subsection (3) (c), to be considered as having a financial interest in a hotel licence by reason only of being the owner of the hotel.

(7) (Repealed)

## **20 General requirements relating to transfer of gaming machine entitlements**

(1) Gaming machine entitlements held in respect of a hotel licence may only be transferred to another hotel licence.

(1A) (Repealed)

(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.

(3) Subject to this Act, the following requirements (referred to in this Division as the **transfer block and forfeiture requirements**) apply to the transfer of gaming machine entitlements—

(a) a transfer must comprise one or more blocks of 2 or 3 gaming machine entitlements nominated by the transferor (referred to in this Division as a **transfer block**),

(b) from each such transfer block, one of the entitlements must be forfeited to the Authority.

(4) A transfer block may comprise gaming machine entitlements that are held in respect of more than one hotel licence or more than one club licence.

(5) Section 20A provides exceptions to the transfer block and forfeiture requirements of subsection (3) for country hotels.

(6) (Repealed)

- (7) If the Authority approves the transfer of gaming machine entitlements, the Authority is to decrease, by the number of entitlements transferred, the gaming machine threshold for the hotel or the premises of the club from which the entitlements are transferred.
- (8) To avoid doubt, the amount by which the gaming machine threshold for the hotel or club premises concerned is to be decreased is to include the number of entitlements that are required to be forfeited under this section because of the transfer.

## **20A Exceptions for transfers of country hotel gaming machine entitlements**

- (1) A gaming machine entitlement held by a country hotel (the ***transferring hotel***) may be transferred as authorised by this section despite the transfer block and forfeiture requirements of section 20 (3), and those requirements do not apply to a transfer authorised by this section.
- (2) The transfer of one gaming machine entitlement in any period of 12 months is authorised by this section if—
  - (a) the transfer is to another hotel licence that is held in relation to a country hotel, and
  - (b) the gaming machine threshold for the transferring hotel is not more than 8.
- (3) The transfer of up to 6 gaming machine entitlements at the one time is authorised by this section if—
  - (a) the gaming machine threshold for the transferring hotel is not more than 6, and
  - (b) the transfers of those gaming machine entitlements are all completed at the same time (whether or not pursuant to separate transactions), and
  - (c) the transfers of those gaming machine entitlements will result in the number of gaming machine entitlements held by the transferring hotel being reduced to zero.
- (4) The transfer block and forfeiture requirements of section 20 (3) continue to apply in respect of any subsequent transfer of gaming machine entitlements of the transferring hotel in any period of 12 months in which the transferring hotel transfers one gaming machine entitlement as authorised by this section.
- (5) When a transfer of 2 or more gaming machine entitlements at the same time as authorised by this section reduces the number of gaming machine entitlements held by the transferring hotel to zero, the transferring hotel is not permitted to acquire any gaming machine entitlements for 24 months after the transfer.

## **21 Other provisions relating to transfer of gaming machine entitlements**

- (1) In the case of a hotel licence that relates to a country hotel, no more than 2 blocks of

gaming machine entitlements held in respect of the licence may be transferred in any period of 12 months to a hotel licence held in relation to a hotel that is situated in a metropolitan area.

- (1A) The forfeiture to the Authority of one gaming machine entitlement per transfer block is not required when gaming machine entitlements held in respect of the premises from which a hotel or club licence is removed under the *Liquor Act 2007* are transferred to other premises if—
- (a) those other premises are situated in the same local statistical area as the previous premises, or
  - (b) those other premises are situated in the same local government area as the previous premises and the classification of the local statistical area in which those other premises are situated is the same as or ranked lower than the classification of the local statistical area in which the previous premises were situated.
- (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.
- (4) If for the time being the number of gaming machine entitlements held in respect of a club licence is 10 or less (***the remaining entitlements***), the club cannot transfer any of those remaining entitlements unless the transfer has been approved in principle at an extraordinary general meeting of the ordinary members of the club (being an approval supported by a majority of the votes cast at the meeting).
- (5) If a liquidator has been appointed for a club and any gaming machine entitlements held in respect of any club licence held by the club are proposed to be transferred, the forfeiture to the Authority of one entitlement per transfer block is required.

(6) (Repealed)

### **21A, 22 (Repealed)**

### **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 Secretary 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.

## **Division 2A Leasing of gaming machine entitlements**

### **24 Leasing of gaming machine entitlements permitted**

- (1) An eligible hotel or eligible club can lease any (or all) of the gaming machine entitlements held by it.
- (2) A gaming machine entitlement held by an eligible hotel can only be leased to another hotel (whether or not an eligible hotel), and a gaming machine entitlement held by an eligible club can only be leased to another club (whether or not an eligible club).
- (3) A club is an **eligible club** if the gaming machine threshold for the club premises does not exceed 30.
- (4) A hotel is an **eligible hotel** if the gaming machine threshold for the hotel does not exceed 10.



- (5) The leasing of a gaming machine entitlement is not a transfer of the gaming machine entitlement and a gaming machine entitlement cannot be transferred while it is leased.

**Note—**

The requirements of Division 2 for the transfer of gaming machine entitlements (including requirements for the forfeiture of entitlements on transfer) do not apply to the leasing of gaming machine entitlements.

- (6) The subleasing of a gaming machine entitlement is not permitted.

**25 Lease requires approval of Authority**

- (1) A lease of a gaming machine entitlement does not have any effect unless the lease is approved by the Authority and complies with the requirements of this Division and any requirements of the regulations.
- (2) A lease of a gaming machine entitlement cannot be varied so as to change the term of the lease or the number of gaming machine entitlements leased except with the approval of the Authority.
- (3) The termination of a lease of a gaming machine entitlement otherwise than by expiration of the term of the lease does not have effect until written notice of the termination has been given to the Authority by the lessor and lessee.
- (4) An application for the Authority's approval of the lease of a gaming machine entitlement must—
- (a) be accompanied by the fee (if any) prescribed by the regulations, and
  - (b) be accompanied by such particulars or other matter as may be required by the Authority in relation to the proposed lease, and
  - (c) in the case of an application for the lease of an entitlement held by a hotel—demonstrate, to the satisfaction of the Authority, that the proposed lease is supported by each person who, in the opinion of the Authority, has a financial interest in the hotel licence, and
  - (d) be in the form and made in the manner determined by the Authority from time to time.
- (5) A person is taken to have a financial interest in a hotel licence for the purposes of this section if the person is entitled to receive any income derived from the business carried on under the authority of the licence or any other financial benefit or financial advantage from the carrying on of the business (whether the entitlement arises at law or in equity or otherwise). However, a person is not to be considered as having a financial interest in a hotel licence by reason only of being the owner of the hotel.

## **25A Standard form of lease**

- (1) The Authority may approve a standard form of lease of gaming machine entitlements.
- (2) The Authority may refuse to approve a lease of gaming machine entitlements for which there is an approved standard form if the lease is not in that form.
- (3) The Authority's approval of a standard form of lease may provide for the following—
  - (a) the terms of the lease,
  - (b) more than one standard form of lease for use for different classes of venues or in different circumstances,
  - (c) the addition of terms to, or the omission or variation of terms in, a standard form of lease in specified circumstances.
- (4) A lease of gaming machine entitlements for which a standard form is approved may include additional terms that are not inconsistent with the terms set out in the standard form.

## **25B Effect of lease of gaming machine entitlements**

- (1) The following provisions apply to a lease of a gaming machine entitlement held by a hotel or club (the **lessor venue**) to another hotel or club (the **lessee venue**)—
  - (a) the lease operates as a lease by the licensee for the time being of the lessor venue to the licensee for the time being of the lessee venue (with the result that a transfer of the licence of the lessor venue or lessee venue does not affect the operation or continuation of the lease and does not require any assignment of lease),
  - (b) during the lease the lessee venue has the benefit of the gaming machine entitlement and the lessor venue does not have the benefit of the gaming machine entitlement,
  - (c) during the lease the gaming machine entitlement is considered to be a gaming machine entitlement acquired and held by the lessee venue and counts towards the total number of gaming machine entitlements held by the lessee venue,
  - (d) the gaming machine entitlement is not considered to be held by the lessor venue during the lease,
  - (e) during the lease the gaming machine threshold for the lessor venue is reduced by the number of entitlements leased.

### **Note—**

Section 32A (Caps on gaming machine entitlements in particular areas) provides that for the purposes of a cap under that section the gaming machine threshold for a venue is not to be reduced by a lease of gaming

machine entitlements.

Gaming machine tax (which is imposed on profits from a gaming machine) is payable by the hotel or club where the gaming machine is kept. When a gaming machine entitlement is leased, it is the lessee venue that is liable for that tax because the gaming machine is kept by the lessee venue.

- (2) At the end of the lease, the gaming machine threshold for the lessee venue is reduced by the number of entitlements leased unless a threshold increase application that was made together with an application for approval of the lease was accompanied by an LIA, or was not required to be accompanied by an LIA because of section 35 (2) (a).
- (3) While any gaming machine entitlement of a hotel or club is leased, the hotel or club licence cannot be removed under the *Liquor Act 2007* to other premises unless—
  - (a) those other premises are situated in the same local statistical area as the previous premises, or
  - (b) those other premises are situated in the same local government area as the previous premises and the classification of the local statistical area in which those other premises are situated is the same as or ranked lower than the classification of the local statistical area in which the previous premises were situated.
- (4) The Authority is not to decrease the gaming machine threshold for a venue because the venue has not acquired its approved increase in gaming machine entitlements before the end of the limited period for doing so (as required by section 37) to the extent that the gaming machine threshold has already been reduced under this section at the end of a lease of gaming machine entitlements.

### **25C Levy payable for lease of gaming machine entitlement**

- (1) A levy is to be paid in respect of a lease of a gaming machine entitlement approved by the Authority.
- (2) The amount of the levy is the amount fixed by or determined in accordance with the regulations.
- (3) The levy is payable by the lessee to the Secretary under the *Casino Control Act 1992* for payment into the Responsible Gambling Fund as gaming machine lease levy under this Act.

**Note—**

Section 115B of the *Casino Control Act 1992* provides that a payment under this section into the Responsible Gambling Fund is to be applied for such purposes as the Minister determines for the benefit of local communities in which gaming machine thresholds for venues have increased.

- (4) The levy is payable at the time of the application for the Authority's approval of the lease (for which purpose the proposed lessee is considered to be the lessee) or in accordance with such other arrangements as the Authority may approve.

- (5) A levy paid under this section in respect of a lease is not refundable on account of early termination of the lease.

### **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 Secretary.
- (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 Secretary, 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 Secretary 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.

#### **29-31 (Repealed)**

### **Division 4 Miscellaneous provisions**

#### **31A, 31B (Repealed)**

### **31C Consequences of moving to temporary premises**

- (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.
- (2) The transferred gaming machine entitlements may be subsequently transferred from the temporary premises back to the premises from which they were transferred without the forfeiture of any of the entitlements to the Authority.
- (3) (Repealed)

## **Part 4 Gambling harm minimisation measures**

### **Division 1 Gaming machine threshold scheme**

#### **32 Gaming machine thresholds for venues**

- (1) The Authority may, for each hotel and each set of club premises, set the maximum number of approved gaming machines that may be authorised under Part 5 to be kept in the hotel or on those premises.
- (2) Any such maximum number is the ***gaming machine threshold*** for the hotel or club premises concerned.
- (3) The gaming machine threshold for a hotel is subject to section 11.
- (4) In the case of a new hotel or new club premises, the gaming machine threshold for the hotel or club premises may be set at zero.
- (5) The gaming machine threshold for a hotel or the premises of a club may be increased or otherwise varied by the Authority in accordance with this Act.
- (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 or a gaming machine entitlement held by the hotel or club has been leased (whether or not the lease is still in force).

**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).

#### **32A Caps on gaming machine entitlements in particular areas**

- (1) In this section—

***Fairfield LGA*** means the Fairfield local government area.

**restricted increase area** means any local statistical area of the State that is classified as a Band 3 LSA (not being an area within Fairfield LGA) and that the Authority determines from time to time to be a restricted increase area for the purposes of this section.

- (2) The Authority may determine from time to time the maximum number of gaming machine entitlements to be permitted in Fairfield LGA or a restricted increase area and that number is the **area cap** for the area concerned.
- (3) The following restrictions apply to a threshold increase application for a venue in an area for which there is an area cap if granting the application would result in the total of the gaming machine thresholds for all the venues in the area exceeding the area cap—
  - (a) if the venue is in Fairfield LGA the application must not be granted,
  - (b) if the venue is in a restricted increase area the application can only be granted if the threshold increase application is not required to be accompanied by an LIA (as provided by section 35).
- (4) For the purposes of a determination under this section of the total of the gaming machine thresholds for venues in an area, the gaming machine threshold for a venue is not to be reduced by a lease of gaming machine entitlements by the venue (with the result that for the purposes of this section the venue's gaming machine threshold is to be determined as if no gaming machine entitlements had been leased by the venue).

**Note—**

Section 25B (Effect of lease of gaming machine entitlements) would otherwise result in the gaming machine threshold for the lessor venue being reduced by the number of entitlements leased.

- (5) The following arrangements apply to determinations under this section—
  - (a) the Authority may vary or revoke a determination at any time,
  - (b) a determination and any variation or revocation of a determination must be notified by the Authority on a publicly available website.

### **33 Classification of local statistical areas**

- (1) For the purposes of this Act, each local statistical area of the State is to be classified by the Authority as—
  - (a) a Band 1 LSA, or
  - (b) a Band 2 LSA, or
  - (c) a Band 3 LSA.

- (2) For the purposes of this Act there is a hierarchy of classification of local statistical areas under this section as follows—
  - (a) Band 1 LSA is ranked lower than both Band 2 LSA and Band 3 LSA,
  - (b) Band 2 LSA is ranked lower than Band 3 LSA.

**Note—**

The ranking of bands is relevant for section 35 (2).

- (3) The Authority is to specify the classification of local statistical areas on a publicly available website.
- (4) The classification of any local statistical area under this section may be varied from time to time by the Authority.

### **34 Application to increase gaming machine threshold**

- (1) A hotelier or club may apply to the Authority to increase the gaming machine threshold for the hotel or the premises of the club (**a threshold increase application**).
- (2) The hotel or club premises to which a threshold increase application relates is referred to in this Division as the **relevant venue**.
- (3) A threshold increase application must comply with the requirements of this Division and the regulations.
- (4) The Authority may approve a threshold increase application only if the Authority is satisfied that the requirements of this Division and the regulations have been complied with in relation to the application.
- (4A) The Authority must determine a threshold increase application within the time required by the regulations.
- (5) If the application is approved, the Authority may increase the gaming machine threshold for the relevant venue in accordance with the Authority's approval.
- (6) Nothing in this Division requires the Authority, if it approves a threshold increase application, to increase the relevant venue's gaming machine threshold by the number to which the application relates.
- (7) Without limiting subsection (1), a threshold increase application may be made by a person in relation to premises that are the subject of an application for a licence under the *Liquor Act 2007* that has not yet been granted.

### **35 Requirements relating to threshold increase applications**

- (1) Except as provided by this section, a threshold increase application must be

accompanied by a local impact assessment (**LIA**). An LIA, if required, is to be a **class 1 LIA** or a **class 2 LIA** as determined by this section.

- (2) **When LIA is not required** A threshold increase application is not required to be accompanied by an LIA if the application is made together with a transfer or lease application and any one or more of the following apply—
- (a) the relevant venue is situated in a Band 1 LSA 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 club from which the gaming machine entitlements or permits are proposed to be transferred or leased by the transfer or lease application (the **transferring/lessor venue**) are situated in the same local statistical area,
  - (c) the relevant venue and the transferring/lessor venue are situated in the same local government area and the classification of the local statistical area in which the transferring/lessor venue is situated is the same as or ranked higher than the classification of the local statistical area in which the relevant venue is situated,
  - (d) the relevant venue and the transferring/lessor venue are situated in adjoining local statistical areas (whether or not in the same local government area) and the classification of the local statistical area in which the transferring/lessor venue is situated is the same as or ranked higher than the classification of the local statistical area in which the relevant venue is situated.
- (2A) For the purposes of subsection (2), a **transfer or lease application** means either or both of the following—
- (a) an application under section 19 or 25 for the Authority's approval of the transfer or lease 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.
- (2B) If a threshold increase application that is not required to be accompanied by an LIA is approved, the applicant must within 1 month after the approval provide a local impact statement for the venue (containing such information about the venue and the impact of the approved increase as the Authority may determine) to such persons and bodies as the applicant would have been required to notify of the proposed application had it been required to be accompanied by a class 2 LIA.
- (3) **When class 1 LIA is required** A threshold increase application must, unless subsection (2) applies in relation to the application, be accompanied by a class 1 LIA if the relevant venue—



- (a) is situated in a Band 1 LSA and the application is for a mid-range increase in the gaming machine threshold for the venue, or
  - (b) is situated in a Band 2 LSA and the application is for a low-range increase in the gaming machine threshold for the venue.
- (4) **When class 2 LIA is required** A threshold increase application must, unless subsection (2) applies in relation to the application, be accompanied by a class 2 LIA if the relevant venue—
- (a) is situated in a Band 1 LSA and the application is for a high-range increase in the gaming machine threshold for the venue, or
  - (b) is situated in a Band 2 LSA and the application is for a mid-range or high-range increase in the gaming machine threshold for the venue, or
  - (c) is situated in a Band 3 LSA.
- (5) For the purposes of this section, a **low-range increase**, a **mid-range increase** or a **high-range increase** in a gaming machine threshold for a venue is to be determined in accordance with the regulations.
- (6) The regulations may make provision for or with respect to the following—
- (a) the information to be provided by an LIA,
  - (b) the requirements that must be complied with in relation to an LIA, which may include a requirement to verify any information by statutory declaration,
  - (c) the matters to be assessed or addressed by an LIA,
  - (d) the advertising of LIAs,
  - (e) the making of submissions in relation to LIAs.
- (7) The regulations may also create exceptions to this section and provide for the conditions to which any such exception is subject.
- (8) Except to the extent to which the regulations make provision, an LIA is to be provided in the form and manner approved by the Authority.

### **36 Approval of LIA by Authority**

- (1) If an LIA is required to be provided with a threshold increase application, the application cannot be approved unless the Authority approves the LIA.
- (2) The applicant is liable to meet any costs incurred by the Authority in connection with its determination of the LIA. The Authority may refuse to determine the LIA until any such costs are paid to the Secretary or provision, satisfactory to the Authority, has

been made for their payment.

- (3) The Authority may approve an LIA only if it is satisfied that—
  - (a) the LIA complies with the requirements of this Division and the regulations in relation to the LIA, and
  - (b) the LIA has demonstrated that gambling activities in the relevant venue will be conducted in a responsible manner, and
  - (c) in the case of a class 1 LIA—
    - (i) the proposed increase in the gaming machine threshold for the relevant venue will provide a positive contribution towards the local community where the venue is situated, and
    - (ii) the relevant venue is not, if the venue is a new hotel or comprises new club premises, situated in the immediate vicinity of a school, hospital or place of public worship, and
    - (iii) the LIA has adequately addressed any community concerns arising out of the consultation process under the regulations, and
  - (d) in the case of a class 2 LIA—
    - (i) the proposed increase in the gaming machine threshold for the relevant venue will have an overall positive impact on the local community where the venue is situated, and
    - (ii) the relevant venue is not, if the venue is a new hotel or comprises new club premises, situated in the immediate vicinity of a school, hospital or place of public worship, and
    - (iii) the LIA has adequately addressed any community concerns arising out of the consultation process under the regulations, and
  - (e) it is otherwise appropriate that the LIA be approved.
- (4) The regulations may specify other grounds on which the Authority may refuse to approve an LIA.
- (5) If any submissions are made in relation to an LIA in accordance with the regulations, the Authority must take those submissions into consideration in deciding whether to approve the LIA.
- (6) The Authority may, in any case it considers appropriate, partly approve an LIA, in which case the Authority may increase the relevant venue's gaming machine threshold by a number that is less than the number to which the threshold increase application relates.

- (7) Without limiting any other provision of this Division, the approval of an LIA is subject to such conditions as may be specified by the Authority. The LIA has no effect if any such conditions are not complied with.

### **36A Community benefit requirement—payment of money to Responsible Gambling Fund**

- (1) A community benefit requirement cannot be wholly or partly satisfied by a payment of money except a payment to the Secretary under the *Casino Control Act 1992* for payment into the Responsible Gambling Fund as a **community benefit payment** under this Act.

#### **Note—**

Section 115B of the *Casino Control Act 1992* provides that a payment under this Act into the Responsible Gambling Fund is to be applied for such purposes as the Minister determines for the benefit of local communities in which gaming machine thresholds for venues have increased.

- (2) A community benefit payment by a venue is to be taken into account by the Authority in the determination of a threshold increase application as if it were a contribution to the local community where the venue is situated.
- (3) In this section, **community benefit requirement** means a requirement under section 36 that a proposed increase in the gaming machine threshold for a venue will—
- (a) provide a positive contribution towards the local community where the venue is situated, or
  - (b) have an overall positive impact on the local community where the venue is situated.

### **36B Community benefit requirement—consideration of additional positive contributions**

- (1) In determining a threshold increase application, the Authority is to have regard to additional positive contributions by the venue in connection with the proposed increase and may decide to treat those additional positive contributions as being in partial satisfaction of a community benefit requirement (so as to reduce what is required to satisfy a community benefit requirement).

- (2) In this section—

**additional positive contributions** means any of the following actions by a venue—

- (a) the putting in place of harm minimisation and responsible gambling measures that are in addition to measures already required by law,
- (b) the application of funds by a club to community development and support that constitutes Category 1 harm minimisation expenditure in excess of the amount that entitles the club to the maximum reduction in gaming machine tax under section 17 of the *Gaming Machine Tax Act 2001*,

- (c) the payment of money by a club into the ClubGRANTS Fund (established under section 17A of the *Gaming Machine Tax Act 2001*),
- (d) such other actions as the regulations prescribe as additional positive contributions for the purposes of this section.

**Category 1 harm minimisation expenditure** means expenditure for projects or services that constitute Category 1 projects and services under the ClubGRANTS guidelines (referred to in section 16 of the *Gaming Machine Tax Act 2001*) and that in the opinion of the Authority are concerned with harm minimisation.

**community benefit requirement** has the same meaning as in section 36A.

### 36C Guidelines for threshold increase applications

- (1) The Authority may publish guidelines about the operation of this Division for the purpose of providing guidance in respect of the requirements of this Division relating to threshold increase applications.
- (2) Without limitation, the guidelines may provide guidance about the following—
  - (a) what the Authority considers to be a positive contribution towards a local community or an overall positive impact on a local community,
  - (b) conditions that the Authority may impose on its approval of an LIA.
- (3) The guidelines do not limit the Authority's discretion when deciding in a particular case what constitutes a positive contribution towards a local community or an overall positive impact on a local community, or in deciding to impose conditions on an approval.

### 37 Limited period for acquiring gaming machine entitlements

- (1) If a threshold increase application is approved, the relevant venue is permitted to acquire gaming machine entitlements for the number of gaming machines by which the venue's gaming machine threshold is increased (its **approved increase in gaming machine entitlements**) but can only do so during the limited period provided for by this section.
- (2) The limited period during which a venue can acquire its approved increase in gaming machine entitlements is—
  - (a) for a threshold increase application required to be accompanied by a class 1 LIA—2 years from the date of approval of the application, or
  - (b) for a threshold increase application required to be accompanied by a class 2 LIA—5 years from the date of approval of the application, or
  - (c) for any other threshold increase application—12 months from the date of approval

of the application.

- (3) The Authority may in a particular case extend or further extend the limited period during which a venue can acquire its approved increase in gaming machine entitlements.
- (4) If a relevant venue has not acquired its approved increase in gaming machine entitlements before the end of the limited period for doing so, the Authority is to decrease the gaming machine threshold for the venue by the number of gaming machine entitlements by which the number acquired fell short of the approved increase.
- (5) If a gaming machine entitlement is acquired by lease, the limited period in which the entitlement can be acquired under this section stops running during the term of the lease.
- (6) A reference in this section to a gaming machine entitlement includes, if the relevant venue is a hotel, a reference to a permit.

### **37A Special provision for clubs establishing in new development areas**

- (1) In this section—

***new development area*** means an area of land in a Band 1 LSA or Band 2 LSA that—

- (a) is identified by an environmental planning instrument as an urban release area (or such other description as the Authority considers to be similar), and
  - (b) does not, in the opinion of the Authority, have the full benefit of the services and facilities of the kind provided by clubs.
- (2) A class 1 LIA may be provided with a threshold increase application in relation to the premises of a club that are situated in a new development area if—
    - (a) the number to which the application relates is not more than 150, and
    - (b) the Authority is satisfied that the acquisition of a corresponding number of gaming machine entitlements in respect of those premises would not increase the density of gaming machines in the local statistical area in which the premises are situated to the extent that the classification of the area is affected.
  - (3) The following provisions apply if any such class 1 LIA is approved—
    - (a) only one gaming machine entitlement for every 2 transfer blocks is required to be forfeited to the Authority under Division 2 of Part 3 in respect of the first 50 gaming machine entitlements that are transferred to the premises after the approval of the LIA,
    - (b) the club has up to 5 years from the date of the approval in which to acquire

gaming machine entitlements for the number of gaming machines to which the threshold increase relates (the club's **special class 1 quota**),

- (c) if, at the end of that 5-year period the club has not acquired gaming machine entitlements for its special class 1 quota, the Authority is to decrease the gaming machine threshold for the premises in accordance with the portion of the special class 1 quota that is not used during that period.

(4) This section has effect despite any other provision of this Division.

### **37B Restriction on gaming machine thresholds for venues in retail shopping centres**

- (1) The gaming machine threshold for a hotel or premises of a club cannot be increased if the hotel or premises are part of a retail shopping centre or proposed retail shopping centre.
- (2) If a hotel licence or club licence is granted under the *Liquor Act 2007* for premises that are part of a retail shopping centre or proposed retail shopping centre, the gaming machine threshold for the premises is to be set at zero.
- (3) If an application is granted under the *Liquor Act 2007* that results in the removal of a hotel licence, or the extension of a hotel, to premises that are part of a retail shopping centre or proposed retail shopping centre, the gaming machine threshold for the premises is to be set at zero.
- (4) If an application is granted under the *Liquor Act 2007* that results in the removal of a club licence, or the extension of the premises of a club, to premises that are part of a retail shopping centre or proposed retail shopping centre, the gaming machine threshold for the premises is to be set at zero.
- (5) However, subsection (4) does not apply if—
  - (a) the retail shopping centre comprises or will comprise less than such number of shops as may be prescribed by the regulations, and
  - (b) patrons will not be able to gain access to the club's premises directly from the retail shopping centre, and
  - (c) in the case where the club licence is being removed to other premises—the other premises are situated in the same suburb or town as the previous premises, and
  - (d) in the case where the club's premises are being extended—the club's premises remain predominantly where they were before the extension, and
  - (e) the gaming machine threshold for the club's premises is no more than the gaming machine threshold for the club's premises immediately before the club licence was removed or the premises were extended, and

(f) such other requirements as may be prescribed by the regulations have been complied with.

(6) For the purposes of this section, a hotel or the premises of a club are taken to be part of a retail shopping centre if the hotel or club premises are located within the retail shopping centre or physically adjoin any part of the retail shopping centre.

(7) This section has effect despite any other provision of this Division.

### **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 an LIA if—

(a) the relevant premises are situated in the same local statistical area as the premises of the amalgamated club from which gaming machine entitlements are proposed to be transferred to the relevant premises, or

(a1) the premises of the amalgamated club and the relevant premises are situated in the same local government area and the classification of the local statistical area in which the premises of the amalgamated club are situated is the same as or ranked higher than the classification of the local statistical area in which the relevant premises are situated, or

(a2) the premises of the amalgamated club and the relevant premises are situated in adjoining local statistical areas (whether or not in the same local government area) and the classification of the local statistical area in which the premises of the amalgamated club are situated is the same as or ranked higher than the classification of the local statistical area in which the relevant premises are situated, or

(b) the relevant premises are situated in a Band 1 LSA 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) the relevant premises are situated in a Band 1 or Band 2 LSA 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 an 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.

## **Division 2 Mandatory shutting down of gaming machines**

### **38 (Repealed)**

### **39 General 6-hour shutdown period after 1 May 2003**

- (1) On and from 1 May 2003, a hotelier or club must ensure that each approved gaming machine that is kept in the hotel or on the premises of the club is not operated for the purposes of gambling between 4 am and 10 am on each day of the week (***the general 6-hour shutdown period***).

Maximum penalty—100 penalty units.

- (2) The application of the general 6-hour shutdown period in respect of a hotel or the premises of a club is subject to sections 40, 40A and 41.

### **40 Approval of 3-hour shutdown period on weekends and public holidays**

- (1) The Authority may, on application by a hotelier or club, approve of the hotel or the premises of the club having, with effect on and from 1 May 2003 or from any time after that date, a shutdown period of between 6 am and 9 am on each day that is a Saturday, Sunday or public holiday (***the 3-hour shutdown period***).
- (2) If the 3-hour shutdown period on a Saturday, Sunday or public holiday is approved for the time being in respect of a hotel or the premises of a club, the hotelier or club must ensure that each approved gaming machine that is kept in the hotel or on the premises of the club is not operated for the purposes of gambling between 6 am and 9 am on that day.

Maximum penalty—100 penalty units.

- (3) The Authority's approval of a hotel or club premises having the 3-hour shutdown period may be given only if—
  - (a) the Authority has taken into consideration such guidelines as may be approved by the Minister for the purposes of this section, and



(b) the Authority is satisfied that the hotelier or club has complied with such harm minimisation requirements as are prescribed by the regulations for the purposes of this section.

(4) (Repealed)

#### **40A Approval of limited shutdown period on hardship grounds**

- (1) The Authority may, on application by a hotelier or club, approve of the hotel or the premises of the club having a shutdown period of between 6 am and 9 am on each day of the week (***the limited shutdown period***).
- (2) If the limited shutdown period is approved for the time being in respect of a hotel or the premises of a club, the hotelier or club must ensure that each approved gaming machine that is kept in the hotel or on the premises of the club is not operated for the purposes of gambling during the limited shutdown period.

Maximum penalty—100 penalty units.

- (3) The Authority's approval of a hotel or club premises having the limited shutdown period may be given only if the Authority is satisfied that the hotel or club will suffer hardship to the extent specified in the guidelines approved by the Minister for the purposes of this section if its approval is not given.

#### **41 Approval of different shutdown periods for "early openers"**

- (1) This section applies in relation to a hotel or the premises of a club (a ***venue***) if, in the opinion of the Authority, the venue—
  - (a) was, on a regular basis before 1 January 1997, open for business before 10 am on at least one day of the week, and
  - (b) was, on a regular basis before 1 January 1997, closed for business between midnight and 10 am for a minimum of 3 hours on at least one day of the week, and
  - (c) has continued, and is continuing, to open and close on that same basis ever since.
- (2) The Authority may, on application made in respect of a venue to which this section applies, approve of the venue having—
  - (a) a different 6-hour shutdown period to the general 6-hour shutdown period referred to in section 39, or
  - (b) a different 3-hour shutdown period on Saturdays, Sundays and public holidays to the 3-hour shutdown period referred to in section 40, or
  - (c) a different 3-hour shutdown period to the limited shutdown period referred to in section 40A.

- (3) The Authority may only approve of a venue having any such different shutdown period if the approved period is consistent with the opening and closing times (as referred to in subsection (1)) of the venue.
- (4) If any such different shutdown period is approved for the time being in respect of a venue, the hotelier or club concerned must ensure that each approved gaming machine that is kept in the venue is not operated for the purposes of gambling during the approved period.

Maximum penalty—100 penalty units.

- (5) Despite any other provision of this section, the Authority's approval of a venue having different shutdown periods may be given only in respect of those days of the week on which the venue has continued—
  - (a) to close for business between midnight and 10 am for a consecutive period of at least 3 hours, and
  - (b) to re-open for business before 10 am.

## 42 General provisions

- (1) Nothing in this Division requires a hotelier or club, during any period in which approved gaming machines are not to be operated for the purposes of gambling in accordance with this Division, to close off to the patrons of the hotel or the premises of the club any area of the hotel or the premises of the club in which approved gaming machines are located.
- (2) This Division does not affect the operation of the [Liquor Act 2007](#), or of any other Act or law, in relation to the hours during which a hotel or club is authorised to trade.
- (3) An approval by the Authority under this Division—
  - (a) is to be in writing, and
  - (b) is subject to such conditions as the Authority thinks fit to impose, and
  - (c) may be revoked at any time by the Authority for such reasons as the Authority thinks fit.
- (4) In this Division—

**public holiday** means a public holiday under the [Public Holidays Act 2010](#).

## Division 3 General harm minimisation measures

### 43 Prohibition on publishing gaming machine advertising

- (1) A person (whether or not a hotelier or club) must not publish or cause to be published

any gaming machine advertising.

Maximum penalty—100 penalty units.

(2) Subsection (1) does not apply to any gaming machine advertising published or caused to be published at any time during the period of 6 months after the commencement of this section.

(3) A person (whether or not a hotelier or club) must not, after the commencement of this section, enter into or extend the duration of any contract or arrangement for the publication of gaming machine advertising.

Maximum penalty—100 penalty units.

(4) Any such contract or arrangement entered into or extended after the commencement of this section has no effect.

(5) Regardless of any other provision of this section, any contract or arrangement for the publication of gaming machine advertising that was entered into before the commencement of this section ceases to have effect 6 months after that commencement.

(5A) If any gaming machine advertising that consists of internal promotional material appears outside the hotel or the premises of the club to which the material relates, it is a defence to a prosecution for an offence under subsection (1) if it is proved that the material was removed from the hotel or club premises by a patron of the hotel or club for his or her personal use or information.

(5B) For the purposes of subsection (5A), **internal promotional material** means any written material (such as a brochure or flyer) that—

(a) promotes (or otherwise relates to) the playing of approved gaming machines in a hotel or on the premises of a club, and

(b) is displayed or distributed by or on behalf of the hotelier or club in the hotel, or on the club premises, only.

(6) In this section—

**gaming machine advertising** means any form of advertising that gives publicity to, or otherwise promotes or is intended to promote—

(a) the playing of approved gaming machines in a hotel or on the premises of a club,  
or

(b) the supply, sale or manufacture of an approved gaming machine,

but does not include any such advertising that is excluded from the operation of this section by the regulations.

**publish** includes disseminate in any way, whether by oral, visual, written or other means (for example dissemination by means of cinema, video, radio, electronics, the Internet or television or by means of promotional material such as club journals, brochures or flyers).

- (7) The provisions of this section are intended to operate as referred to in sections 12 (2) (e), 19 (5) and 20 (3) of the *Business Names Registration Act 2011* of the Commonwealth.

**Note—**

Section 12 (2) (e) of the *Business Names Registration Act 2011* of the Commonwealth (the **Commonwealth Act**) provides that the business names legislation referred to in that section is not intended to exclude or limit the concurrent operation of a law of a State that imposes obligations on an entity or class of entities that are in addition to obligations imposed under that Act.

Sections 19 (5) and 20 (3) of the Commonwealth Act also provide that an entity does not commit an offence under those sections concerning the inclusion or display of registered business names in written communications and at places of business if the inclusion, use or display of a business name in such a communication or at such a place would be contrary to a law of a State.

#### **44 Prohibition on displaying gambling-related signs**

- (1) A hotelier or club must not display or cause to be displayed any gambling-related sign—
- (a) anywhere outside or in the vicinity of the hotel or the premises of the club, or
  - (b) anywhere inside the hotel or the premises of the club so that it can be seen from outside the hotel or the premises of the club.

Maximum penalty—100 penalty units.

- (2) Subsection (1) does not apply to any gambling-related sign displayed or caused to be displayed at any time during the period of 6 months after the commencement of this section.
- (3) A hotelier or club must not, after the commencement of this section, enter into or extend the duration of any contract or arrangement for displaying a gambling-related sign that is displayed in contravention of subsection (1).

Maximum penalty—100 penalty units.

- (4) Any such contract or arrangement entered into or extended after the commencement of this section has no effect.
- (5) Regardless of any other provision of this section, any contract or arrangement for displaying a gambling-related sign (being a sign that is displayed in contravention of subsection (1)) that was entered into before the commencement of this section ceases to have effect 6 months after that commencement.

(6) In this section—

**gambling-related sign** means any sign (whether consisting of words, symbols, pictures or any other thing)—

- (a) that draws attention to, or can reasonably be taken to draw attention to, the availability of approved gaming machines in a hotel or on the premises of a club, or
- (b) that uses a term or expression frequently associated with gambling, or
- (c) that relates to a gambling franchise or gambling business,

but does not include any sign relating to the conduct of a totalizator under the [Totalizator Act 1997](#) or of a public lottery under the [Public Lotteries Act 1996](#), or any sign that is excluded from the operation of this section by the regulations.

(7) The provisions of this section are intended to operate as referred to in sections 12 (2) (e), 19 (5) and 20 (3) of the [Business Names Registration Act 2011](#) of the Commonwealth.

**Note—**

Section 12 (2) (e) of the [Business Names Registration Act 2011](#) of the Commonwealth (the **Commonwealth Act**) provides that the business names legislation referred to in that section is not intended to exclude or limit the concurrent operation of a law of a State that imposes obligations on an entity or class of entities that are in addition to obligations imposed under that Act.

Sections 19 (5) and 20 (3) of the Commonwealth Act also provide that an entity does not commit an offence under those sections concerning the inclusion or display of registered business names in written communications and at places of business if the inclusion, use or display of a business name in such a communication or at such a place would be contrary to a law of a State.

#### **44A Location of gaming machines in venues**

- (1) If the Secretary is of the opinion that any approved gaming machine in a hotel or on the premises of a club is located in a manner that—
  - (a) is designed to attract the attention of members of the public who are outside the hotel or club premises, and
  - (b) is contrary to the public interest,

the Secretary may, by notice in writing given to the hotelier or club concerned, require the hotelier or club to move or screen the gaming machine in accordance with the notice.

**Note—**

Any such decision is reviewable by the Authority under section 36A of the [Gaming and Liquor Administration Act 2007](#).

- (2) A hotelier or club must comply with a notice given to the hotelier or club under this

section.

Maximum penalty—50 penalty units.

#### **45 Regulation of promotional prizes and player reward schemes**

(1) In this section—

**player reward scheme** means a system, used in connection with the operation of approved gaming machines in a hotel or on the premises of a club, in which the players of such gaming machines accumulate bonus or reward points from playing the gaming machines.

**promotional prize** means any prize or reward (including bonus points) offered by a hotelier or club to the patrons of the hotel or the premises of the club in connection with a player reward scheme or any other marketing or promotional activity that involves approved gaming machines.

(2) A hotelier or club must not—

- (a) offer or present or cause or permit to be offered or presented a promotional prize in the form of cash, or
- (b) offer or present or cause or permit to be offered or presented a promotional prize that exceeds \$1,000 in value, or
- (b1) offer or provide, or cause or permit to be offered or provided, a promotional prize (including a free give away) that is indecent or offensive, or
- (c) permit a patron of the hotel or the premises of the club to exchange a promotional prize for cash, or
- (d) permit any bonus or reward points accumulated under a player reward scheme to be redeemed for cash.

Maximum penalty—100 penalty units.

(3) Subsection (2) does not apply to or in respect of—

- (a) promotional prizes that form part of a jackpot prize under an authorised linked gaming system, or
- (b) such prizes as are prescribed by the regulations for the purposes of this section.

(4) If a hotelier or club conducts a player reward scheme, the hotelier or club must, in accordance with the regulations—

- (a) advise the participants in the scheme of the availability of player activity statements that relate to the playing of approved gaming machines under the scheme, and

(b) provide each such participant with a player activity statement.

Maximum penalty—100 penalty units.

- (5) The regulations may make provision for or with respect to player reward schemes and any matter concerning player activity statements (including the details to be included in player activity statements).
- (6) Subsection (4) does not apply to any player reward scheme conducted during the period of 6 months after the commencement of this section.

#### **45A Disclosure of information in player activity statements**

- (1) This section applies in relation to a player activity statement that relates to the playing of approved gaming machines under a player reward scheme (within the meaning of section 45) conducted regardless of whether the player activity statement is provided under section 45 (4).
- (2) A hotelier or club must not disclose any information contained in a player activity statement to any person unless that person—
- (a) is the person to whom the information relates, or
  - (b) is lawfully entitled to have access to the information.

Maximum penalty—100 penalty units.

- (3) A person who acquires any information contained in a player activity statement provided by a hotelier or club must not disclose the information to any person unless the person disclosing the information—
- (a) is the person to whom the information relates, or
  - (b) is authorised or required to do so by law.

Maximum penalty—100 penalty units.

#### **45B Disclosure of information in relation to players**

- (1) In this section—

**account card** means a card—

- (a) issued by a hotelier or club to a person when the person opens up a player account with the hotelier or club, and
- (b) through which the person can access money held in the player account for the purposes of operating electronic payment gaming machines in the hotel or on the premises of the club.

**electronic payment gaming machine** means an approved gaming machine that can be operated by means of a player card.

**player account** means an account opened by a person with a hotelier or club for the purposes of operating electronic payment gaming machines in the hotel or on the premises of the club.

**player card** means—

- (a) an account card, or
- (b) a Smartcard.

**Smartcard** means a card—

- (a) issued by a hotelier or club, and
- (b) on which information and credit in relation to the operation of electronic payment gaming machines can be stored electronically.

(2) Any information obtained by a hotelier or club in relation to any person to whom the hotelier or club has issued a player card must not be disclosed except—

- (a) with the consent of the person to whom the information relates, or
- (b) for the purposes of law enforcement, or
- (c) to any person (including an inspector) who is lawfully entitled to have access to the information.

(3) Any person who acquires any information contained in a player activity statement must not disclose the information to any person unless the person disclosing the information—

- (a) is the person to whom the information relates, or
- (b) is authorised or required to do so by law.

Maximum penalty—100 penalty units.

#### **46 Provision of problem gambling counselling services**

(1) If a hotelier or club is authorised to keep approved gaming machines, the hotelier or club must, in accordance with the regulations, enter into arrangements for problem gambling counselling services to be made available to the patrons of the hotel or club premises.

Maximum penalty—100 penalty units.

(2) The regulations may make provision for or with respect to the following—



- (a) the persons or bodies who are to provide the counselling services,
  - (b) the nature of the arrangements to be made with those persons or bodies,
  - (c) the nature of the counselling services that are to be made available,
  - (d) the manner in which those services are to be provided.
- (3) A hotelier or club must provide an inspector with written evidence of the arrangements entered into by the hotelier or club under this section if requested to do so by an inspector.

Maximum penalty—100 penalty units.

#### **47 Responsible conduct in relation to gaming machines**

- (1) The regulations may make provision for or with respect to requiring or encouraging the adoption of responsible practices in relation to approved gaming machines in hotels and on the premises of clubs.
- (2) In particular, the regulations may make provision for or with respect to the following—
  - (a) restricting or prohibiting the conduct of promotions in relation to the playing of approved gaming machines,
  - (b) the standards to be observed for responsible conduct in relation to approved gaming machines,
  - (c) requiring—
    - (i) the secretary of a club or other person engaged or proposing to be engaged in the administration of the club or in the management of approved gaming machines on the club's premises, or
    - (ii) a hotelier or the manager of a hotel, or any person engaged or proposing to be engaged in the administration of a hotel or in the management of approved gaming machines in the hotel,to undergo courses of training that will promote responsible practices in relation to approved gaming machines,
  - (d) the prohibition or restriction of the offering of inducements, or inducements of a kind, specified by the regulations,
  - (e) the information to be provided and signs to be displayed about approved gaming machines in a hotel or on the premises of a club,
  - (f) the notices to be displayed with respect to the availability of counselling in respect of financial, social or other problems that may arise in connection with the playing

of approved gaming machines,

(g) requiring facilities in hotels or on the premises of clubs for the withdrawal or transfer of money from banks and authorised deposit-taking institutions (such as ATMs and EFTPOS) to be installed or located in parts of the hotel or the premises of the club that are separate from parts of the hotel or the premises of the club where approved gaming machines are located,

(h) the provision of anonymity at the request of a person who has won a major prize.

(3) (Repealed)

#### **47A Prohibition on accepting transfer of prize winning cheques**

(1) A person (other than a financial institution) must not accept the transfer of a cheque that the person knows, or could reasonably be expected to know, is a prize winning cheque.

Maximum penalty—100 penalty units.

(2) Without limiting subsection (1), a person who accepts the transfer of a prize winning cheque in, or within 500 metres of, a hotel or the premises of a club is taken to know that the cheque is a prize winning cheque unless the contrary is proven.

(3) In this section and section 47B—

**prize winning cheque** means a crossed cheque (as referred to in section 53 of the [Cheques Act 1986](#) of the Commonwealth) that is paid by a hotelier or club as prize money to a person as a result of the person winning money or accumulating credits on an approved gaming machine.

#### **47B Requirements relating to prize winning cheques**

A person must not issue a prize winning cheque unless—

(a) it is clearly identified as a prize winning cheque, and

(b) the statement prescribed by the regulations for the purposes of this section appears on the cheque.

Maximum penalty—50 penalty units.

#### **47C Prohibition on certain cash dispensing facilities**

(1) A hotelier or club must not permit a cash dispensing facility to be used or to be installed or located in any part of the hotel or club premises if the facility is capable of providing cash from a credit card account.

Maximum penalty—100 penalty units.

- (2) In this section, **cash dispensing facility** means a facility (such as an ATM or EFTPOS terminal) for the withdrawal of cash from a bank or authorised deposit-taking institution.

#### 48 Industry codes of practice

- (1) For the purpose of providing practical guidance for the promotion of responsible practices and conduct in relation to approved gaming machines in hotels and on the premises of clubs, the Minister is to approve industry codes of practice that set out the standards to be observed by hoteliers and clubs.
- (2) The Minister may approve as an industry code of practice any code, standard or document relating to such standards prepared or formulated by the Australian Hotels Association (NSW), Clubs NSW or any other body or authority.
- (3) The Minister may approve any amendment of a code of practice or revoke the approval of a code of practice.
- (4) The Minister is to publish in the Gazette—
- (a) any such approved code of practice, and
  - (b) any approved amendment of a code of practice, and
  - (c) the revocation of an approval of a code of practice.
- (5) The Minister is to cause a copy of an approved code of practice and, if any amendment to the code has been approved, a copy of the amendment, to be made available for inspection by members of the public without charge at the offices of Liquor and Gaming NSW, Department of Enterprise, Investment and Trade during normal office hours.

#### 49 Self-exclusion of patrons from hotels and clubs

- (1) In this section—

**self-exclusion scheme** means a scheme—

- (a) in which a person (**the participant**) is prevented, at his or her own request, from entering or remaining on any area of a hotel or the premises of a club that is nominated by the participant (**the nominated area**), and
- (b) that is established and conducted in accordance with the regulations.

**responsible person** means—

- (a) in the case of a hotel—any of the following—
  - (i) the hotelier,

- (ii) the manager of the hotel,
  - (iii) an agent or employee of the hotelier or manager,
  - (iv) any other person involved in the conduct of gambling activities in the hotel, or
- (b) in the case of a club—any of the following—
- (i) the secretary of the club,
  - (ii) a director of the club,
  - (iii) an agent or employee of the club,
  - (iv) any other person involved in the conduct of gambling activities on the club's premises.

(2) For the purposes of this section, the nominated area of the hotel or club premises concerned may comprise the entire hotel or the entire club premises.

(3) If a hotelier or club is authorised to keep approved gaming machines, the hotelier or club must—

- (a) ensure that patrons of the hotel or club have access to a self-exclusion scheme, and
- (b) publicise the availability of self-exclusion schemes and information about how they operate to the patrons of the hotel or club.

Maximum penalty—100 penalty units.

(4) It is lawful for a responsible person for a hotel or club, using no more force than is reasonable in the circumstances—

- (a) to prevent a participant from entering the nominated area of the hotel or the premises of the club, and
- (b) to remove a participant from the nominated area or cause a participant to be removed from that area.

(5) No civil or criminal liability is incurred by a responsible person for a hotel or club (or by the club itself)—

- (a) for any act done or omitted to be done in good faith, and in accordance with this section and the regulations, to or in respect of a participant, or
- (b) if a participant enters or remains in the nominated area of the hotel or the premises of the club.

(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.

## **Division 3A Responsible conduct of gambling (RCG) training**

### **49A Definitions**

In this Division—

**approved RCG training course** means a course of training with respect to the responsible conduct of gambling that is provided—

- (a) by an approved training provider approved by the Secretary in accordance with the regulations in relation to the course, or
- (b) by or on behalf of the Secretary.

**approved training provider** means a training provider approved by the Secretary in accordance with the regulations to provide training courses with respect to the responsible conduct of gambling.

**interim RCG certificate** means a certificate (in hard copy or electronic form) granted to a person by the Secretary, or by an approved training provider on behalf of the Secretary, following the person's successful completion of an approved RCG training course, for use by the person in obtaining a recognised competency card.

**recognised competency card** means a card issued to a person in accordance with the regulations that certifies as to the matters prescribed by the regulations and provides for the expiry of the card in accordance with the regulations.

**recognised RCG certification** means an interim RCG certificate or recognised competency card.

### **49B Conditions of approval to conduct RCG training courses**

An approved training provider must comply with such conditions as may be imposed by or under the regulations on the provider's approval to conduct training courses with respect to the responsible conduct of gambling.

Maximum penalty—

- (a) for an individual—50 penalty units, or
- (b) for a corporation—250 penalty units.

### **49C Prohibition on granting interim RCG certificates to unqualified persons**

An approved training provider must not grant an interim RCG certificate on behalf of the Secretary to any person who has not successfully completed an approved RCG training course conducted by the training provider.

Maximum penalty—

- (a) for an individual—50 penalty units, or
- (b) for a corporation—250 penalty units.

#### **49D Prohibition on providing training courses without approval**

A person must not—

- (a) provide or offer to provide any training course that is held out, whether directly or indirectly, to be a course that will satisfy the requirements imposed by or under the Act for issue of recognised RCG certification, or
- (b) advertise, state or imply in any way that the person is qualified to provide any such course,

unless the person is the Secretary, a person who provides an approved RCG training course on behalf of the Secretary or an approved training provider.

Maximum penalty—

- (a) for an individual—50 penalty units, or
- (b) for a corporation—250 penalty units.

### **Division 4 Specific provisions relating to minors**

#### **50 Minors prohibited from operating gaming machines in hotels or clubs**

- (1) A person under the age of 18 years must not operate an approved gaming machine in a hotel or on the premises of a club.

Maximum penalty—20 penalty units.

- (2) It is a defence to a prosecution for an offence under this section if it is proved that the minor who operated the approved gaming machine did so under the supervision of a technician for the purpose only of receiving training and instruction in respect of the servicing, repair or maintenance of approved gaming machines.

#### **51 Hoteliers and clubs liable for operation of gaming machines by minors**

- (1) If a person under the age of 18 years operates an approved gaming machine—
  - (a) in a hotel—the hotelier is guilty of an offence, or
  - (b) on the premises of a club—the club and the secretary of the club are each guilty of an offence.

Maximum penalty—50 penalty units.

(2) It is a defence to a prosecution for an offence under this section if it is proved that the minor who operated the approved gaming machine was at that time over the age of 14 years and that—

- (a) before the commission of the offence, or
- (b) while the offence was being committed,

there was produced to the hotelier or an employee of the hotelier, or to the secretary of the club or an employee of the club, as the case may be, an evidence of age document (within the meaning of the *Liquor Act 2007*) that might reasonably be accepted as applying to the minor and as proving that the minor was at least 18 years of age.

(3) It is a defence to a prosecution for an offence under this section if it is proved that the minor who operated the approved gaming machine did so under the supervision of a technician for the purpose only of receiving training and instruction in respect of the servicing, repair or maintenance of approved gaming machines.

## **52 Minors not permitted in gaming machine areas**

(1) A person under the age of 18 years must not enter or be in a gaming machine area of a club.

Maximum penalty—20 penalty units.

(2) If a person under the age of 18 years is in a gaming machine area of a club and is not immediately removed from that area, the club and the secretary of the club are each guilty of an offence.

Maximum penalty—50 penalty units.

(3) If a person under the age of 18 years is on the premises of a club as the guest of a member of the club and is in any gaming machine area of the club, the member is guilty of an offence.

Maximum penalty—20 penalty units.

(4) It is a defence to a prosecution for an offence under subsection (1) or (2) if it is proved that the minor—

- (a) was in the gaming machine area for the purpose only of receiving training and instruction in respect of the servicing, repair or maintenance of approved gaming machines under the supervision of a technician, or
- (b) was in the gaming machine area only for so long as was reasonably necessary to pass through it in order to conveniently gain access to another area of the club that the minor may lawfully enter and was in the company and immediate presence of a responsible adult.

(5) In this section—

**responsible adult** has the same meaning as in the [Liquor Act 2007](#).

### **53 Minors required to provide information**

(1) An authorised person may require a person who is reasonably suspected of being under the age of 18 years and who, if under the age of 18 years, would be committing an offence under this Act—

(a) to state his or her full name and residential address, and

(b) to produce then, or at a police station within a reasonable time, an evidence of age document (within the meaning of the [Liquor Act 2007](#)) that might be reasonably accepted as applying to the person and as evidence of his or her age.

(2) A person the subject of a requirement under subsection (1) must not—

(a) refuse or fail to state his or her full name and residential address, or

(b) without reasonable excuse, refuse or fail to produce evidence of age as referred to in subsection (1) (b).

Maximum penalty—10 penalty units.

(3) In this section—

**authorised person** means—

(a) a hotelier or an employee of a hotelier, or

(b) the secretary of a club or an employee of a club, or

(c) a police officer.

### **54 (Repealed)**

### **55 Minors not to be detained**

A person under the age of 18 years may not be imprisoned, or detained in a detention centre, as a consequence of a failure to pay a penalty under this Act or an amount ordered to be paid under Division 4 of Part 3 of the [Fines Act 1996](#) in respect of a penalty notice issued under this Act.

## **Part 5 Administrative controls in relation to gaming machines**

### **Division 1 Authorisation to keep or dispose of gaming machines**

#### **56 Requirement for authorisation to keep or dispose of gaming machines**

(1) A hotelier or club must not keep or dispose of an approved gaming machine unless—



- (a) the keeping or disposal of the gaming machine is authorised by the Authority, and
- (b) the hotelier or club complies with the requirements of or under this Act in relation to the keeping or disposal of the gaming machine and with the conditions to which the authorisation is subject.

Maximum penalty—100 penalty units.

- (2) The Authority may, by instrument in writing, authorise a hotelier or club to keep or dispose of approved gaming machines. An authorisation to keep approved gaming machines may be varied by the Authority from time to time.
- (3) An authorisation to keep approved gaming machines is an authorisation that relates to the total number of approved gaming machines kept in the hotel or on the premises of the club concerned at any one time as well as to the keeping of a particular approved gaming machine.
- (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.
- (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.
- (6) An authorisation by the Authority under this section is subject—
  - (a) to such conditions as may be imposed by the Authority in relation to the keeping or disposal of the approved gaming machines to which the authorisation relates, and
  - (b) to such conditions as are specified in this Act or as may be prescribed by the regulations.
- (7) The Authority may vary an authorisation under this section in relation to a particular approved gaming machine to allow a modification of the gaming machine in accordance with section 64.
- (8) In the instrument by which the Authority authorises the keeping or disposal of approved gaming machines, or by which it varies such an authorisation, the Authority is to identify each of the approved gaming machines to which the authorisation relates.

### **56A Gaming machines cannot be authorised on certain premises situated at Barangaroo**

- (1) The Authority cannot authorise under this Act the keeping of gaming machines on any premises situated on the site referred to in paragraph (a) of the definition of **Barangaroo restricted gaming facility** in section 3 (1) of the *Casino Control Act 1992*.
- (2) Subsection (1) only has effect during the period in which a restricted gaming licence under the *Casino Control Act 1992* is in force.
- (3) Any authorisation under this Act to keep gaming machines on premises referred to in subsection (1) and in force immediately before the granting of a restricted gaming licence under the *Casino Control Act 1992* is cancelled when the licence is granted.

### **57 Application for authorisation to keep or dispose of gaming machines**

- (1) An application to the Authority by a hotelier or club (**the applicant**)—
  - (a) for authorisation to keep or dispose of an approved gaming machine, or
  - (b) for a variation of an authorisation to keep an approved gaming machine,is to be in a form approved by the Authority and is to be accompanied by such documents as comply with the requirements of the form.
- (2) If, before a decision is made in respect of an application, there is a change in the information provided in or accompanying the application (including information provided under this subsection) the applicant must immediately provide the Authority with full particulars of the change.

Maximum penalty—50 penalty units.

- (3) The Authority may, at any time before making a decision in respect of an application under this section, require the applicant to provide, or require the applicant to authorise another person to provide, the Authority with such further information in relation to the application as is specified by the Authority and, until the information is provided, may defer consideration of the application.

### **58 Suspension or cancellation of authorisations**

- (1) An authorisation by the Authority to keep or dispose of an approved gaming machine ceases to have effect if the authorisation—
  - (a) is suspended or cancelled by the Authority or a court, or
  - (b) is cancelled by the operation of a provision of this Act, or
  - (c) relates to a gaming machine that has, in accordance with section 64, ceased to be an approved gaming machine.

- (1A) Without limiting subsection (1), an authorisation by the Authority to keep an approved gaming machine ceases to have effect if the disposal of the gaming machine is authorised by the Authority.
- (1B) Without limiting subsection (1), the Authority may suspend or cancel a hotelier's or club's authorisation to keep an approved gaming machine if the hotelier or club—
- (a) fails to pay a monitoring fee in accordance with section 134, or
  - (b) fails to pay tax within the meaning of the *Gaming Machine Tax Act 2001*, or an instalment of any such tax, within the time allowed by or under that Act, or fails to pay a penalty or interest due for late payment of any such tax or instalment, or
  - (c) fails to comply with any condition imposed by the Authority in relation to the approval of a local impact assessment under Division 1 of Part 4.
- (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.
- (2) If, under the *Liquor Act 2007*, a hotel licence is removed to other premises (whether or not those other premises are outside the neighbourhood of the previous premises), the removal of the hotel licence has the effect of cancelling the hotelier's authorisation to keep any approved gaming machine.
- (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.
- (4) A reference in subsection (2) or (3) to the removal of a licence to other premises includes a reference to the carrying on of the business under the licence on temporary premises.

#### **59 Authorisation to keep gaming machines in hotel subject to primary purpose test**

- (1) An approved gaming machine cannot be authorised to be kept in a hotel unless the Authority is of the opinion that the hotel primary purpose test (as referred to in section 15 of the *Liquor Act 2007*) in respect of the hotel is satisfied.
- (2) Without limiting the factors to which the Authority may have regard in determining whether or not the primary purpose test in respect of the hotel is satisfied, the Authority may have regard to any or all of the following—
- (a) the proposed or actual physical layout of facilities in the hotel, including the positioning of any approved gaming machines in the hotel,
  - (b) the general manner in which gambling activities are to be conducted in the hotel,

(c) the general manner in which the overall business of the hotel is conducted.

- (3) It is a condition of a hotelier's authorisation to keep approved gaming machines that the hotelier complies with the primary purpose test in respect of the hotel.
- (4) If the Authority is of the opinion that a hotelier has failed to comply with the primary purpose test in respect of the hotel, the Authority may give a direction in writing to the hotelier requiring the hotelier to take remedial action specified in the direction within the time specified in the direction.
- (5) The hotelier must comply with any such direction.

Maximum penalty—100 penalty units.

- (6) The Authority may revoke or vary a direction given under this section.

### **59A-60A (Repealed)**

### **61 Clubs may keep multi-terminal gaming machines**

- (1) In this section and sections 61A and 61B—

***multi-terminal gaming machine*** (or ***MTGM***) means an approved gaming machine that—

- (a) is designed to be played by more than one player at the one time, and
- (b) is equipped with more than one player terminal.

- (2) The Authority may, subject to sections 61A and 61B, authorise a club to keep a multi-terminal gaming machine.
- (3) (Repealed)
- (4) A club must not keep a multi-terminal gaming machine if the maximum amount for any single bet, or the maximum amount of any prize, exceeds the maximum amount, respectively, prescribed by the regulations.

Maximum penalty—100 penalty units.

- (5) For the purposes of this Act, each player terminal that forms part of a multi-terminal gaming machine is, except as provided by the regulations, taken to be (and accordingly to be counted as) a separate approved gaming machine.

### **61A Limit on number of MTGMs in clubs**

- (1) Except as provided by section 61B, an application for authorisation to keep an MTGM on the premises of a club cannot be granted if—
  - (a) the total number of terminals forming part of MTGMs kept on the premises is more

than 15% of the total number of gaming machine entitlements held in respect of the club licence concerned, or

- (b) the authorisation would result in the total number of terminals forming part of MTGMs kept on the premises being more than 15% of the total number of gaming machine entitlements held in respect of the club licence concerned.
- (2) Subsection (1) applies only if the application relates to an increase in the number of MTGMs authorised to be kept on the club premises.
- (3) If, at the commencement of this section (as substituted by the *Gaming Machines Amendment Act 2008*) the total number of terminals forming part of MTGMs kept on the premises of a club is more than 15% of the total number of gaming machine entitlements held in respect of the club licence concerned, the club must, within 5 years of that commencement, reduce the total number of those terminals to no more than 15% of the total number of entitlements so held.
- (4) If, by the end of that 5-year period, the club has not reduced the total number of terminals in accordance with subsection (3), the authorisation to keep any MTGM that is over the 15% threshold is automatically cancelled.
- (5) An application for authorisation to keep an MTGM on the premises of a club cannot be granted if the application relies on an increase in the number of gaming machine entitlements held by the club that results from a lease of those gaming machine entitlements.

### **61B MTGMs in clubs with not more than 33 gaming machine entitlements**

A club may be authorised to keep up to (but not more than) 5 player terminals that form part of the MTGMs kept on the club premises but only if the total number of gaming machine entitlements held in respect of the club licence for the time being is not more than 33.

## **Division 2 Approval of gaming machines by Authority**

### **62A Gambling harm minimisation and related matters**

- (1) In exercising its functions under this Division, the Authority is required to have due regard to the following matters—
  - (a) the need for gambling harm minimisation (as referred to in section 3 (1) (a)),
  - (b) the need to foster responsible conduct in relation to gambling,
  - (c) the need to minimise the potential for any harm that may result from the approval of technical standards under section 62 or from the declaration of a device as an approved gaming machine under this Division,

(d) whether, in the opinion of the Authority, any feature, function or characteristic of any such device is likely to lead to an exacerbation of problem gambling.

(2) This section does not affect the operation of section 3 in so far as that section applies to the Authority's functions under this Act.

## **62 Authority may approve technical standards**

(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.

(2) Any such technical standards are referred to in this Act as ***the approved technical standards***.

## **63 Application for declaration of device as approved gaming machine**

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

(2) The Authority may—

(a) investigate any such application, or authorise its investigation, in order to determine whether the device is suitable for declaration, and

(b) require the applicant to meet the cost of the investigation.

(2A) The cost of the investigation may include any fee imposed by the Authority in connection with testing or evaluating the device's compatibility and compliance with an authorised CMS.

(2B) Any amount required to be paid under subsection (2) or (2A) is payable to the Secretary.

(3) It is a condition of the dealer's licence held by the applicant that the applicant is to pay to the Secretary, within a time allowed by the Authority, such of the costs of the investigation as may be required by the Authority and is to do so even if the investigation is terminated without a decision being made as to whether or not the device is to be declared to be an approved gaming machine. Any such costs may be reviewed by the Authority only.

(4) This section does not—

(a) confer a right to have a device investigated, or

(b) prevent the Authority from terminating at its discretion an investigation of a device.

#### **64 Declaration of approved gaming machines**

- (1) The Authority may declare that a device referred to in the declaration is an approved gaming machine for the purposes of this Act.
- (2) A declaration under this section—
  - (a) may refer to a device specifically or by reference to a class or description of devices, and
  - (b) may be a temporary declaration pending final determination of an application for declaration of the device as an approved gaming machine.
- (3) The Authority may refuse to make a declaration of a device as an approved gaming machine if the Authority is of the opinion that the declaration would relate to a device that does not meet the approved technical standards.
- (4) If an approved gaming machine kept by a hotelier or club is modified in such a way that it is in the form of a different approved gaming machine, it ceases to be an approved gaming machine despite being in that form unless—
  - (a) the material used to effect the modification was supplied by the holder of a dealer's licence (either directly or through the holder of another gaming-related licence), and
  - (b) the modification was effected in accordance with a variation of the authorisation in force in relation to the keeping of the approved gaming machine.
- (5) A minor or insignificant variation does not prevent a device from being an approved gaming machine if the variation does not affect its security or integrity or the manner in which the device from which it varies was designed and programmed to function.
- (6) The Authority may revoke a declaration in force under this section if it considers that it is necessary to do so in the public interest or if it is a temporary declaration.
- (6A) A device ceases to be an approved gaming device if the Authority has authorised the destruction of that device or devices of that class or description under section 81A.
- (7) A device ceases to be an approved gaming machine if its declaration as an approved gaming machine is revoked.
- (8) If the Authority revokes the declaration of a device as an approved gaming machine, the revocation does not take effect until the hotelier, club or holder of the dealer's licence who is in possession of the device has been given or served written notice of the revocation—
  - (a) by post, or
  - (b) by email to an email address specified by the hotelier, club or holder of the

dealer's licence for the service of the notice.

**65 Dealer may make representations on investigation of gaming machine or revocation of declaration**

(1) Before the Authority decides—

- (a) to terminate the investigation of an application by the holder of a dealer's licence (***the licensee***) for declaration of a device as an approved gaming machine, or
- (b) to refuse such an application, or
- (c) to revoke the declaration of a device as an approved gaming machine that was made on the application of a licensee,

the Authority must serve on the licensee concerned a notice in writing.

(2) The notice is to—

- (a) specify the reasons why the Authority is considering taking the action specified in the notice, and
- (b) give the licensee an opportunity to show cause within such period of at least 14 days as is specified in the notice why the Authority should not take that action.

(3) The licensee may, within the period allowed by the notice, arrange with the Authority for the making of submissions to the Authority as to why the proposed action should not be taken and the Authority is to consider any submissions so made.

(4) After considering any submissions made by the licensee, or if no such submissions are made, the Authority may—

- (a) proceed with the proposed action, or
- (b) conditionally or unconditionally decide not to take the proposed action.

(5) The decision of the Authority takes effect when written notice of the decision is given to the licensee or on a later date specified in the notice.

**66 Non-approved gaming machines may be kept on trial basis**

(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.

(2) (Repealed)

(3) If a gaming machine is kept as provided by subsection (1), the gaming machine is taken to be an approved gaming machine authorised to be kept in the hotel or on the premises of the club concerned for the purposes of this Act (except section 72) and



the *Gaming Machine Tax Act 2001*.

## **Division 3 Transfer of Authority's functions**

### **67 Transfer of Authority's functions in relation to approved gaming machines**

- (1) The regulations may provide that any function of the Authority under this Act in relation to approved gaming machines may be exercised by a person other than the Authority.
- (2) Any such regulation is to specify—
  - (a) the function of the Authority that is to be exercised, and
  - (b) the person who may exercise the function.
- (3) The regulations may make provision with respect to any matter that is relevant to the exercising of a function of the Authority by a person other than the Authority.
- (4) If, in accordance with this section and the regulations, the functions of the Authority in relation to authorising the keeping of approved gaming machines are exercised by the CMS licensee, the CMS licensee may charge a fee in connection with the exercising of those functions. The amount of the fee, and the manner in which it is paid, is to be determined in accordance with the arrangements entered into by the CMS licensee and the hotelier or club to whom or which the authorisation relates.
- (5) A delegation by the Authority under section 13 of the *Gaming and Liquor Administration Act 2007* has no effect if it is inconsistent with a regulation made in accordance with this section.
- (6) This section does not apply to the functions of the Authority in so far as they relate to the specification of technical standards for approved gaming machines, linked gaming systems within the meaning of Part 10 or equipment used in the connection of approved gaming machines to an authorised CMS.

## **Part 6 Miscellaneous offences**

### **68 Hotel gaming rooms**

If more than 10 approved gaming machines are kept in a hotel, the hotelier must ensure that—

- (a) no more than 5 approved gaming machines are located in the general bar area of the hotel, and
- (b) the others (or all of them if none are located in the general bar area) are located in another area (a ***gaming room***) that conforms to the requirements of the regulations.

Maximum penalty—100 penalty units.

### **68A Location and operation of gaming machines in hotels**

(1) A hotelier must not—

- (a) keep an approved gaming machine in the hotel unless the gaming machine is located in a bar area (within the meaning of the *Liquor Act 2007*) of the hotel, or
- (b) permit an approved gaming machine in the hotel to be operated at any time other than a time when liquor may be lawfully sold or supplied under the *Liquor Act 2007* in the bar area in which the gaming machine is kept or when the continued provision of services and facilities such as gambling activities is authorised by or under that Act at such a time.

Maximum penalty—100 penalty units.

(2) Subsection (1) (a) does not apply in relation to an approved gaming machine that is stored by the hotelier at such place (whether or not in the hotel) and in such circumstances as may be approved by the Authority or that is kept in accordance with section 68 (b).

### **69 Possession etc of gaming machines that are not approved**

(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.

(2) Subsection (1) does not apply to the possession of a gaming machine—

- (a) by a person who is the holder of a gaming-related licence, or
- (b) if the Authority has agreed to the making of an application under section 63 to have the gaming machine declared by the Authority to be an approved gaming machine and the possession is for the purposes of the application, or
- (b1) in accordance with the approval of the Authority under section 66 (1), or
- (c) in any case where the Authority terminates an investigation of, or refuses to approve, such an application—if the possession is for the purpose of disposing of the gaming machine in a manner directed by the Authority when notifying the applicant of the termination or refusal and does not extend beyond a reasonable time, or
- (d) in such other circumstances as may be prescribed by the regulations.

### **69A Sale etc of unapproved gaming machine components**

(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.

- (2) A person who is authorised by a gaming-related licence to sell approved gaming machines must not sell or supply a component to any person unless the relevant device is, with the addition of the component, declared by the Authority under section 64 as an approved gaming machine.

Maximum penalty—100 penalty units.

- (3) The holder of a dealer's licence or a technician must not install any component unless the relevant device is, with the addition of the component, declared by the Authority under section 64 as an approved gaming machine.

Maximum penalty—100 penalty units.

#### **70 Possession of approved gaming machine by unauthorised person**

- (1) A person who is in possession of an approved gaming machine is guilty of an offence unless the person—

- (a) is the holder of a gaming-related licence, or
- (b) is a hotelier or club lawfully in possession of the approved gaming machine, or
- (c) has possession of the approved gaming machine in the ordinary course of a business involving the transportation or storage of goods, or
- (d) is an inspector exercising functions under this Act, or
- (e) is in lawful possession of the approved gaming machine as a consequence of its seizure under the authority of a search warrant under section 184.

Maximum penalty—100 penalty units or imprisonment for 12 months, or both.

- (2) This section does not apply to the possession of an approved gaming machine—

- (a) by a hotelier if the hotel licence has been cancelled under the [Liquor Act 2007](#) and the possession has not extended beyond a reasonable time after the cancellation, or
- (b) by a club if—
  - (i) the club has been disqualified from holding a licence under the [Liquor Act 2007](#) and the period of disqualification has not expired, or
  - (ii) the licence of the club has been cancelled under the [Liquor Act 2007](#), and the possession has not extended beyond a reasonable time after the disqualification or cancellation.

- (3) This section does not apply to a person in possession of an approved gaming machine if—
- (a) the possession resulted from the exercise of a power conferred on the person by a mortgage and has not extended beyond 21 days after the exercise of the power, or
  - (b) if the person obtained possession of the gaming machine by exercising a power or proprietary right under financial or other arrangements approved by the Authority and has not retained possession beyond 21 days after the exercise of the power.

## **71 Supply and purchase of gaming machines**

- (1) A person who supplies or offers to supply an approved gaming machine otherwise than by way of sale is guilty of an offence unless the supply or offer has been approved by the Authority and any conditions imposed by the Authority when giving the approval are complied with.

Maximum penalty—100 penalty units or imprisonment for 12 months, or both.

- (2) A person who purchases or offers to purchase an approved gaming machine is guilty of an offence unless the gaming machine is purchased from, or the offer is made to, a person who is authorised by or under this Act to sell the gaming machine.

Maximum penalty—100 penalty units or imprisonment for 12 months, or both.

- (3) A person who supplies an approved gaming machine to a hotelier or club is guilty of an offence unless the keeping of the gaming machine by the hotelier or club would be lawful.

Maximum penalty—50 penalty units.

- (4) A person who supplies, or offers to supply, an approved gaming machine is guilty of an offence if possession of the gaming machine by the person to whom the gaming machine is supplied or offered is or would be unlawful.

Maximum penalty—100 penalty units.

- (5) This section does not prohibit the supply of an approved gaming machine by—

- (a) a hotelier or club with the approval of the Authority if any conditions imposed by the Authority when approving the disposal of the gaming machine are complied with, or
- (b) a hotelier whose hotel licence has been cancelled (or who has been disqualified for a period from holding such a licence) if the supply is effected in accordance with arrangements approved by the Authority, or
- (c) a club whose licence under the *Liquor Act 2007* has been cancelled (or which has

been disqualified for a period from holding a club licence under that Act) if the supply is effected in accordance with arrangements approved by the Authority.

## **72 Restrictions on keeping or modification of gaming machines**

- (1) A hotelier or club must not keep or modify an approved gaming machine unless—
- (a) the property in the gaming machine passes to the hotelier or club unconditionally and free from encumbrances after being paid for in full by the hotelier or club without the hotelier or club having obtained financial accommodation in order to make the payment, or
  - (b) the gaming machine is kept or modified in accordance with financial and other arrangements approved by the Authority,
- under a written contract that includes such terms and conditions as may be prescribed by the regulations.
- Maximum penalty—100 penalty units.
- (2) Any change in the financial or other arrangements under which a hotelier or club keeps or modifies an approved gaming machine is void without the prior written consent of the Authority.

## **73 Sharing of receipts from gaming machines**

- (1) A hotelier or club must not—
- (a) share any receipts arising from the operation of an approved gaming machine, or
  - (b) make any payment or part payment by way of commission or an allowance from or on any such receipts.
- Maximum penalty—100 penalty units.
- (2) This section does not apply in respect of the sharing of receipts arising from the operation of an approved gaming machine that is part of an authorised linked gaming system if the sharing of receipts is pursuant to an agreement, between the holder of the relevant links licence and the hotelier or club that operates the approved gaming machine, in relation to the linked gaming system.
- (3) A hotelier does not commit an offence under subsection (1) if any such receipts are shared with, or any such payment is made to, a person who—
- (a) has a financial interest in the business authorised by the hotel licence, and
  - (b) is named in the statement referred to in section 41 of the *Liquor Act 2007*, or in the information provided to the Authority under section 55 of that Act, in relation to that licence.

#### **74 Granting interests in gaming machines**

- (1) A hotelier or club must not grant any interest in an approved gaming machine to any other person.

Maximum penalty—100 penalty units.

- (2) This section does not apply—

- (a) to an interest in an approved gaming machine that arises from an interest (such as a floating charge) granted over the whole of the hotelier's or club's assets (or over a portion of the hotelier's or club's assets) that includes, but does not specifically identify, the approved gaming machine, or
- (b) to an interest in an approved gaming machine that is granted in accordance with financial or other arrangements approved by the Authority.

#### **75 Prohibition on gaming machines that provide cash or credit otherwise than as a prize**

A hotelier or club is guilty of an offence if an approved gaming machine available for use in the hotel or on the premises of the club is capable of being operated to provide cash or credit otherwise than as a prize.

Maximum penalty—100 penalty units.

#### **75A General requirement to award or pay prizes**

- (1) A hotelier or club must award or pay a prize that is won from the playing of an approved gaming machine kept in the hotel or on the premises of the club to a player who is entitled to the prize (the **prizewinner**) on request by the prizewinner and in accordance with subsections (2)–(7).

Maximum penalty—100 penalty units.

- (2) A prize may be awarded in a non-monetary form or paid as money.
- (3) If a prize is awarded in a non-monetary form, the hotelier or club must give the prizewinner the choice to be paid money instead.
- (4) If a hotelier or club pays a monetary prize to a prizewinner, the hotelier or club must pay an amount equal to (but not exceeding) the value of the credits accumulated by the prizewinner from playing the relevant approved gaming machine.
- (5) A non-monetary prize must not consist of or include—
  - (a) liquor in any form, or
  - (b) tobacco in any form, or
  - (c) knives or knife blades, or

- (d) firearms or ammunition within the meaning of the *Firearms Act 1996*.
- (6) The hotelier or club, or an employee of the hotelier or club, need not award or pay a prize immediately after a prizewinner requests it, but—
  - (a) in the case of a monetary prize—must pay the prize within 48 hours of the request (except where the prize is a jackpot prize under a linked gaming system operated under Part 10, in which case the prize is to be paid in accordance with the rules under the links licence concerned), and
  - (b) in the case of a non-monetary prize—must award the prize—
    - (i) within the time stated in the information required to be provided by the regulations with respect to award of such prizes, or
    - (ii) if no such time is stated—within 48 hours of the request.
- (7) If a prize is not awarded or paid immediately after the prizewinner has requested it, the hotelier or club, or an employee of the hotelier or club, must give the prizewinner a written acknowledgment of the prizewinner's entitlement to the prize.

## **76 Defective gaming machines**

- (1) A hotelier or club is guilty of an offence if an approved gaming machine available for use in the hotel or on the premises of the club fails to function in the manner in which it was designed and approved by the Authority to function.

Maximum penalty—100 penalty units.

- (2) It is a defence to a prosecution for an offence under subsection (1) if it is proved—
  - (a) that the operation of the approved gaming machine was for testing or maintenance purposes, or
  - (b) that the hotelier, or the secretary or other person for the time being in charge of the club—
    - (i) had taken all reasonable precautions to ensure that the approved gaming machine was functioning properly, and
    - (ii) at the time of the alleged offence did not know, and could not reasonably be expected to have known, that the machine was not functioning properly.

## **76A Causing defects in gaming machines**

- (1) A technician must not, in carrying out any work on an approved gaming machine, do anything that causes, or is likely to cause, the gaming machine to function in a manner other than the manner in which it was designed and approved by the Authority to function.

Maximum penalty—100 penalty units.

- (2) It is a defence to a prosecution for an offence under subsection (1) if it is proved—
- (a) that the operation of the approved gaming machine was for testing or maintenance purposes, or
  - (b) that the technician—
    - (i) took all reasonable precautions to ensure that the approved gaming machine was functioning properly, and
    - (ii) at the time of the alleged offence did not know, and could not reasonably be expected to have known, that the machine was not functioning properly.

#### **76B Hoteliers and clubs to record work done by technicians**

- (1) A hotelier or club must keep a written record containing the details of any work of the kind prescribed by the regulations that is carried out by a technician on any approved gaming machine kept in the hotel or on the premises of the club.

Maximum penalty—50 penalty units.

- (2) The regulations may prescribe the details that are required to be recorded under subsection (1).

#### **77 Protection of sensitive areas of gaming machines**

- (1) It is an offence for a person (other than an authorised person) to do any of the following—
- (a) break a seal securing a computer cabinet or gain access to anything within a computer cabinet,
  - (b) affix a seal to a computer cabinet,
  - (c) remove, replace or in any way affect or interfere with the operation of a computer cabinet or anything within a computer cabinet,
  - (d) break a seal protecting the integrity of the game program of an approved gaming machine,
  - (e) remove, or interfere with, any security device on an approved gaming machine,
  - (f) remove, or interfere with, the housing protecting the meters of an approved gaming machine,
  - (g) remove, disconnect or interfere with a meter of an approved gaming machine,
  - (h) interfere with information received, stored or transmitted electronically by an



approved gaming machine,

- (i) remove, or interfere with, any mark or seal affixed to an approved gaming machine to preserve the integrity of operation of the machine.

Maximum penalty—100 penalty units.

- (2) An authorised person must, if the person breaks any seal in doing anything referred to in subsection (1), replace the seal.

Maximum penalty—100 penalty units.

- (2A) If an authorised person, in doing anything referred to in subsection (1), breaks any seal on or in relation to an approved gaming machine kept in a hotel or on the premises of a club, the hotelier or club must ensure that the seal is replaced by the authorised person in accordance with subsection (2).

Maximum penalty—10 penalty units.

- (2B) The hotelier or club does not commit an offence under subsection (2A) if the authorised person has, before the gaming machine is operated for the purposes of gambling—

- (a) certified, in the form approved by the Secretary, that the seal has been replaced by the person, and
- (b) given a copy of the certificate to the hotelier or club.

- (2C) If a copy of any such certificate is given to the hotelier or club, the hotelier or club must—

- (a) keep the copy in the hotel or on the premises of the club, and
- (b) if requested to do so by an inspector, produce the copy for inspection by the inspector.

Maximum penalty—10 penalty units.

- (2D) An authorised person must not make any statement in a certificate under subsection (2B) that the person knows is false or misleading.

Maximum penalty—100 penalty units.

- (3) A person (including an authorised person) who removes, alters or otherwise interferes with the compliance plate on an approved gaming machine is guilty of an offence.

Maximum penalty—100 penalty units.

- (4) Subsection (3) does not prevent a technician from doing any of the following things in relation to the compliance plate on an approved gaming machine (so long as the

gaming machine is not operated at any time when the compliance plate is not attached to the machine)—

- (a) moving the compliance plate to another part of the gaming machine,
  - (b) removing the compliance plate if it is damaged, and replacing it with a new compliance plate,
  - (c) destroying any such damaged compliance plate,
  - (d) temporarily removing the compliance plate in order to enable work to be done to the facade of the gaming machine,
  - (e) temporarily removing the compliance plate in order to update or correct the particulars shown on the plate.
- (5) A person who authorises or permits another person to act in a way that is an offence under subsection (1) or (3) is also guilty of an offence.

Maximum penalty—100 penalty units.

- (6) In this section—

**authorised person** means an inspector or a technician.

**compliance plate** has the same meaning as in section 121.

**computer cabinet** means the sealable part of an approved gaming machine that contains the game program storage medium and the random access memory.

## 78 Modification of gaming machines

- (1) A person who modifies an approved gaming machine in such a way that it is in the form of a different approved gaming machine is guilty of an offence unless—
- (a) the person is a technician, and
  - (b) the modification does not, as provided by section 64, prevent the gaming machine from being an approved gaming machine.
- (2) A technician who modifies an approved gaming machine in such a way that it is in the form of a different approved gaming machine is guilty of an offence unless, within 14 days of the modification, there is returned to the supplier of the materials for the conversion so much of the gaming machine as ceased to form part of it after its conversion and comprised—
- (a) a meter, circuit board, read-only memory device or artwork, or
  - (b) a component prescribed as a restricted component.

Maximum penalty—100 penalty units or imprisonment for 12 months, or both.

### **79 Consignment or movement of gaming machines**

- (1) The holder of a dealer's licence or seller's licence who consigns or moves an approved gaming machine—
- (a) to or from any place at which the licensee carries on the business authorised by the licence, or
  - (b) from outside the State to a place within the State, or
  - (c) to any place outside the State,

must give the Authority (and, if the gaming machine is being consigned or moved to any place outside the State, the manufacturer of the gaming machine) a written notification stating the particulars required by this section no later than 7 clear days before the consignment or movement or within such other time as may be approved by the Authority.

Maximum penalty—50 penalty units.

- (2) The required particulars are as follows—
- (a) the number and type of approved gaming machines,
  - (b) the manufacturer's serial number for each of the approved gaming machines,
  - (c) the origin and destination of the approved gaming machines,
  - (d) the intended dates of transportation,
  - (e) the intended method of transport and the name of the carrier.
- (3) The Authority may, conditionally or unconditionally, grant an exemption from the operation of this section in a particular case or a particular class of cases.

### **80 Cheating and unlawful interference with gaming machines**

- (1) A person who—
- (a) has possession of a device made or adapted, or intended by the person to be used, for interfering with the normal operation of an approved gaming machine in a hotel or on the premises of a club, or
  - (b) does anything calculated, or likely, to interfere with the normal operation of an approved gaming machine in a hotel or on the premises of a club, or
  - (c) does anything calculated to render an approved gaming machine in a hotel or on the premises of a club incapable, even temporarily, of producing a winning

combination,

is guilty of an offence.

- (2) Subsection (1) does not apply to anything done in good faith in connection with—
- (a) the installation, alteration, adjustment, maintenance or repair of an approved gaming machine by a technician, or
  - (b) the exercise by a person of a function conferred or imposed by this Act on an inspector.
- (3) A person who, with intent to dishonestly obtain money or a financial advantage for himself or herself or another person, inserts in an approved gaming machine in a hotel or on the premises of a club anything other than—
- (a) a coin or token of the denomination or type displayed on the gaming machine as that to be used to operate the gaming machine, or
  - (b) a banknote of a denomination approved by the Authority for use in order to operate the gaming machine, or
  - (c) a card of a type approved by the Authority for use in order to operate the gaming machine,
- is guilty of an offence.
- (4) A person who, in connection with an approved gaming machine in a hotel or on the premises of a club—
- (a) by any fraudulent representation, or
  - (b) by a fraudulent scheme or practice, or
  - (c) by the fraudulent use of the approved gaming machine or any other thing,
- obtains for himself or herself or another person, or induces a person to deliver, give or credit to him or her or another person, any money, benefit, advantage, valuable consideration or security, is guilty of an offence.
- (5) A person who, without lawful excuse, uses or has in his or her possession in a hotel or on the premises of a club any equipment, device or thing that permits or facilitates cheating or stealing in connection with an approved gaming machine is guilty of an offence.
- (6) A person who knows of any faulty or fraudulent computer programming and as a result gains, or gains for another person, an advantage in the operation of an approved gaming machine is guilty of an offence.

- (7) A person who authorises or permits another person to act in a way that is an offence under another provision of this section is guilty of an offence.

Maximum penalty—100 penalty units or imprisonment for 12 months, or both.

**80A False claims for prizes**

A person who claims a prize from the playing of an approved gaming machine in a hotel or on the premises of a club knowing that the claim is false or misleading in a material respect is guilty of an offence.

Maximum penalty—100 penalty units.

**81 Illegal advantage gained during design etc of gaming machines**

- (1) A person who, during the design, manufacture, assembly, maintenance or repair of an approved gaming machine, does anything to fraudulently gain an advantage (whether or not for another person) in the operation of the gaming machine is guilty of an offence.
- (2) (Repealed)
- (3) A person who does anything to an approved gaming machine in order to conceal anything that is an offence under subsection (1) is guilty of an offence.
- (4) A person who authorises or permits another person to act in a way that is an offence under another provision of this section is guilty of an offence.

Maximum penalty—100 penalty units or imprisonment for 12 months, or both.

**81A Authorisation to destroy approved gaming machine**

- (1) A person who destroys, or causes the destruction of, an approved gaming machine is guilty of an offence unless—
- (a) the person is the manufacturer of the approved gaming machine or the holder of a dealer's licence or seller's licence, and
  - (b) the destruction of the approved gaming machine has been authorised by the Authority under this section and is carried out in accordance with any conditions imposed by the Authority when authorising the destruction or that are prescribed by the regulations, and
  - (c) the person provides such evidence as may be required by the regulations of the destruction.

Maximum penalty—100 penalty units or imprisonment for 12 months, or both.

- (2) The manufacturer of an approved gaming machine or a holder of a dealer's or seller's

licence may apply to the Authority in writing for authorisation to destroy, or cause the destruction of, a specified approved gaming machine or approved gaming machines of a class or description.

**Note—**

Under section 64, a device ceases to be an approved gaming machine if an authorisation is given under subsection (2). Accordingly, a person may carry out actions in destroying a device in accordance with an authorisation that might otherwise be an offence—see for example, sections 77 (1) (e), (f) and (g) and 80 (1) (b).

- (3) The regulations may make provision for or with respect to applications under subsection (2).

## **Part 7 Gaming-related licences**

### **Division 1 Preliminary**

#### **82 Definitions**

In this Part—

**licence fee** means the fee payable for a gaming-related licence or work permit under this Part in respect of a licensing period.

**licensing period** means a period prescribed by the regulations for the purposes of section 108.

**records** includes plans, specifications, maps, reports, books and other documents (whether in writing, in electronic form or otherwise).

#### **83 Types of gaming-related licences and authority they confer**

- (1) For the purposes of this Act, the types of gaming-related licences, and the authority they confer, are as follows—
- (a) gaming machine dealer's licence—authorises the licensee—
    - (i) to manufacture and assemble gaming machines in or on the premises specified in the licence, and
    - (ii) to sell, or negotiate the sale of, approved gaming machines (whether or not manufactured or assembled by the licensee), and
    - (iii) to service, repair and maintain approved gaming machines in or on the premises specified in the licence,
  - (b) gaming machine seller's licence—authorises the licensee—
    - (i) as an employee of the holder of a dealer's licence or seller's licence—to negotiate on behalf of the employer the sale of approved gaming machines,

and

- (ii) to sell, as principal or agent, approved gaming machines,
- (c) gaming machine technician's licence—authorises the licensee—
  - (i) to service, repair and maintain approved gaming machines, and
  - (ii) as an employee of the holder of a testing facility licence—to carry out, in the course of that employment, the authorised functions of that licensee,
- (d) (Repealed)
- (e) gaming machine testing facility licence—authorises the licensee, in or on the premises specified in the licence, to test gaming machines—
  - (i) in connection with an application under section 63, or
  - (ii) in such other circumstances as the Authority may determine,  
to ascertain whether the gaming machines meet the technical standards adopted by the Authority.
- (2) The authority conferred by a gaming-related licence is subject to this Act and to any conditions to which the licence is subject.
- (3) If a corporation is the holder of a dealer's licence, seller's licence or testing facility licence, the authority conferred by this section on the corporation extends to a director or secretary of the corporation.
- (4) The Authority may, on the application of the holder of a dealer's licence, vary by endorsement on the licence the premises referred to in subsection (1) (a).

## **Division 2 Requirement for gaming-related licences**

### **84 Manufacturing or assembling of gaming machines**

- (1) A person who manufactures or assembles a gaming machine is guilty of an offence unless the person—
  - (a) holds a dealer's licence, or
  - (b) is a director or secretary of a corporation that holds a dealer's licence, or
  - (c) is an employee of the holder of a dealer's licence and is doing work as such an employee.

Maximum penalty—100 penalty units or imprisonment for 12 months, or both.

- (2) The holder of a dealer's licence who manufactures or assembles a gaming machine

otherwise than in accordance with the authority conferred by the licence is guilty of an offence.

Maximum penalty—100 penalty units or imprisonment for 12 months, or both.

- (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.

### **85 Sale of gaming machines**

- (1) A person who sells an approved gaming machine is guilty of an offence unless—
- (a) the person is the holder of a dealer's licence or seller's licence, or
  - (b) the person is a director or secretary of a corporation that is the holder of such a licence.

Maximum penalty—100 penalty units or imprisonment for 12 months, or both.

- (2) It is a defence to a prosecution for an offence under subsection (1) if it is proved that the defendant, without being the holder of a seller's licence, exercised a function of the holder of such a licence but did so only—
- (a) for the purpose of receiving training or instruction in the exercise of the function, and
  - (b) under the supervision of the holder of such a licence.

- (3) (Repealed)

- (4) The holder of a dealer's licence or seller's licence who sells an approved gaming machine otherwise than as authorised by the licence is guilty of an offence.

Maximum penalty—100 penalty units or imprisonment for 12 months, or both.

- (5) This section does not prohibit the sale of an approved gaming machine by—
- (a) a hotelier or club with the approval of the Authority if any conditions imposed by the Authority when approving the disposal of the gaming machine are complied with, or
  - (b) a hotelier whose hotel licence has been cancelled or who has been disqualified for a period from holding such a licence, if the sale is effected in accordance with arrangements approved by the Authority, or



- (c) a club whose licence under the *Liquor Act 2007* has been cancelled (or which has been disqualified for a period from holding a club licence under that Act) if the sale is effected in accordance with arrangements approved by the Authority.

### **86 Servicing and repair of gaming machines**

- (1) A person who services or repairs an approved gaming machine is guilty of an offence unless the person—
  - (a) holds a dealer's licence or is a technician, or
  - (b) services or repairs the gaming machine under the supervision of the holder of a dealer's licence or a technician for the purpose of receiving training and instruction in respect of the servicing and repair of approved gaming machines.

Maximum penalty—100 penalty units or imprisonment for 12 months, or both.

- (2) The holder of a dealer's licence or a technician who services or repairs an approved gaming machine otherwise than in accordance with the authority conferred by the licence is guilty of an offence.

Maximum penalty—100 penalty units or imprisonment for 12 months, or both.

### **87 (Repealed)**

## **Division 3 Licensing scheme**

### **88 Applications for gaming-related licences**

- (1) A person may apply to the Authority for a gaming-related licence.
- (2) The Authority may refuse or grant such an application.
- (3) An application for a gaming related licence must—
  - (a) be in the form approved by the Authority, and
  - (b) be accompanied by the fee prescribed by the regulations, and
  - (c) be made in the manner prescribed by the regulations, and
  - (d) if so required by the regulations, be advertised in accordance with the regulations.
- (4) An application for a gaming-related licence may not be made by—
  - (a) a person who is under the age of 18 years, or
  - (b) a person who is disqualified under section 131 from holding a gaming-related licence, or
  - (c) a person who is the holder of a suspended gaming-related licence.

- (5) An application for a gaming-related licence of a particular type—
- (a) may be made only by persons of a class or description prescribed by the regulations, or
  - (b) may not be made by a person of a class or description prescribed by the regulations,
- if the regulations so provide in relation to that type of gaming-related licence.
- (6) (Repealed)

### **89 Interim work permits**

- (1) The Authority may, pending the determination of an application for—
- (a) a seller's licence, or
  - (b) a technician's licence, or
  - (c) (Repealed)
  - (d) a testing facility licence,
- issue a work permit in a form approved by the Authority.
- (2) A work permit is subject to any conditions or restrictions of which the holder of the permit is notified by the Authority when the permit is issued or at any later time.
- (3) A work permit may be cancelled by the Authority at any time and, unless sooner surrendered or cancelled, ceases to have effect on approval or refusal of the application made by the holder of the work permit for a gaming-related licence.
- (4) Subject to any condition or restriction imposed under subsection (2), this Act applies to the holder of a work permit in the same way as it applies to the holder of a gaming-related licence of the same kind as that applied for by the holder of the work permit.

### **90 (Repealed)**

### **91 Disclosure of interested parties**

- (1) An application for a gaming-related licence (other than an application to be licensed as an employee), must be accompanied by a written statement by a person having knowledge of the facts stating—
- (a) that the person has made all reasonable inquiries to ascertain the information required to complete the statement, and
  - (b) whether there are any persons (other than financial institutions) who will be interested in the business, or the profits of the business, carried on under the

licence, and

(c) if there are any such persons, their names and dates of birth and—

(i) in the case of a proprietary company—the names of the directors and those shareholders who have a substantial holding (within the meaning of the *Corporations Act 2001* of the Commonwealth) in the company, and

(ii) in the case of a public company—the names of the directors.

(2) For the purposes of subsection (1), a person is interested in the business, or the profits of the business, carried on under the licence if the person is entitled to receive—

(a) any income derived from the business, or any other financial benefit or financial advantage from the carrying on of the business (whether the entitlement arises at law or in equity or otherwise), or

(b) any rent, profit or other income in connection with the use or occupation of premises on which the business is to be carried on.

## **92 Updating of applications**

If, before an application for a gaming-related licence is granted or refused, a change occurs in the information provided in, or in connection with, the application (including information provided under this section) or in the documents lodged with the application, the applicant must immediately give the Authority notice in writing specifying particulars of the change.

## **93 (Repealed)**

## **94 Investigations, inquiries and referrals in relation to licence applications**

(1) If the Authority receives an application for a gaming-related licence, the Authority—

(a) may carry out such investigations and inquiries in relation to the application as the Authority considers necessary for a proper consideration of the application, and

(b) is to refer the application to the Secretary unless the regulations otherwise provide.

(2) The Secretary is to inquire into, and to report to the Authority on, such matters in relation to the application as the Authority may request.

(3) For the purposes of subsection (2), the Secretary may carry out such investigations and inquiries in relation to the application as the Secretary considers necessary.

(4) In particular, the Secretary may refer to the Commissioner of Police details of the

application together with any supporting information in relation to the application that the Secretary considers to be appropriate for referral to the Commissioner.

- (5) The Commissioner of Police is to inquire into, and report to the Secretary on, such matters concerning the application as the Secretary may request.

#### **95 Director may require further information**

- (1) The Secretary may, by notice in writing, require a person whose application for a gaming-related licence has been referred to the Secretary, or may require a close associate of any such person, to do one or more of the following things—
  - (a) provide, in accordance with directions in the notice, such information verified by statutory declaration as is relevant to the investigation of the application and is specified in the notice,
  - (b) produce, in accordance with directions in the notice, such records as are relevant to the investigation of the application and permit examination of the records, the taking of extracts from them and the making of copies of them,
  - (c) authorise a person described in the notice to comply with a requirement of the kind referred to in paragraph (a) or (b),
  - (d) furnish to the Secretary such authorities and consents as the Secretary requires for the purpose of enabling the Secretary to obtain information (including financial and other confidential information) from other persons concerning the person and his or her associates.
- (2) A person who complies with a requirement of a notice under this section does not on that account incur a liability to another person.
- (3) The Authority may refuse to grant an application for a gaming-related licence if a requirement made under this section in relation to the application is not complied with.

#### **95A Submissions in relation to licence applications**

- (1) Any person may, subject to and in accordance with the regulations, make a submission to the Authority in relation to an application for a gaming-related licence.
- (2) If any such submission is made to the Authority, the Authority is to take the submission into consideration before deciding whether or not to grant the gaming-related licence.

#### **96 Costs of investigation by Secretary or Commissioner of Police to be paid by applicant**

- (1) The reasonable costs incurred by the Secretary or the Commissioner of Police in investigating and inquiring into an application for a gaming-related licence are

payable to the Authority by the applicant, unless the Authority determines otherwise in a particular case.

- (2) The Authority may require part or full payment in advance of the amount it estimates will be payable by the applicant and may refuse to deal with the application until the required payment is made.
- (3) Investigation and inquiry costs incurred by the Secretary or the Commissioner of Police may include travelling expenses within or outside the State.
- (4) It is a condition of any licence granted to the applicant that any amount payable under this section by the applicant is paid.

### **97-100 (Repealed)**

### **101 Granting of gaming-related licences generally**

- (1) The Authority may, after considering an application for a gaming-related licence and any submissions received by the Authority in relation to the application, grant the licence or refuse to grant the licence.
- (2) The regulations may prescribe, or provide for the determination of, a fee in respect of the granting of a gaming-related licence. If any such fee is prescribed or determined, the gaming-related licence does not take effect unless the fee has been paid.
- (3) The Authority may, in granting a gaming-related licence, specify requirements that are to be complied with before the licence takes effect. The gaming-related licence does not take effect until such time as any such requirements have been complied with.
- (4) A gaming-related licence is to be in the form approved by the Authority.
- (5) The Authority must not grant a gaming-related licence unless the Authority is satisfied that the applicant is a fit and proper person to carry on the business or activity to which the licence relates.
- (6) The regulations may provide mandatory or discretionary grounds for refusing the granting of a gaming-related licence.

### **102 Granting of testing facility licence**

- (1) A testing facility licence—
  - (a) if granted, is to be granted in respect of premises specified in the licence, and
  - (b) must not be granted unless the Authority is satisfied that the premises concerned are suitable for the testing of gaming machines.
- (2) The holder of a testing facility licence may apply to the Authority to change the

premises specified in the licence.

- (3) The Authority may approve the application only if the Authority is satisfied that the premises concerned are suitable for the testing of gaming machines.

**103 (Repealed)**

**104 Conditions of gaming-related licences**

- (1) A gaming-related licence is subject to—
- (a) such conditions as may be imposed by the Authority (whether at the time the licence is granted or at any later time) under this Act, and
  - (b) such conditions as are imposed by this Act or prescribed by the regulations, and
  - (c) such other conditions as are authorised to be imposed on the licence under this Act.
- (2) The holder of a gaming-related licence must comply with any conditions to which the licence is subject.

Maximum penalty—100 penalty units.

- (3) The Authority must not impose a condition on a gaming-related licence after it has been granted, or vary or revoke a condition that has been imposed by the Authority, unless the Authority has—
- (a) given the licensee a reasonable opportunity to make submissions in relation to the proposed decision, and
  - (b) taken those submissions into consideration before making the decision.
- (4) The Authority may vary or revoke a condition of a gaming-related licence that has been imposed by the Authority—
- (a) at any time on the application of the licensee or the Commissioner of Police, or
  - (b) at any time on the Authority's own initiative.
- (5) An application by a licensee under subsection (4) to vary or revoke a condition imposed by the Authority must—
- (a) be in the form and manner approved by the Authority, and
  - (b) be accompanied by the fee prescribed by the regulations, and
  - (c) if required by the regulations to be advertised—be advertised in accordance with the regulations.
- (6) Any person may, subject to and in accordance with the regulations, make a

submission to the Authority in relation to an application by a licensee under subsection (4).

- (7) If any such submission is made to the Authority, the Authority is to take the submission into consideration before deciding whether or not to vary or revoke the condition of the gaming-related licence concerned.

**105 (Repealed)**

**106 Authority may require dealers to alter certain gaming machines**

- (1) The Authority may require the holder of a dealer's licence to arrange, at the expense of the dealer and within a specified time (or within such further time as the Authority may allow), for a specified alteration to be made to an approved gaming machine that is to be, or has been, supplied by the licensee to a hotel or club.
- (2) It is a condition of a dealer's licence that the licensee complies with any such requirement.
- (3) A hotelier or club must allow the holder of a dealer's licence or a technician such access to an approved gaming machine in the hotel or on the premises of the club as may be required to enable the holder of the licence to comply with a requirement of the Authority under this section.

Maximum penalty—50 penalty units.

- (4) If a specified alteration is required to be made to an approved gaming machine under this section, a person who is authorised by a gaming-related licence to sell approved gaming machines must not supply the gaming machine or component to which the requirement relates to any hotel or club unless the specified alteration has been made.

Maximum penalty—50 penalty units.

- (5) A reference in this section to the holder of a dealer's licence includes a reference to a person acting under the authority of the licence.

**107 Duration of gaming-related licences**

Except during any period of suspension, a gaming-related licence remains in force until such time as it is surrendered to the Authority or it is sooner cancelled.

**108 Periodic licence fee**

- (1) A fee is payable to the Secretary for a gaming-related licence or work permit while the licence or permit is in force or under suspension and is so payable in respect of each period prescribed by the regulations for the purposes of this section.
- (2) Regulations may be made prescribing the fees payable under this section and for and

with respect to—

- (a) times for payment of the fees, and
- (b) payment of the fees by instalments, and
- (c) penalties for late payment of the fees or instalments, and
- (d) suspension or cancellation of a gaming-related licence or work permit after a failure to pay such a fee, or an instalment of such a fee, relating to the licence or permit, and
- (e) the circumstances in which such a fee, or a proportion of such a fee, may be refunded.

**109 Cancellation for late payment of periodic licence fee**

- (1) If the fee payable for a gaming-related licence or work permit has not been paid before the expiration of 2 months after the due date for payment, the licence or work permit is cancelled.
- (2) The former holder of a gaming-related licence or work permit that has been cancelled by the operation of this section must immediately deliver the licence or work permit to the Authority.

Maximum penalty—2 penalty units.

**110 Application for reinstatement of cancelled gaming-related licence or work permit**

- (1) The former holder of a gaming-related licence or work permit cancelled by the operation of section 109 may apply to the Authority for the reinstatement of the licence or work permit.
- (2) Such an application must be made within 2 months after the cancellation of the licence or work permit. The application must be accompanied by payment of the unpaid licence fee concerned.
- (3) The regulations may make provision for or with respect to the manner in which such an application is to be made, the documents required to accompany the application and requiring payment of a fee in respect of the application.
- (4) The Authority may reinstate the licence or work permit if the Authority is satisfied that there is a reasonable explanation for the failure to pay the licence fee that resulted in the cancellation of the licence or work permit.
- (5) (Repealed)
- (6) If the application for reinstatement is not successful, the Authority is to refund the licence fee paid with the application after deducting the amount (if any) that is the



used portion of the licence fee, calculated in accordance with the following formula—

$$\text{used portion} = \text{full fee} \times \frac{\text{trading days}}{\text{the number of days in the licensing period concerned}}$$

where—

**full fee** is the full amount of the licence fee payable under section 108 in respect of the licensing period concerned.

**trading days** is the number of days since the start of the licensing period current when the licence or work permit was cancelled up to and including the date of cancellation or up to and including such other day as the Authority may determine under subsection (7).

- (7) If the Authority is satisfied that trading in exercise (or purported exercise) of the licence or work permit ceased on a particular day, the Authority may determine that the number of trading days is to be calculated up to and including that day rather than up to and including the date of cancellation. The day determined by the Authority may be before or after the date of cancellation.

#### **111 Authority may refund licence fee**

On the suspension or cancellation of a gaming-related licence or work permit, the Authority may, if it thinks fit, authorise the refund of the whole or such part of any fee paid in respect of the licence or work permit as the Authority determines.

#### **112 (Repealed)**

#### **113 Periodic returns by gaming-related licensees**

- (1) Within the period of one month after the expiration of each period prescribed by the regulations for the purposes of section 108, the holder of a gaming-related licence is to lodge with the Secretary a return that—
- (a) is in a form approved by the Secretary, and
  - (b) is accompanied by such documents as may be prescribed by the regulations, and
  - (c) is signed by the licensee or, if the licensee is a corporation, by at least 2 directors of the corporation.
- (2) The form of return approved by the Secretary may be in the form of a statutory declaration.
- (3) Compliance with this section is a condition of a gaming-related licence.

## **Division 4**

### **114-116 (Repealed)**

## **Division 5 Other provisions relating to gaming-related licences**

### **117 Keeping of records**

- (1) If the holder of a gaming-related licence is a corporation, it is a condition of the licence that the licensee keep the records prescribed by the regulations that relate to the business carried on under the licence at the registered or principal office of the corporation under section 142 or 601CT of the *Corporations Act 2001* of the Commonwealth.
- (2) If the holder of a gaming-related licence is not a corporation or an employee, it is a condition of the licence that the licensee maintain at least one place of business in the State and keep the records prescribed by the regulations that relate to the business carried on under the licence—
  - (a) if only one place of business is maintained in the State—at that place, or
  - (b) if more than one place of business is maintained in the State—at the principal such place.

### **118 Control of business carried on under gaming-related licence**

- (1) If a person (other than the licensee or a financial institution) becomes interested in the business, or the profits of the business, carried on under a gaming-related licence, it is a condition of the gaming-related licence that the Authority is to be provided with the following information within 28 days after the other person becomes so interested—
  - (a) the name and date of birth of the person so interested and, in the case of a proprietary company, the names of the directors and shareholders,
  - (b) a statement that the licensee has made all reasonable inquiries to ascertain the information referred to in paragraph (a).
- (2) For the purposes of subsection (1), a person is interested in the business, or the profits of the business, carried on under the licence if the person is entitled to receive—
  - (a) any income derived from the business, or any other financial benefit or financial advantage from the carrying on of the business (whether the entitlement arises at law or in equity or otherwise), or
  - (b) any rent, profit or other income in connection with the use or occupation of premises on which the business is to be carried on.

(3) This section does not apply to a licence held as an employee.

### **119 Standards of competence**

The regulations may make provision for and with respect to standards of competence to be established or attained by an applicant for, or holder of, a gaming-related licence of a particular type.

### **120 Lost or destroyed gaming-related licence**

The Authority may, if satisfied that a gaming-related licence has been lost or destroyed, issue a duplicate of the licence on payment of the fee prescribed by the regulations.

### **121 Compliance plate for gaming machines**

(1) The holder of a dealer's licence is guilty of an offence if a gaming machine leaves the licensee's premises without a compliance plate that complies with this section and is securely attached to the gaming machine in a manner approved by the Authority.

Maximum penalty—100 penalty units.

(2) It is a defence to a prosecution for an offence under this section if it is proved that the defendant had taken all reasonable precautions aimed at ensuring attachment of a compliance plate and, at the time of the offence, did not know, and had no reason to suspect, that a compliance plate was not securely attached to the gaming machine in the manner approved by the Authority.

(3) Exemption from the operation of this section may be granted by the Authority in a particular case or a particular class of cases.

(4) In this section—

**compliance plate**, in relation to a gaming machine, means a plate that—

(a) is made of a substance approved by the Authority, and

(b) is of dimensions not less than dimensions approved by the Authority, and

(c) may readily be seen and inspected, and

(d) shows the name of the dealer, the dealer's licence number, the serial number of the gaming machine and the month and year of the manufacture and assembly of the gaming machine, and

(e) has those particulars incorporated in a manner approved by the Authority and in symbols that are at least of a minimum size approved by the Authority.

### **122 Provision of financial assistance by gaming-related licensee**

(1) The holder of a gaming-related licence must not enter into a transaction in respect of

which the licensee—

- (a) provides financial assistance to a hotelier or club, or
- (b) guarantees the observance by a hotelier or club of a term or condition on which financial assistance is provided to the hotelier or club by a person other than the licensee, or
- (c) indemnifies any person against any loss suffered in relation to financial assistance provided to a hotelier or club,

unless the transaction has been approved by the Authority in writing.

Maximum penalty—50 penalty units.

- (2) The holder of a gaming-related licence must not, unless with the Authority's written approval, agree to a variation of a term or condition of a transaction under this section that has been approved by the Authority.

Maximum penalty—50 penalty units.

- (3) The holder of a gaming-related licence is guilty of an offence if—

- (a) financial arrangements made by the licensee have been approved by the Authority, and
- (b) there is a change in those arrangements that has not been approved by the Authority, and
- (c) the Authority is not notified of the change immediately after it comes to the notice of the licensee.

Maximum penalty—50 penalty units.

### **123 Cessation of employment of seller or technician**

Not later than 7 days after the termination of a contract of service, or a contract for services, to which the parties are—

- (a) a technician or the holder of a seller's licence, and
- (b) the holder of another gaming-related licence, a hotelier or a club,

the party referred to in paragraph (b) must notify the Authority in the manner prescribed by the regulations.

Maximum penalty—20 penalty units.

### **124 Notification of change of employer**

If a person who is a technician or the holder of a seller's licence commences or ceases

employment with the holder of a dealer's licence, the person must, before the commencement of or within 7 days after the cessation of the employment, as the case may be, notify the Authority, in the form and manner approved by the Authority, of the commencement or cessation of the employment.

Maximum penalty—20 penalty units.

### **125 Change in state of affairs of gaming-related licensee**

If a change of a kind prescribed by the regulations takes place in the state of affairs of the holder of a gaming-related licence, the licensee must, within 14 days of the change taking place, notify the Secretary of such particulars in relation to the change as are prescribed by the regulations.

Maximum penalty—20 penalty units.

### **126 Gaming-related licensee to display identification**

(1) The holder of a dealer's licence or a technician must, at any time while servicing, repairing or maintaining an approved gaming machine in a hotel or on the premises of a club, wear a clearly visible form of identification as approved by the Authority.

Maximum penalty—20 penalty units.

(2) If the holder of a dealer's licence is a corporation, a reference in this section to the holder of the licence includes a reference to a person acting under the authority of the licence.

(3) The Authority may exempt a person or the members of a class of persons from the operation of this section.

## **Part 8 Disciplinary action**

### **127 Interpretation**

(1) In this Part—

**close associate** means a close associate of a hotelier or gaming-related licensee.

**licensee** means—

(a) a hotelier, or

(b) a club, or

(c) the holder of a gaming-related licence (referred to in this Part as **a gaming-related licensee**).

(2) In this Part—

- (a) a reference to a licensee includes a reference to a former licensee, and
  - (b) a reference to a conviction for an offence under this Act or the regulations does not include a reference to a conviction for an offence prescribed by the regulations for the purposes of this section.
- (3) Without limiting the grounds on which disciplinary action may be taken under this Part, the grounds for taking any such action may relate to conduct occurring before the substitution of this Part by Schedule 3 to the *Miscellaneous Acts (Casino, Liquor and Gaming) Amendment Act 2007*.

### **128 Secretary may carry out inquiries and investigations**

- (1) The Secretary may carry out such investigations and inquiries as the Secretary considers to be necessary in connection with a complaint, or proposed complaint, under this Part in relation to a licensee or close associate.
- (2) The Commissioner of Police is to inquire into, and report to the Secretary on, such matters as the Secretary may request concerning the licensee or close associate to whom the complaint, or proposed complaint, relates.
- (3) The Secretary may, by notice in writing, require a licensee or close associate who is the subject of an investigation under this section to do one or more of the following things—
  - (a) provide, in accordance with directions in the notice, such information verified by statutory declaration as, in the opinion of the Secretary, is relevant to the investigation and is specified in the notice,
  - (b) produce, in accordance with directions in the notice, such records as, in the opinion of the Secretary, are relevant to the investigation and permit examination of the records, the taking of extracts from them and the making of copies of them,
  - (c) authorise a person described in the notice to comply with a requirement of the kind referred to in paragraph (a) or (b),
  - (d) furnish to the Secretary such authorisations and consents as the Secretary requires for the purpose of enabling the Secretary to obtain information (including financial and other confidential information) from other persons concerning the person under investigation and the person's associates.
- (4) A person who complies with a requirement of a notice under subsection (3) does not on that account incur a liability to another person.
- (5) A person must not fail to comply with a requirement of the Secretary contained in a notice under subsection (3).

Maximum penalty—20 penalty units.

## 129 Grounds for making complaint

- (1) A complaint in relation to a licensee or close associate may be made to the Authority by any of the following (referred to in this Part as **the complainant**)—
  - (a) the Secretary,
  - (b) the Commissioner of Police,
  - (c) a person authorised by the regulations to make a complaint under this Part.
- (2) A complaint must be in writing and specify the grounds on which it is made.
- (3) The grounds on which a complaint in relation to a licensee or close associate may be made are as follows—
  - (a) that the licensee—
    - (i) has contravened a provision of this Act or the regulations, or
    - (ii) has failed to comply with any requirement under this Act or the regulations that relates to the licensee, or
    - (iii) has been convicted of an offence under this Act or the regulations or of an offence prescribed by the regulations for the purposes of this section,
  - (b) that the hotelier or club has engaged in conduct that has encouraged, or is likely to encourage, the misuse and abuse of gambling activities in the hotel or on the premises of the club concerned,
  - (c) that the hotelier or club has failed to comply with any of the conditions to which an authorisation under Part 5 is subject (including, in the case of a hotelier, the condition that the hotelier comply with the hotel primary purpose test as referred to in section 15 of the *Liquor Act 2007* in respect of the hotel),
  - (d) that the hotelier or club has failed to pay tax within the meaning of the *Gaming Machine Tax Act 2001*, 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,
  - (e) that the gaming-related licensee—
    - (i) has failed to comply with a condition of the gaming-related licence, or
    - (ii) has failed to comply with an order or direction of the Authority, or
    - (iii) has failed to make due payment of a penalty for late payment of a fee in accordance with this Act, or
    - (iv) is no longer a fit and proper person to hold a gaming-related licence,

- (f) that the close associate is (or has become) a close associate of a hotelier or gaming-related licensee while disqualified by the Authority from being a close associate,
- (g) that the close associate is not a fit and proper person to be a close associate of a hotelier or gaming-related licensee,
- (h) that a complaint against a hotelier or gaming-related licensee under this section has been made and that—
  - (i) the close associate knew or ought reasonably to have known that the hotelier or gaming-related licensee was engaging (or was likely to engage) in conduct of the kind to which the complaint relates, and
  - (ii) the close associate failed to take all reasonable steps to prevent the licensee from engaging in conduct of that kind,
- (i) that a person who is interested in the business, or in the conduct or profits of the business, carried on under the gaming-related licence is not a fit and proper person to be so interested,
- (j) that the gaming-related licence has not been exercised in the public interest,
- (k) that the licensee or close associate has failed to comply with a requirement of the Secretary made under section 128 in relation to the investigation of the licensee or close associate.

### **130 Procedure for taking disciplinary action**

- (1) If a complaint in relation to a licensee or close associate is made under this Part, the Authority must, before taking any disciplinary action against the licensee or close associate, notify the licensee or close associate in writing of the grounds on which the Authority is proposing to take disciplinary action.
- (2) Any such notice is to invite the licensee or close associate to show cause, by way of a written submission, as to why the Authority should not take disciplinary action against the licensee or close associate.
- (3) The Authority must also, before taking disciplinary action against a gaming-related licensee, invite written submissions from the following persons—
  - (a) each person named in the written statement referred to in section 91 that accompanied the application for the licence,
  - (b) each person named in the information provided to the Authority (as required by section 118) who has become interested in the business, or the conduct of the business, carried out on the licence.



- (4) The Authority may specify—
  - (a) the time within which a submission under this section may be made, and
  - (b) any other requirements that must be complied with in relation to the making of any such submission.
- (5) If any written submission is made in accordance with this section, the Authority must take the submission into consideration in deciding whether or not to take disciplinary action against the licensee or close associate concerned.

### **131 Disciplinary powers of Authority**

- (1) The Authority may deal with and determine a complaint that is made to it under this Part.
- (2) If the Authority is satisfied that any of the grounds on which the complaint was made apply in relation to the licensee or close associate, the Authority may decide not to take any action or may decide to do any one or more of the following—
  - (a) order the hotelier or gaming-related licensee to pay, within such time as is specified in the order—
    - (i) a monetary penalty not exceeding 500 penalty units (in the case of a corporation) or 200 penalty units (in any other case), or
    - (ii) if circumstances of aggravation exist in relation to the complaint—a monetary penalty not exceeding 1,000 penalty units (in the case of a corporation) or 400 penalty units (in any other case),
  - (b) order the club to pay, within such time as is specified in the order, a monetary penalty not exceeding 2,500 penalty units or, if circumstances of aggravation exist in relation to the complaint, not exceeding 5,000 penalty units,
  - (c) if the ground that applies is any of the grounds referred to in section 129 (3) (a), (b), (c), (d) or (f)—
    - (i) cancel the hotelier's or club's licence under the *Liquor Act 2007* or the gaming-related licence, or
    - (ii) suspend the hotelier's or club's licence under the *Liquor Act 2007* or the gaming-related licence for such period as the Authority thinks fit, or
    - (iii) cancel, suspend or modify any authorisation or approval under this Act for the hotelier or club to keep approved gaming machines, or
    - (iv) disqualify the hotelier or club from keeping approved gaming machines for such period as the Authority thinks fit,

- (d) cancel the gaming-related licensee's licence or suspend the licence for such period as the Authority thinks fit,
  - (e) impose or vary a condition to which the gaming-related licence is subject,
  - (f) disqualify the gaming-related licensee from holding a gaming-related licence for such period as the Authority thinks fit,
  - (g) disqualify the close associate from being a close associate of a licensee for such period as the Authority thinks fit,
  - (h) disqualify the close associate from holding a gaming-related licence for such period as the Authority thinks fit,
  - (i) order the licensee to pay the amount of any costs incurred—
    - (i) by the Secretary in carrying out any investigation or inquiry under section 128 in relation to the licensee or close associate, or
    - (ii) by the Authority in connection with the taking of disciplinary action against the licensee or close associate under this section,
  - (j) reprimand the licensee or close associate.
- (2A) Any monetary penalty or costs ordered to be paid under subsection (2) are payable to the Secretary.
- (3) If the Authority orders a licensee to pay a monetary penalty under this section and the penalty is not paid within the time specified in the order, the Authority may—
- (a) cancel the licence, or
  - (b) suspend the licence until such time as the penalty is paid (or for such other period as the Authority thinks fit).
- (4) While a person is disqualified by the Authority under this section from being a close associate of a gaming-related licensee, the person is conclusively presumed for the purposes of this Act to be a person who is not a fit and proper person to be a close associate of a gaming-related licensee.
- (5) For the purposes of this section, circumstances of aggravation exist in relation to a complaint if any of the following paragraphs applies—
- (a) the complaint alleges that for the reasons specified in the complaint the matter of the complaint is so serious as to warrant the taking of action that is available to the Authority when circumstances of aggravation exist,
  - (b) the Authority, in finding that the matter of the complaint has been made out, is of the opinion (having regard to such matters as the number and seriousness of the

contraventions involved, the number of people involved in the contravention, the seriousness of the outcome of the contravention, or other relevant considerations) that the matter of the complaint is so serious as to warrant the taking of action that is available to the Authority when circumstances of aggravation exist.

**131A Procedure for implementing disciplinary action**

- (1) If the Authority decides to take disciplinary action against a licensee or close associate under this Part, the Authority is required to serve on the licensee or close associate a notice informing the person of the Authority's decision.
- (2) The notice must include the reasons for the Authority's decision.
- (3) Any disciplinary action under this Part takes effect when notice of it is given or on a later date specified in the notice.
- (4) The Authority may, by serving a further notice on the licensee or close associate concerned, cancel a notice under this section before the notice takes effect.
- (5) The Authority is not prevented from taking disciplinary action under this Part merely because the licensee or close associate is subject to criminal or civil proceedings that relate to the same matters or incident to which the disciplinary action relates.

**131B Requirement for legal member of Authority to be present**

The Authority cannot determine any complaint made to it under this Part (including any decision to take any disciplinary action) unless a member of the Authority who is or has been a Judge, or who 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 complaint is determined or the decision to take the action is made.

**131C Administrative review by NCAT of decision by Authority under this Part**

- (1) An application for an administrative review under the *Administrative Decisions Review Act 1997* of a decision by the Authority in relation to a complaint under this Part may be made to the Civil and Administrative Tribunal.
- (2) An application for such a review may be made by—
  - (a) the licensee or person against whom any disciplinary action is taken by the Authority in relation to the complaint, or
  - (b) the complainant.
- (3) Part 2 of Chapter 3 of the *Administrative Decisions Review Act 1997* does not apply to an application to the Civil and Administrative Tribunal for an administrative review of a decision by the Authority under this Part.

## **Part 9 Authorised CMS**

### **132 Meaning of “connected” to an authorised CMS**

- (1) For the purposes of this Part, an approved gaming machine is **connected** to an authorised CMS if information in respect of the gaming machine is provided to the authorised CMS in accordance with arrangements approved by the Minister.
- (2) The arrangements that the Minister approves for the purposes of this section can involve the provision of information by any means, such as, and without limiting the generality of subsection (1), by means of any of the following—
  - (a) the direct provision of information by electronic data transfer,
  - (b) the provision of information by means of the lodgment of reports or returns (whether or not electronically),
  - (c) the provision of information by persons acting as information collectors and processors for hoteliers and clubs.
- (3) Such arrangements may make provision for or with respect to the time within which, and the person to whom, information is to be furnished.
- (4) Different arrangements can be approved under this section in respect of different premises or classes of premises or different approved gaming machines or classes of approved gaming machines.

### **133 Hoteliers and clubs required to connect gaming machines to authorised CMS**

- (1) A hotelier or club must ensure that each approved gaming machine that is kept in the hotel or on the premises of the club is connected to an authorised CMS.

Maximum penalty—100 penalty units.

- (2) A hotelier or club must, to the extent necessary to enable approved gaming machines kept in the hotel or on the premises of the club to be connected to an authorised CMS—
  - (a) permit the employees and agents of the CMS licensee to have access to those gaming machines, and
  - (b) give assistance to the employees and agents of the CMS licensee.

Maximum penalty—100 penalty units.

- (3) The CMS licensee may, if satisfied that an approved gaming machine kept in a hotel or on the premises of a club is not connected to an authorised CMS, request the hotelier or club to take action to ensure that the gaming machine is connected to the CMS.

- (4) The hotelier or club must, within 2 working days of receiving any such request by the CMS licensee, take appropriate action to comply with the request.

Maximum penalty—100 penalty units.

**133A Technicians required to connect gaming machines to authorised CMS**

- (1) A technician who carries out any work on an approved gaming machine in a hotel or on the premises of a club must ensure that the gaming machine is connected to an authorised CMS before the gaming machine is operated for the purposes of gambling.

Maximum penalty—100 penalty units.

- (2) A technician does not commit an offence under subsection (1) if—

(a) it is not practicable in the circumstances for the approved gaming machine to be connected to an authorised CMS, and

(b) the technician records the following details in a certificate (referred to as a **CMS connectivity certificate**) that is in the form approved by the Secretary—

(i) the gaming machine concerned,

(ii) the reason why it cannot be connected for the time being to an authorised CMS,

(iii) the person who has the responsibility for ensuring its connection to an authorised CMS.

- (3) If any such details are recorded in a CMS connectivity certificate by a technician in relation to an approved gaming machine in a hotel or on the premises of a club, the hotelier or club must—

(a) keep a copy of the certificate in the hotel or on the premises of the club, and

(b) if requested to do so by an inspector, produce the copy for inspection by the inspector.

Maximum penalty—10 penalty units.

- (4) A technician must not record any details in a CMS connectivity certificate if the technician does so knowing that those details are false or misleading.

Maximum penalty—100 penalty units.

- (5) (Repealed)

**134 Monitoring fee payable by hoteliers and clubs to CMS licensee**

- (1) A hotelier or club must pay a monitoring fee in respect of each approved gaming machine that—

- (a) is kept in the hotel or on the premises of the club, and
- (b) is connected to an authorised CMS.

Maximum penalty—100 penalty units.

(2) The monitoring fee is payable by the hotelier or club concerned—

- (a) in accordance with such arrangements (eg by way of electronic transfer from a nominated account) as may be made between the hotelier and the CMS licensee, or between the club and the CMS licensee, or
- (b) if no such arrangements are made, in accordance with such other arrangements as may be approved by the Authority.

(3) The amount of any fee payable under this section is to be determined by the Minister in consultation with the Treasurer.

(4) The CMS licensee is entitled to recover any unpaid monitoring fee as a debt from the person (including a former hotelier) who is or was liable to pay that fee.

### **135 Operation of authorised CMS**

A CMS licensee who operates an authorised CMS is guilty of an offence if the CMS is operated in contravention of a requirement made under this Act, the regulations or the conditions of the licence.

Maximum penalty—100 penalty units.

### **136 Grant of CMS licence**

(1) The Minister may, after considering an application under Part 12 for a CMS licence—

- (a) grant a CMS licence to the applicant, or
- (b) refuse to grant a licence.

(2) A CMS licence granted under this section—

- (a) comes into force on the day on which it is granted or on such later date as may be specified in, or determined in accordance with, the CMS licence, and
- (b) remains in force for the term specified in the CMS licence unless sooner cancelled or surrendered, and
- (c) may be granted on the basis that no other CMS licence will be granted during the term of the licence, and
- (d) is subject to such conditions as may be imposed by or under this Act or the regulations or are specified in the CMS licence.

- (3) A CMS licence granted on the basis referred to in subsection (2) (c) is referred to in this section as an ***exclusive CMS licence***.
- (4) The Minister may not grant a CMS licence under this section in relation to any period in which an exclusive CMS licence is in force.
- (5) A CMS licence may be granted to 1 person or 2 or more persons jointly.
- (6) Without limiting subsection (2) (a), a CMS licence may provide that the licence comes into force on or after the day on which specified criteria have been satisfied.

### **136A Eligibility for grant of licence**

- (1) The Minister must not grant a CMS licence to an applicant unless the Minister is satisfied that the applicant is a suitable person to be concerned in or associated with the management and operation of a CMS.
- (2) Without limiting the matters that may be considered by the Minister in determining whether an applicant is a suitable person to be concerned in or associated with the management and operation of a CMS, the Minister is to consider whether—
  - (a) the applicant is of good repute, having regard to character, honesty and integrity, and
  - (b) the applicant has a sound and stable financial background, and
  - (c) in the case of an applicant who is not a natural person, the applicant has arranged a satisfactory ownership, trust or corporate structure, and
  - (d) the applicant has, or is able to obtain the services of persons who have, sufficient commercial and technical experience to manage and operate a CMS, and
  - (e) the applicant, or any close associate of the applicant, has any business association with a person, body or association that, in the opinion of the Minister, is not of good repute having regard to character, honesty and integrity or has undesirable or unsatisfactory financial sources, and
  - (f) each director, partner, executive officer, secretary or other executive officer associated or connected with the ownership, administration or management of the business of the applicant that is to be carried on under the authority of the CMS licence is a suitable person in his or her capacity as such.

### **136B General conditions of CMS licence**

Without limiting the conditions to which a CMS licence may be subject, a CMS licence is subject to the following conditions—

- (a) the CMS licensee must manage and operate the authorised CMS in accordance with this Act, the regulations and the CMS licence,

- (b) the CMS licensee must not use CMS infrastructure or CMS information otherwise than in accordance with this Act, the regulations or the CMS licence,
- (c) the CMS licensee must provide any mandatory ancillary CMS services,
- (d) the CMS licensee must not carry out any approved ancillary CMS service otherwise than in accordance with the conditions of the approval,
- (e) the CMS licensee must have policies in place to comply with such information protection principles under the [Privacy and Personal Information Protection Act 1998](#) (in relation to business operations to be carried out by the applicant pursuant to the CMS licence) as would apply to the licensee if the licensee were a public sector agency under that Act.

### **136C Mandatory ancillary CMS services**

- (1) The Minister may, by notice in writing, direct a CMS licensee to provide additional specified services in relation to the management and operation of the authorised CMS or the use of CMS infrastructure or CMS information.
- (2) The Minister may only give a direction to a CMS licensee under subsection (1) after—
  - (a) providing the licensee with a draft of the proposed direction at least 60 days before giving the direction, and
  - (b) inviting the licensee to provide submissions in relation to the proposed direction, and
  - (c) considering any written submissions provided by the licensee in relation to the proposed direction (within 14 days after providing the proposed direction to the licensee).
- (3) A direction under this section may make provision for or with respect to the following—
  - (a) the terms and conditions applicable to the provision of the mandatory ancillary CMS service,
  - (b) the use of CMS infrastructure or CMS information,
  - (c) the period during which the mandatory ancillary CMS service is to be provided,
  - (d) the payment of fees in relation to the provision of the mandatory ancillary CMS service,
  - (e) the persons to whom the mandatory ancillary CMS service is to be provided,
  - (f) the terms of any agreement between the CMS licensee and any other person in relation to the provision of the mandatory ancillary CMS service,



(g) any other matter prescribed by the regulations.

(4) The Minister may—

- (a) amend a direction given under this section by giving a subsequent direction in accordance with this section, or
- (b) revoke a direction given under this section by notice in writing to the CMS licensee.

(5) In determining whether to give a direction under this section, the Minister may consult with such persons as the Minister thinks fit.

### **136D Approved ancillary CMS services**

- (1) The Minister may, on application by a CMS licensee, approve the provision of additional services by the CMS licensee in relation to the management and operation of an authorised CMS or the use of CMS infrastructure or CMS information.
- (2) If the Minister receives an application under this section, the Minister is to—
  - (a) provide a draft determination to the CMS licensee not more than 60 days after the receipt of the application either rejecting the application or approving the proposed service, and
  - (b) invite the licensee to provide submissions in relation to the draft determination, and
  - (c) consider any written submissions provided by the licensee in relation to the draft determination (within 14 days after providing the draft determination to the licensee), and
  - (d) provide reasons for the draft determination.
- (3) An approval under this section may make provision for or with respect to the following—
  - (a) the terms and conditions applicable to the provision of the approved ancillary CMS service,
  - (b) the use of CMS infrastructure or CMS information,
  - (c) the period that the approved ancillary CMS service may be provided,
  - (d) the payment of fees in relation to the provision of the approved ancillary CMS service,
  - (e) the persons to whom the approved ancillary CMS service may be provided,
  - (f) the terms of any agreement between the CMS licensee and any other person in

relation to the provision of the approved ancillary CMS service,

(g) any other matter prescribed by the regulations.

(4) The Minister is, as soon as practicable after approving under this section additional services by the CMS licensee, to cause a copy of the approval—

(a) to be published in the Gazette, and

(b) to be laid before both Houses of Parliament.

(5) If the Minister has not made a determination in relation to an application under this section within 60 days after providing the draft determination—

(a) the Minister may, by notice to the CMS licensee, extend the time for determining the application by 20 days, and

(b) if the Minister does not extend the time under paragraph (a), the Minister is taken to have refused the application.

(6) A determination of the Minister to grant or refuse an application under this section must include reasons for the determination.

(7) In determining whether to approve an application under this section, the Minister may—

(a) require the CMS licensee to provide further information in relation to the applicant, and

(b) consult with such persons as the Minister thinks fit.

**136E Confidential information relating to CMS licensee**

(1) A CMS licensee or person applying for a CMS licence may, when providing information to the Minister in connection with a CMS licence, claim that the information is confidential if there are sufficient grounds for such a claim.

(2) There are sufficient grounds for a claim that information is confidential only if it appears that disclosure of the information—

(a) could adversely affect the competitive position of the licensee, applicant or any other person, or

(b) would result in the licensee or applicant being in breach of a duty of confidentiality owed to another person.

(3) A claim that information is confidential must be accompanied by a detailed statement of the reasons in support of the claim and is not duly made unless accompanied by such a statement.

- (4) The Minister must take all reasonable steps to prevent the disclosure of information that is claimed to be confidential unless the disclosure is authorised by this section.
- (5) The disclosure of information that is claimed to be confidential is authorised if—
  - (a) the disclosure is for the purposes of the administration of this Act to a person engaged in the administration of this Act, or
  - (b) the disclosure is made with the consent of the person who provided the information and (if disclosure could adversely affect the competitive position of another person) that other person, or
  - (c) the disclosure is authorised or required under any other Act or law, or
  - (d) the disclosure is authorised or required by a court, or
  - (e) the disclosure is, in the opinion of the Minister, in the public interest and the Minister is of the opinion that the public benefit in disclosing the information outweighs any detriment that might be suffered by any person as a result of the disclosure.
- (6) This section does not prevent the disclosure of information that is claimed to be confidential if—
  - (a) the Minister is of the opinion that there are insufficient grounds for the claim and the Minister has notified the Minister's opinion to the person who provided the information, or
  - (b) the Minister is of the opinion that the information is CMS information, or
  - (c) the disclosure is made to a person or body prescribed by the regulations.
- (7) A disclosure of information authorised by this section does not constitute a breach of any duty of confidentiality (either by the person making the disclosure or by the CMS licensee).
- (8) In this section, information is provided ***in connection with a CMS licence*** if the information is provided in connection with any of the following—
  - (a) an application for a CMS licence,
  - (b) activities authorised by a CMS licence,
  - (c) a direction to provide a mandatory ancillary CMS service,
  - (d) an application to provide an approved ancillary CMS service.

### **136F Review of suitability of licensee**

- (1) The Minister may from time to time determine whether, in the opinion of the Minister,

a CMS licensee remains a suitable person to be concerned in or associated with the management and operation of a CMS.

- (2) For the purpose of determining whether a person is a suitable person to be concerned in or associated with the management and operation of a CMS, the Minister is to have regard to the same matters to which the Minister is required to have regard in deciding whether an applicant is a suitable person to be granted a CMS licence.
- (3) The Minister may require a CMS licensee to pay to the Minister such reasonable costs as may be incurred by or on behalf of the Minister in conducting any inquiry or investigation for the purposes of a determination under this section.
- (4) It is a condition of a CMS licence that the CMS licensee must—
  - (a) provide such information (including necessary consents to facilitate the provision of information) as the Minister may reasonably request for the purposes of making a determination under this section, and
  - (b) pay the costs that the Minister requires the CMS licensee to pay under this section in connection with any inquiry or investigation conducted for the purposes of making a determination under this section.
- (5) The Minister may recover from a CMS licensee (as a debt due to the Crown) any costs that the Minister has required the CMS licensee to pay under this section.
- (6) The Minister may give a certificate as to the amount of the reasonable costs incurred by or on behalf of the Minister in conducting any inquiry or investigation for the purposes of a determination under this section, and such a certificate is, in any proceedings, evidence of the matter certified.

**137 (Repealed)**

**138 Alterations of conditions of CMS licence**

- (1) The Minister may, while a CMS licence is in force, alter the conditions of the licence by imposing an additional condition or by amending, substituting or revoking a condition.
- (2) The Minister must not make an alteration under this section unless the Minister—
  - (a) has given the CMS licensee notice, in writing, setting out the terms of the proposed alteration and inviting the licensee to make representations to the Minister, within the period specified in the notice, concerning the proposed alteration, and
  - (b) has, after the end of that period, considered any representations so made by or on behalf of the licensee.
- (3) An alteration under this section takes effect—

- (a) on the day that is 7 days after the day on which a notice advising the licensee of the alteration is given to the licensee by the Minister, or
  - (b) if a later day is specified in the notice—on that day.
- (4) Subsections (2) and (3) do not apply to an alteration made at the request of a licensee. Such an alteration takes effect on the day specified in the notice advising of the alteration that is given by the Minister to the licensee.

### **139 Rights associated with and control of CMS information**

- (1) All rights associated with CMS information are vested in the Crown.
- (2) A CMS licensee must not use or divulge CMS information to any person without the written consent of the Minister or as otherwise authorised in accordance with the CMS licence, this Act or the regulations.

Maximum penalty—100 penalty units.

- (3) A person to whom CMS information is divulged by the CMS licensee must not use or divulge CMS information otherwise than in accordance with this Act, the regulations or any terms or conditions under which the information was provided to the person.

Maximum penalty—50 penalty units.

- (4) If a person who is in possession of CMS information divulges that information to another person, the information provided to that other person is subject to—
- (a) the same terms and conditions to which the person divulging the information was subject, and
  - (b) such additional terms and conditions as may be imposed by the person divulging the information.
- (5) Despite subsection (2), a CMS licensee may, during the term of the CMS licence, use CMS information for the purposes of the operation and management of the authorised CMS.

### **140 Unlawful interference with authorised CMS**

- (1) A person must not—
- (a) possess any device or equipment made or adapted, or intended by the person to be used, for interfering with the normal operation of an authorised CMS, or
  - (b) do anything that is calculated, or is likely, to interfere with the normal operation of an authorised CMS.

Maximum penalty—100 penalty units.

- (2) Subsection (1) does not apply to or in respect of the possession of any device or equipment, or to anything done in good faith, in connection with the installation, alteration, adjustment, maintenance or repair of an authorised CMS by—
- (a) the CMS licensee who is operating the authorised CMS, or
  - (b) a technician, or
  - (c) any other person approved by the CMS licensee.
- (3) A person must not gain, whether personally or for another person, an advantage in the operation of an approved gaming machine that is connected to an authorised CMS as the result of knowing about any faulty or fraudulent computer programming in relation to the CMS.

Maximum penalty—100 penalty units.

- (4) A person must not authorise or permit another person to act in a way that is an offence under another provision of this section.

Maximum penalty—100 penalty units.

#### **140A Protection from personal liability**

Anything done or omitted to be done by a person who is an employee of the CMS licensee in exercising the functions conferred or imposed on the person by or under this Act, or in the course of the administration of this Act, does not, if it was done or omitted to be done in good faith, subject the person personally to any action, liability, claim or demand.

## **Part 10 Linked gaming systems**

### **Division 1 Preliminary**

#### **141 Definitions**

In this Part—

***authorised inter-club linked gaming system*** means a linked gaming system that—

- (a) is operated under the authority of an inter-club links licence, and
- (b) has been authorised by the Minister to be installed on the premises of a club in accordance with such requirements as may be prescribed by the regulations.

***authorised inter-hotel linked gaming system*** means a linked gaming system that—

- (a) is operated under the authority of an inter-hotel links licence, and
- (b) has been authorised by the Minister to be installed in a hotel in accordance with such requirements as may be prescribed by the regulations.

**exclusive licence period** means the period ending 15 years after a date declared by the Minister by order published in the Gazette to be the operative date for the purposes of this Part.

**Editorial note—**

Date declared as the operative date for the inter-club linked gaming system licence: 17.10.2002. See Gazette No 201 of 1.11.2002, p 9411.

Date declared as the operative date for the inter-hotel linked gaming system licence: 7.10.2004. See Gazette No 162 of 15.10.2004, p 8017.

**licensee** means the holder of a links licence.

**linked gaming system** means a system in which 2 or more specially approved gaming machines are linked electronically to contribute a percentage of the money wagered on the gaming machines to a separate jackpot pool, and includes any communications network, infrastructure and equipment that is subsidiary to, or used in connection with, the system.

**operate** a linked gaming system includes supply, organise or manage the linked gaming system.

**participating club** means a club whose premises are part of an authorised inter-club linked gaming system.

**participating hotelier** means a hotelier whose hotel is part of an authorised inter-hotel linked gaming system.

**specially approved gaming machine** means an approved gaming machine that—

- (a) complies with the guidelines issued by the Minister for linked gaming systems, and
- (b) is of a class of approved gaming machines specially approved by the Authority for the purposes of this Part.

## 142 Operation of Part

- (1) The provisions of this Part prevail to the extent of any inconsistency with any other provision of this Act.
- (2) Without limiting subsection (1), a provision of this Act that would, but for this section, prevent—
  - (a) the supply, under the authority of a links licence, of any approved gaming machine or equipment necessary or ancillary to the operation of a linked gaming system, or
  - (b) financing of the acquisition, by a hotelier or club, of any such approved gaming machine or equipment, or

(c) the possession by a licensee of any such approved gaming machine or equipment, or

(d) any other activity authorised by a links licence or prescribed by the regulations to be ancillary to an activity so authorised,

does not operate to prevent it.

(3) The regulations may make provision for the conditional or unconditional exemption of hoteliers or clubs from any specified provisions of this Act or the regulations that would otherwise prevent the carrying on by a licensee of an activity referred to in subsection (2).

## **Division 2 Inter-hotel linked gaming systems**

### **143 Division does not apply to intra-hotel linked gaming systems**

This Division applies in relation to a linked gaming system operated in a hotel only if the linked gaming system includes a specially approved gaming machine that is kept and operated in another hotel.

### **144 Keeping of gaming machines in linked gaming system**

- (1) If an approved gaming machine in a hotel is kept and operated as part of a linked gaming system that is not an authorised inter-hotel linked gaming system, section 7 does not apply to the keeping and operation of the gaming machine.
- (2) The fact that an authorised inter-hotel linked gaming system extends beyond the premises of particular hotel does not mean that an approved gaming machine that is part of the linked gaming system and operated in the hotel is not an approved gaming machine in the hotel.

### **145 Requirement for licence to operate inter-hotel linked gaming system**

- (1) A person must not operate a linked gaming system in a hotel unless the person is the holder of an inter-hotel links licence authorising the person to operate the linked gaming system.

Maximum penalty—100 penalty units.

- (2) A person does not commit an offence under this section if the person is only carrying out activities involving the preliminary development and testing of a linked gaming system and those activities have been approved by the Minister.

### **146 Unlawful operation of inter-hotel linked gaming system by licensee**

A licensee who operates a linked gaming system in a hotel is guilty of an offence if the linked gaming system is operated in contravention of a requirement made under this Act, the regulations or the conditions of the licence.



Maximum penalty—100 penalty units.

#### **147 Exclusive inter-hotel linked gaming system licence during exclusive licence period**

- (1) The **exclusive inter-hotel links licence** is the inter-hotel links licence in force under section 153 immediately before the repeal and re-enactment of this section by the [Gaming Machines Amendment Act 2004](#).
- (2) The exclusive inter-hotel links licence is the only inter-hotel links licence that can be granted under section 153 to be in force during the exclusive licence period.
- (3) Subsection (2) ceases to apply if the exclusive inter-hotel links licence is cancelled or surrendered in accordance with this Act or otherwise ceases to be in force.
- (4) The exclusive inter-hotel links licence may be transferred only—
  - (a) with the written consent of the Minister, and
  - (b) subject to such terms and conditions as the Minister may determine and specify in writing.
- (5) Nothing in any other Act prevents the holder for the time being of the exclusive inter-hotel links licence from operating a linked gaming system in a hotel under the authority of that licence, or from carrying out any of its functions as a licensee.
- (6) Nothing in this section is intended to prevent any holder (or former holder) of the exclusive inter-hotel links licence or any other person (assuming that they are otherwise qualified) from applying for and being granted an inter-hotel links licence in respect of any period after the exclusive licence period.

### **Division 3 Inter-club linked gaming systems**

#### **148 Linked gaming systems to which Division applies**

This Division applies in relation to a linked gaming system operated on the premises of a club only if the linked gaming system includes a specially approved gaming machine kept and operated on the premises of another club or, in the case of a club that has more than one set of premises, on any of its other premises.

#### **149 Keeping of gaming machines in linked gaming system**

- (1) If an approved gaming machine on the premises of a club is kept and operated as part of a linked gaming system that is not an authorised inter-club linked gaming system, section 7 does not apply to the keeping and operation of the approved gaming machine.
- (2) The fact that an authorised inter-club linked gaming system extends beyond the premises of a club does not mean that an approved gaming machine that is part of

the linked gaming system and operated on the premises is not an approved gaming machine on the premises.

#### **150 Requirement for licence to operate inter-club linked gaming system**

- (1) A person must not operate a linked gaming system on the premises of a club unless the person is the holder of an inter-club links licence authorising the person to operate the linked gaming system.

Maximum penalty—100 penalty units.

- (2) A person does not commit an offence under this section if the person is only carrying out activities involving the preliminary development and testing of a linked gaming system and those activities have been approved by the Minister.

#### **151 Unlawful operation of inter-club linked gaming system by licensee**

A licensee who operates a linked gaming system on the premises of a club is guilty of an offence if the linked gaming system is operated in contravention of a requirement made under this Act, the regulations or the conditions of the licence.

Maximum penalty—100 penalty units.

#### **152 Exclusive inter-club linked gaming system licence during exclusive licence period**

- (1) The **exclusive inter-club links licence** is the inter-club links licence in force under section 153 immediately before the repeal and re-enactment of this section by the [Gaming Machines Amendment Act 2004](#).
- (2) The exclusive inter-club links licence is the only inter-club links licence that can be granted under section 153 to be in force during the exclusive licence period.
- (3) Subsection (2) ceases to apply if the exclusive inter-club links licence is cancelled or surrendered in accordance with this Act or otherwise ceases to be in force.
- (4) The exclusive inter-club links licence may be transferred only—
  - (a) with the written consent of the Minister, and
  - (b) subject to such terms and conditions as the Minister may determine and specify in writing.
- (5) Nothing in any other Act prevents the holder for the time being of the exclusive inter-club links licence from operating a linked gaming system on the premises of a club under the authority of that licence, or from carrying out any of its functions as a licensee.
- (6) Nothing in this section is intended to prevent any holder (or former holder) of the exclusive inter-club links licence or any other person (assuming that they are

otherwise qualified) from applying for and being granted an inter-club links licence in respect of any period after the exclusive licence period.

## **Division 4 General provisions**

### **153 Granting of links licences**

- (1) The Minister may, after considering an application under Part 12 for a links licence—
  - (a) grant a links licence to the person making the application, or
  - (b) refuse to grant a links licence.
- (2) The Minister may grant a links licence subject to any conditions determined by the Minister and specified in the links licence.
- (2A) Any subsidiary equipment to be used in connection with a linked gaming system that has, under the terms of the links licence, been approved by the Minister is taken to be subsidiary equipment approved by the Authority for that purpose.
- (3), (4) (Repealed)
- (5) In deciding whether to grant a links licence, the Minister may have regard to the following matters—
  - (a) the need to balance the public interest with private sector commercial interests,
  - (b) whether the integrity and regularity of the operation of the linked gaming system can be ensured,
  - (c) the need to provide flexibility in respect of commercial gaming activities,
  - (d) the need to provide equal opportunities for hotels, or for clubs, to participate in the linked gaming system concerned, including those hotels or club premises situated in remote areas.
- (6) Subsection (5) does not limit the factors that the Minister may take into account in determining whether or not to grant a links licence.
- (7) A links licence may be granted to one person or 2 or more persons jointly.

### **154 Conditions of links licences**

- (1) The conditions of a links licence may include, in addition to any other conditions referred to in this Part, conditions relating to the following—
  - (a) in the case of a links licence authorising an inter-hotel linked gaming system—the number of participating hoteliers involved in the linked gaming system,
  - (b) in the case of a links licence authorising an inter-club linked gaming system—the

- number of participating clubs involved in the linked gaming system,
- (c) the number of approved gaming machines that may be part of the linked gaming system concerned,
  - (d) the minimum and maximum amounts of jackpot prizes to be paid in connection with the linked gaming system,
  - (e) the financial arrangements with respect to jackpot prize pools and the establishment by the licensee of a special account relating to jackpot prize pools,
  - (f) the furnishing of information, whether in the form of statements, returns or otherwise, by the licensee to the Minister relating to the operation of the linked gaming system (including the operating costs and other costs incurred by the licensee in operating the linked gaming system),
  - (g) the times at which, and the form in which, the information required under paragraph (f) must be furnished to the Minister,
  - (h) the auditing of the financial records of the licensee relating to the operation of the linked gaming system (including records of the operating costs and other costs incurred by the licensee in operating the linked gaming system),
  - (i) the approval by the Minister of contracts or arrangements, entered into by the licensee, for the purpose of operating the linked gaming system,
  - (j) the approval by the Minister of persons engaged in the repair or maintenance of any equipment used in relation to the operation of the linked gaming system,
  - (k) the security requirements in respect of the linked gaming system,
  - (l) any other matters that the Minister thinks fit or that may be prescribed by the regulations.
- (2) A links licence may make provision for advice to be furnished to the Minister in connection with the exercise of the Minister's functions under this Part.

### **155 Alteration of conditions of links licences**

- (1) The Minister may, while a links licence is in force, alter the conditions of the licence by imposing an additional condition or by amending, substituting or revoking a condition.
- (2) An alteration may not be made under this section unless the Minister—
  - (a) has given the licensee notice, in writing, setting out the terms of the proposed alteration and inviting the licensee to make representations to the Minister, within the period specified in the notice, concerning the proposed alteration, and
  - (b) has, after the end of that period, considered any representations so made by or on

behalf of the licensee.

- (3) An alteration under this section takes effect—
  - (a) on the day that is 7 days after the day on which a notice advising the licensee of the alteration is given to the licensee by the Minister, or
  - (b) if a later day is specified in the notice—on that day.
- (4) Subsections (2) and (3) do not apply to an alteration made at the request of a licensee. Such an alteration takes effect on the day specified in the notice advising of the alteration that is given by the Minister to the licensee.

### **156 Unlawful interference with authorised linked gaming systems**

- (1) A person must not—
  - (a) possess any equipment that is made or adapted, or intended by the person to be used, for interfering with the normal operation of an authorised linked gaming system (including any approved gaming machine that is part of the system), or
  - (b) do anything calculated, or likely, to interfere with the normal operation of an authorised linked gaming system (including any approved gaming machine that is part of the system), or
  - (c) do anything calculated to render an approved gaming machine that is part of an authorised linked gaming system incapable, even temporarily, of producing a winning combination.
- (2) Subsection (1) does not apply to or in respect of the possession of any equipment, or to anything done in good faith, in connection with the installation, alteration, adjustment, maintenance or repair of an authorised linked gaming system by—
  - (a) the licensee who is operating the authorised linked gaming system, or
  - (b) a technician, or
  - (c) any other person approved by the licensee.
- (3) A person must not, with intent to dishonestly obtain money or a financial advantage for himself or herself or another person, insert in an approved gaming machine that is part of an authorised linked gaming system anything other than—
  - (a) a coin or token of the denomination or type displayed on the gaming machine as that to be used to operate the machine, or
  - (b) a bank note of a denomination approved by the Authority for use in order to operate the gaming machine, or

(c) a card of a type approved by the Authority for use in order to operate the gaming machine.

- (4) A person must not gain, whether personally or for another person, an advantage in the operation of an approved gaming machine that is part of an authorised linked gaming system as the result of knowing about any faulty or fraudulent computer programming in relation to the system.
- (5) A person must not authorise or permit another person to act in a way that is an offence under another provision of this section.

Maximum penalty—100 penalty units.

#### **156A Stand alone play on gaming machines that are part of linked gaming system**

- (1) A participating hotelier or participating club must not permit an approved gaming machine that is part of an authorised linked gaming system to be used for the purposes of gambling during any period that the linked gaming system is not in operation in the hotel or club premises concerned.

Maximum penalty—100 penalty units.

- (2) Subsection (1) does not apply—

- (a) in such circumstances as may be approved by the Minister, and
- (b) if the gaming machine is operated in accordance with that approval.

- (3) If an approved gaming machine that is part of an authorised linked gaming system ceases to operate as part of the system for any period (whether or not the system itself is in operation), the participating hotelier or participating club concerned must not permit the approved gaming machine to be used for the purposes of gambling during that period.

Maximum penalty—100 penalty units.

#### **157 Illegal advantage with respect to linked gaming systems**

- (1) A person must not, during the design, manufacture, assembly, installation, maintenance or repair of an authorised linked gaming system, dishonestly make provision to gain an advantage (whether or not for another person) in the operation of the linked gaming system.
- (2) A person who, as a result of gross negligence during the design, manufacture, assembly, installation, maintenance or repair of an authorised linked gaming system, makes provision to gain an advantage (whether or not for another person) in the operation of the linked gaming system is guilty of an offence.
- (3) A person must not do anything to an authorised linked gaming system in order to

conceal anything that is an offence under subsection (1) or (2).

- (4) A person must not authorise or permit another person to act in a way that is an offence under another provision of this section.

Maximum penalty—100 penalty units.

### **158 Removal of linked gaming system from hotels or clubs**

- (1) A person (including a participating hotelier or participating club) must not, without the consent of the Minister, remove, or cause to be removed, an authorised linked gaming system that has been installed in a hotel or on the premises of a club.

Maximum penalty—100 penalty units.

- (2) Subsection (1) does not apply to—

- (a) the licensee who is operating the authorised linked gaming system, or  
(b) a person approved by the licensee to remove the linked gaming system.

### **158A Technicians required to reconnect to authorised linked gaming system**

If a technician carries out any work on an authorised linked gaming system in a hotel or on the premises of a club, the technician must, after completing that work, ensure—

- (a) that all components of the system are properly connected to the linked gaming system, and  
(b) that the linked gaming system and its components are operating properly.

Maximum penalty—100 penalty units.

## **Part 11**

### **159-165 (Repealed)**

## **Part 12 General provisions relating to CMS and links licences**

### **166 Definitions**

In this Part—

**licence** means—

- (a) a CMS licence, or  
(b) a links licence, or  
(c) (Repealed)

**licensee** means the holder of a licence.

### **167 Applications for licences**

- (1) An application for a licence must—
  - (a) be in the form approved by the Minister, and
  - (b) be accompanied by such information as the Minister requires, and
  - (c) be accompanied by the fee prescribed by the regulations.
- (2) An application for a licence may not be made by—
  - (a) a person who is under 18 years of age, or is within a class of persons prescribed by the regulations as being ineligible to apply for a licence, or
  - (b) a person who is disqualified from holding a gaming-related licence, or
  - (c) a person who is the holder of a suspended gaming-related licence.

### **168 Consideration and fees for CMS licence or links licences**

- (1) The Minister may determine that an amount is payable as consideration for the grant of a CMS licence or links licence. Different amounts may be determined for different licences.
- (2) The Minister may determine a periodic licence fee for a CMS licence or links licence. Any such fee is payable in accordance with the regulations.
- (3) The Minister can accept payment of an amount of consideration payable under this section by payment in money or by the issue of shares.
- (4) A CMS licence or links licence for which an amount of consideration has been determined to be payable under this section is not to be granted until the amount has been paid or arrangements satisfactory to the Minister have been made for its payment.
- (5) The regulations may make provision for or with respect to any fee payable under this section and in particular may provide for any of the following—
  - (a) the periods in respect of which a fee is payable,
  - (b) times for payments of fees,
  - (c) payment by instalments,
  - (d) penalties for late payment,
  - (e) suspension or cancellation of a licence for failing to pay a fee,
  - (f) the circumstances in which a fee (or part of a fee) may be refunded.



### **169 Competition and Consumer Act 2010 (Cth) exemption for exclusive licences**

- (1) The following conduct is specifically authorised by this Act for the purposes of the *Competition and Consumer Act 2010* of the Commonwealth and the *Competition Code of New South Wales*—
  - (a) the grant of an exclusive licence under Part 9 or 10,
  - (b) conduct authorised or required by or under the terms or conditions of any such exclusive licence.
- (2) Conduct authorised by subsection (1) is authorised only to the extent (if any) that it would otherwise contravene Part IV of the *Competition and Consumer Act 2010* of the Commonwealth and the *Competition Code of New South Wales*.

### **170 No proprietary right in licences**

- (1) A licence confers no right of property and is incapable of being assigned or mortgaged, charged, leased or otherwise encumbered.
- (2) Despite subsection (1), a licence is capable of being transferred in accordance with section 147 (4) or 152 (4), as the case may be.

### **171 Term of licences**

A licence remains in force for the period for which it is granted, as specified in the licence, unless sooner cancelled or surrendered.

### **172 Disciplinary action against licensees**

- (1) For the purposes of this Part—

***disciplinary action*** means any one or more of the following actions in relation to a licence—

- (a) the cancellation or suspension of the licence,
  - (b) the imposition on the licensee of a monetary penalty (not exceeding \$1,000,000),
    - (b1) in the case of a CMS licence—the imposition on the licensee of a monetary penalty (not exceeding the amount prescribed by the regulations) and, in the case of a continuing contravention, a further penalty (not exceeding the amount prescribed by the regulations) for each day the contravention continues,
  - (c) the alteration of the conditions of the licence by the Minister,
  - (d) the service of a letter of reprimand by the Minister on the licensee.
- (2) If a licensee—

- (a) contravenes a provision of this Act or the regulations, or
- (b) fails to comply with any requirement under this Act or the regulations that relates to the licensee, or
- (c) in the case of a CMS licensee—fails to comply with any requirement under the *Gaming Machine Tax Act 2001* that relates to the licensee, or
- (c1) in the case of a CMS licensee—ceases to be a suitable person to be concerned in or associated with the management and operation of a CMS, or
- (c2) in the case of a CMS licensee who holds a CMS licence that is not in force—
  - (i) is, in the opinion of the Minister, unlikely to satisfy any criteria for the licence to come into force within a reasonable time, or
  - (ii) fails to comply with any arrangements made for the payment of the amount payable as consideration for the grant of a CMS licence under section 168, or
- (d) fails to comply with a condition of the licence, or
- (e) being a natural person—
  - (i) becomes bankrupt, applies to take the benefit of any law for the relief of bankrupt or insolvent debtors, compounds with his or her creditors or makes an assignment of his or her remuneration for their benefit, or
  - (ii) becomes an incapacitated person and incapable of carrying on the activities authorised by the licence in accordance with this Act, or
  - (iii) is convicted of an offence involving fraud or dishonesty, or
- (f) being a corporation—
  - (i) enters into or authorises a dealing with or in respect of shares of, or other instruments issued by, the corporation without the consent in writing of the Minister that, in the opinion of the Minister, affects the control of the corporation, or
  - (ii) becomes an externally administered corporation within the meaning of the *Corporations Act 2001* of the Commonwealth, or
  - (iii) fails to terminate promptly the employment of a person concerned in the management of the licensee who is convicted of an offence involving fraud or dishonesty,

the Minister may serve on the licensee a notice in writing giving the licensee an opportunity to show cause within 14 days (or such longer period as the Minister may specify in the notice) why disciplinary action should not be taken against the licensee

on the grounds specified in the notice.

**Note—**

Section 174A provides for the cancellation of a CMS licence in extraordinary circumstances without giving the licensee an opportunity to show cause why disciplinary action should not be taken against the licensee.

- (2A) Despite subsection (2), the Minister may serve a letter of reprimand on a CMS licensee on any of the grounds referred to in that subsection without giving the licensee an opportunity to show cause why that action should not be taken against the licensee.
- (3) The licensee may, within the period allowed by the notice, arrange with the Minister for the making of submissions to the Minister as to why disciplinary action should not be taken and the Minister is to consider any submissions so made.
- (4) The Minister may then decide that it is appropriate that certain disciplinary action be taken against the licensee and may—
- (a) take that disciplinary action, or
  - (b) take action under section 173, or
  - (c) in the case of a CMS licensee, take both that disciplinary action and action under section 173.
- (5) To the extent that this section authorises disciplinary action to be taken in relation to an offence committed by the licensee or another person, such action may be taken against the licensee whether or not the licensee or person has been prosecuted, convicted or penalised for the offence.
- (6) Disciplinary action takes effect when notice of it is given in writing or on a later date specified in the notice.
- (7) The fact that disciplinary action is taken by the Minister under this section does not prevent the Minister from taking the same or other disciplinary action under this section if the contravention continues or a fresh contravention occurs.
- (8) A monetary penalty imposed under this section may be recovered as a debt due to the Crown in a court of competent jurisdiction.

**173 Rectification orders**

- (1) As an alternative to taking disciplinary action against a licensee, the Minister may direct the licensee in writing to take specified action within a specified time to rectify the matter that constitutes the basis for taking disciplinary action.
- (2) If a licensee fails to take the specified action within the specified time, the Minister may proceed to take disciplinary action in accordance with section 172.

- (3) The Minister may direct a CMS licensee to take specified action within a specified time to rectify the matter that constitutes the basis for taking disciplinary action under section 172 whether or not the Minister has also taken disciplinary action under that section.

#### **174 Temporary suspension of licences**

- (1) The Minister may take action under this section, without prior notice to a licensee, in order to secure compliance by a licensee with a direction given to the licensee in accordance with the regulations.
- (2) If the Minister considers it necessary or expedient for the purposes of this section, the Minister may, by notice, suspend a licence—
  - (a) until a date specified in the notice of suspension, or
  - (b) if the notice so specifies—until the Minister, being satisfied that the relevant direction has been complied with, further notifies the licensee.

#### **174A Suspension or cancellation of CMS licence in extraordinary circumstances**

- (1) Despite any other provision in this Part, the Minister may, by notice in writing to a CMS licensee, cancel or suspend the CMS licence if the Minister is satisfied that—
  - (a) the conduct of the CMS licensee may materially jeopardise the integrity of the CMS, or
  - (b) failure to do so may result in the public interest being adversely affected in a material way.
- (2) A notice given under this section is to specify—
  - (a) when the cancellation or suspension takes effect (whether on the date notice is given or a later date), and
  - (b) the grounds on which the licence was cancelled or suspended.

#### **175 Surrender of licences**

- (1) A licensee may surrender a licence by giving notice in writing to the Minister. If the licence is held by more than one person, each licensee is to surrender the licence.
- (2) The surrender takes effect only if the Minister consents to the surrender.

#### **176 Appointment of temporary licensee if CMS licence or links licence suspended, cancelled or surrendered**

- (1) If a CMS licence or links licence is suspended, cancelled or surrendered (***the former licence***), the Minister may, if the Minister is satisfied that it is in the public interest to do so, by instrument in writing appoint a person to be a licensee (***the appointed***

**licensee**) for the purposes of this section.

- (2) In appointing a person to be the appointed licensee, the Minister must have regard to the suitability of the person.
- (3) The appointed licensee is to be appointed on such terms and conditions as the Minister thinks fit.
- (4) The appointment of the appointed licensee may be terminated at any time by the Minister and is in any case terminated—
  - (a) in the case of a links licence—90 days after appointment unless in a particular case the appointment is extended by the regulations, or
  - (a1) in the case of a CMS licence—1 year after the appointment unless in a particular case the appointment is extended by the Minister (for up to 2 additional years), or
  - (b) by the granting of—
    - (i) in the case where the former licence authorised the operation of a CMS—another CMS licence, or
    - (ii) in the case where the former licence authorised an inter-hotel linked gaming system—another links licence to operate an inter-hotel linked gaming system, or
    - (iii) in the case where the former licence authorised an inter-club linked gaming system—another links licence to operate an inter-club linked gaming system.
- (5) The appointed licensee—
  - (a) is to be considered to be the holder of a licence granted on the same terms and subject to the same conditions as the former licence (as in force immediately before its suspension, cancellation or surrender) with such modifications as the Minister may direct, and
  - (b) is to assume full control of and responsibility for the business of the former licensee in respect of—
    - (i) the CMS operated under the former licence, or
    - (ii) the linked gaming system operated under the former licence, and
  - (c) is to operate or cause to be operated a CMS or linked gaming system in accordance with this Act, and
  - (d) has, in connection with the operation of a CMS or linked gaming system, all the functions of the former licensee.

- (6) Subject to this section, an appointed licensee under this section may enter into such arrangements as are approved by the Minister with the former licensee, including arrangements relating to the use of assets and services of staff of the former licensee.
- (7) The former licensee must—
  - (a) make available to the appointed licensee on reasonable terms such assets of, or under the control of, the former licensee as are reasonably necessary for arrangements under subsection (6), and
  - (b) use the former licensee's best endeavours to make available such staff of the former licensee as are reasonably necessary for those arrangements.

Maximum penalty—100 penalty units.

- (8) The regulations may make provision for or with respect to the functions of an appointed licensee.
- (9) The following provisions have effect in respect of the net earnings of a CMS or linked gaming system while operated by an appointed licensee under this section—
  - (a) no payment of net earnings (including any fees or charges) is to be made to the former licensee without the prior approval of the Minister,
  - (b) the former licensee is entitled to a fair rate of return out of net earnings (if any) on any property of the former licensee retained by the appointed licensee (subject to any arrangements made under subsection (6)),
  - (c) the Minister may direct that all or any part of net earnings (other than that to which the former licensee is entitled under paragraph (b)) is to be paid into the Consolidated Fund, with any balance to be paid to the former licensee.

### **177 Directions to licensees and other relevant persons**

- (1) The regulations may provide for the Minister—
  - (a) to give directions to a CMS licensee, hotelier or club, or to any person concerned in the management or supervision of a CMS—
    - (i) regarding any matter that relates to the operation of a CMS, and
    - (ii) regarding any agreement or arrangement that relates to a CMS, and
    - (iii) requiring the CMS licensee, hotelier, club or other person to provide such information or particulars, and in such circumstances, as may be prescribed by the regulations, and
  - (b) to give directions to the holder of a licence, or to a participating hotelier or participating club, or to any person concerned in the management or supervision

of a linked gaming system—

- (i) regarding any matter that relates to the operation of a linked gaming system, and
- (ii) regarding any agreement or arrangement that relates to a linked gaming system, and
- (iii) requiring the licensee, hotelier, club or other person to provide such information or particulars, and in such circumstances, as may be prescribed by the regulations, and

(c) (Repealed)

(2) The regulations may make provision for or with respect to the enforcement of such directions.

## **Part 13**

**178-186 (Repealed)**

## **Part 14 Criminal proceedings and related matters**

**187-193 (Repealed)**

### **194 Evidentiary provisions**

- (1) In any proceedings under this Act (whether or not for an offence under this Act or the regulations), any one or more of the following allegations is taken to be proved unless the contrary is proved—
- (a) that a specified gaming machine is or is not an approved gaming machine,
  - (b) (Repealed)
  - (c) that a specified hotelier, or a specified club, is or is not authorised to keep an approved gaming machine or a specified number of approved gaming machines,
  - (c1) that a specified hotelier or club has or has not entered into arrangements under section 46 for problem gambling counselling services to be made available for patrons of the hotel or club concerned,
  - (c2) that a specified hotelier or club has or has not entered into an arrangement under section 49 for the establishment and conduct of self-exclusion schemes in the hotel or on the premises of the club,
  - (d) that a specified person is or is not the holder of a gaming-related licence or a specified kind of gaming-related licence,
  - (e) that a specified gaming-related licence has been suspended,

- (e1) that a specified person is or is not a CMS licensee,
- (f) that a specified person is an inspector,
- (g) that a specified person is the Secretary,
- (h) (Repealed)
- (i) that a specified person is the secretary of a club,
- (j) that a specified person is the a delegate of an office holder within the meaning of section 208,
- (k) that a specified form is or is not a form approved by the Authority.

(2) In any proceedings for an offence under this Act or the regulations, an allegation that, at a specified time, a person was under the age of 18 years is evidence of the truth of the allegation unless the defendant denies the allegation in the manner prescribed by the regulations.

#### **195, 196 (Repealed)**

#### **197 Proceedings for offences**

- (1) Proceedings for an offence under this Act or the regulations are to be dealt with summarily before the Local Court.
- (2) Proceedings for an offence under this Act or the regulations may be commenced within but not later than 12 months after the date on which the offence is alleged to have been committed.

#### **198 Additional penalties**

In addition to any other penalty that a court may impose for an offence committed by a hotelier, club or holder of a gaming-related licence under this Act or the regulations, the court may, if it thinks it appropriate, do any one or more of the following—

- (a) cancel the hotel licence, club licence or gaming-related licence concerned,
- (b) cancel, suspend or modify any authorisation or approval under this Act for the hotelier or club to keep approved gaming machines,
- (c) disqualify the hotelier or club from keeping approved gaming machines for such period as the court thinks fit,
- (d) impose a condition to which the hotel licence, club licence or gaming-related licence is to be subject or revoke or vary a condition to which the hotel licence, club licence or gaming-related licence is subject,
- (e) suspend the hotel licence, club licence or gaming-related licence for such period, not



exceeding 12 months, as the court thinks fit,

- (f) disqualify the holder of the gaming-related licence from holding a gaming-related licence for such period as the court thinks fit,
- (g) reprimand the hotelier, club or holder of the gaming-related licence.

### **199 Remedial orders**

(1) In addition to or as an alternative to—

- (a) any disciplinary action that the Authority may take under Part 8, or
- (b) any penalty that a court imposes in any proceedings in which it finds a person guilty of an offence under this Act or the regulations (being an offence that is prescribed by the regulations for the purposes of this section),

the Authority or the court (as the case requires) may make an order requiring a responsible person to undertake any specified course of training that the Authority or the court considers will promote responsible practices in relation to the keeping and operation of approved gaming machines in the hotel or on the premises of the club concerned.

(2) A person who, without lawful excuse, fails to comply with an order under this section is guilty of an offence.

Maximum penalty—20 penalty units.

(3) For the purposes of this section, **responsible person** means—

- (a) in the case of a hotel—the hotelier, the manager of the hotel or any other person involved in the conduct of gambling activities in the hotel, and
- (b) in the case of a club—the secretary of the club or any director or employee of the club.

### **199A Liability of directors etc for offences by corporation—accessory to the commission of the offences**

(1) For the purposes of this section, a **corporate offence** is an offence against this Act or the regulations that is capable of being committed by a corporation.

(2) A person commits an offence against this section if—

- (a) a corporation commits a corporate offence, and
- (b) the person is—
  - (i) a director of the corporation, or

- (ii) an individual who is involved in the management of the corporation and who is in a position to influence the conduct of the corporation in relation to the commission of the corporate offence, and
- (c) the person—
  - (i) aids, abets, counsels or procures the commission of the corporate offence, or
  - (ii) induces, whether by threats or promises or otherwise, the commission of the corporate offence, or
  - (iii) conspires with others to effect the commission of the corporate offence, or
  - (iv) is in any other way, whether by act or omission, knowingly concerned in, or party to, the commission of the corporate offence.

Maximum penalty—The maximum penalty for the corporate offence if committed by an individual.

- (3) The prosecution bears the legal burden of proving the elements of the offence against this section.
- (4) The offence against this section can only be prosecuted by a person who can bring a prosecution for the corporate offence.
- (5) This section does not affect the liability of the corporation for the corporate offence, and applies whether or not the corporation is prosecuted for, or convicted of, the corporate offence.
- (6) This section does not affect the application of any other section of this Act or any other law relating to the criminal liability of any persons (whether or not directors or other managers of the corporation) who are concerned in, or party to, the commission of the corporate offence.

## **200 Offences by corporate hoteliers**

- (1) If a hotelier that is a corporation contravenes (whether by act or omission) any provision of this Act or the regulations, each person who occupies a position of authority in the corporation is taken to have contravened the provision if the person knowingly authorised or permitted the contravention.
- (2) If a hotelier that is a corporation is taken to have contravened (whether by act or omission) a provision of this Act or the regulations by reason of a contravention by the manager of the hotel, each person who occupies a position of authority in the corporation is taken to have contravened the provision if the person knowingly authorised or permitted the contravention.
- (3) A person may be proceeded against and convicted under a provision in accordance

with this section whether or not the corporation or manager of the hotel has been proceeded against or convicted.

- (4) This section does not affect any liability imposed on a corporation or the manager of a hotel for an offence committed by the corporation or manager under this Act or the regulations.

### **201 Liability of secretary of club and members of governing body**

- (1) If a club contravenes a provision of this Act or the regulations, the secretary and members of the governing body of the club are, whether or not the club is convicted for the contravention, each taken to have contravened the provision if the person charged knowingly authorised or permitted the contravention.
- (2) Nothing in this section affects any liability imposed on a club for a contravention of a provision of this Act or the regulations.

### **202 Liability of management and directors of corporate holders of gaming-related licences**

- (1) If the holder of a gaming-related licence that is a corporation contravenes a provision of this Act or the regulations, each person who is a director of the corporation or who is concerned in the management of the corporation is, whether or not the corporation has been convicted for the contravention, taken to have contravened the provision if the person knowingly authorised or permitted the contravention.
- (2) This section does not affect any liability imposed on a corporation for a contravention of this Act or the regulations.

### **203 Penalty notices**

- (1) An authorised officer may issue a penalty notice to a person (including a hotelier or club) if it appears to the officer that the person has committed a penalty notice offence.
- (2) A penalty notice offence is an offence against this Act or the regulations that is prescribed by the regulations as a penalty notice offence.
- (3) The *Fines Act 1996* applies to a penalty notice issued under this section.

#### **Note—**

The *Fines Act 1996* provides that, if a person issued with a penalty notice does not wish to have the matter determined by a court, the person may pay the amount specified in the notice and is not liable to any further proceedings for the alleged offence.

- (4) However—
  - (a) section 22A (1) of the *Fines Act 1996* does not apply in relation to disciplinary action under Part 8 of this Act, and

(b) despite section 22A (2) of the *Fines Act 1996*, when an amount is paid under this section in respect of a penalty notice issued to a person, the person is, for the purposes of Part 8 of this Act, taken to have been convicted of the offence to which the penalty notice relates.

- (5) The amount payable under a penalty notice issued under this section is the amount prescribed for the alleged offence by the regulations (not exceeding the maximum amount of penalty that could be imposed for the offence by a court).
- (6) This section does not limit the operation of any other provision of, or made under, this or any other Act relating to proceedings that may be taken in respect of offences.
- (7) In this section—

**authorised officer** means a police officer or an inspector.

### **203A Forfeiture and seizure of gaming machines**

- (1) If, in any proceedings before it, a court determines that this Act or the regulations, or a condition of a gaming-related licence, has been contravened in relation to an approved gaming machine, the court may order the forfeiture to the Crown of the gaming machine and any money found in it.
- (2) A police officer may seize and carry away anything that the police officer reasonably suspects may be liable to forfeiture under this section or which a court has ordered to be forfeited to the Crown, including any money in an approved gaming machine at the time of its seizure.

## **Part 15 Miscellaneous provisions**

### **204 Crown not liable for any compensation**

- (1) Damages or compensation are not payable by or on behalf of the Crown because of—
- (a) the enactment or operation of this Act, or for the consequences of that enactment or operation, or
- (b) a representation or conduct of any kind about any restrictions or limitations on the keeping and operation of approved gaming machines in hotels and on the premises of clubs.
- (2) In subsection (1), **the Crown** means the Crown within the meaning of the *Crown Proceedings Act 1988*, and includes any officer, employee or agent of the Crown.

### **204A Community Development Fund**

- (1) There is established a fund, to be called the Community Development Fund, that is to be administered by the Secretary.

- (2) The Community Development Fund is to consist of any money required to be paid into the Fund by or under this or any other Act.
- (3) Money held in the Community Development Fund may be applied—
  - (a) for such community benefits as the Secretary considers appropriate, or
  - (b) for such other purposes as may be authorised or permitted by or under this or any other Act.
- (4) The Community Development Fund established under this section is a continuation of the fund established under section 15B (as in force immediately before the repeal of that section by the *Gaming Machines Amendment Act 2008*).

### **205 Additional functions of Authority**

- (1) The Minister may, after consultation with the Authority, give directions and furnish guidelines to the Authority as to how the Authority is to exercise its functions in relation to the following—
  - (a) (Repealed)
  - (b) classifying local statistical areas for the purposes of Division 1 of Part 4,
  - (c) approving local impact assessments under Division 1 of Part 4,
  - (d) determining whether an area of land is a new development area for the purposes of section 37A,
  - (e) declaring devices as approved gaming machines under Division 2 of Part 5.
- (2) Any such direction or guideline may be given or furnished only if the Minister is of the opinion that the direction or guideline—
  - (a) is necessary or desirable to protect the integrity of gaming in hotels and on the premises of clubs, or
  - (b) is otherwise in the public interest.
- (3) A direction is not to be given under this section in relation to a particular application or matter being determined by the Authority.
- (4) In exercising any of its functions as referred to in subsection (1), the Authority is subject to the directions and guidelines given or furnished by the Minister under this section.
- (5) Directions and guidelines under this section must be in writing.
- (6) In addition to the functions conferred on it by this Act, the Authority—

- (a) is to keep under constant review the operation of this Act and make such recommendations to the Minister in relation to the operation of this Act as it thinks fit, and
- (b) is, if directed by the Minister so to do, to inquire into, and make a report and recommendations to the Minister on, any matter connected with the administration of this Act (including the keeping and operation of approved gaming machines in hotels and on the premises of clubs), and
- (c) may receive submissions or reports from any person with respect to the operation of this Act (including the manufacture, assembly, supply, sale, acquisition, servicing, disposal, keeping or operation of approved gaming machines).

**205A Minister may vary or suspend operation of Act for research or trial purposes**

- (1) For the purposes of enabling the carrying out of gambling-related research or the trialling of gambling-related programs, the Minister may, by order published in the Gazette, vary or suspend the operation of any specified provision of this Act or the regulations for a specified period and in relation to either or both of the following—
  - (a) a specified area,
  - (b) a specified person or specified class of persons.
- (2) Any such variation or suspension is subject to such conditions as may be specified in the order.

**205B Hoteliers and clubs must comply with requirements of inspectors**

- (1) An inspector may require a hotelier or club to do any of the following—
  - (a) to withdraw from operation an approved gaming machine that, in the opinion of the inspector, is not operating properly,
  - (b) to refrain from making available for operation an approved gaming machine withdrawn from operation under paragraph (a) until, in the opinion of the inspector or another inspector, it is operating properly,
  - (c) to refrain from making an approved gaming machine available for operation except in accordance with controls specified by the inspector in relation to the gaming machine,
  - (d) to deliver to the Authority, in writing in the English language and within a time specified by the inspector, such particulars relating to an approved gaming machine in the hotel or club as are so specified,
  - (e) to refrain from making available for operation an approved gaming machine indicated by the inspector until it has been fitted with a device approved by the

Authority for the purposes of the secure keeping and operation of the gaming machine.

- (2) A hotelier or club must comply with any such requirement given to the hotelier or club.

Maximum penalty—50 penalty units.

## **206 Secrecy**

- (1) A person who—

- (a) acquires information in the exercise of a function of an office held by the person in the course of administering this Act, and
- (b) directly or indirectly makes a record of the information or discloses it to another person,

is guilty of an offence under this Act unless the information is recorded or disclosed in the exercise of the functions of the office or in the course of administering this Act as a holder of that or any other office.

Maximum penalty—50 penalty units.

- (2) Despite subsection (1), information may be disclosed—

- (a) to a particular person or persons, if the Authority certifies that it is necessary in the public interest that the information be disclosed to the person or persons, or
- (b) to a person who is expressly or impliedly authorised to obtain it by the person to whom the information relates, or
- (c) to a person or authority prescribed by the regulations, or
- (d) to the Minister, or to a person who is engaged in the administration of this Act and is authorised in writing by the Minister to receive information under this section.

- (3) It is not an offence under this section if, in legal proceedings, a person—

- (a) discloses information in answer to a question that the person is compellable to answer, or
- (b) produces a document or other thing that the person is compellable to produce.

- (4) An authority or person to which or to whom information is disclosed under this section, and a person or employee under the control of that authority or person, are, in respect of that information, subject to the same rights, privileges and duties under this section as the authority or person would be if that authority, person or employee were a person administering this Act and had acquired the information in the course of administering this Act.

- (5) This section does not apply to the disclosing of information to, or to the production of any document or other thing to, any of the following—
- (a) the Independent Commission Against Corruption,
  - (b) the Australian Crime Commission,
  - (c) the New South Wales Crime Commission,
  - (c1) the NSW Police Force or the police force of another State or a Territory,
  - (c2) the Australian Federal Police,
  - (d) the Ombudsman,
  - (e) any other person or body (including any public authority of the State or the Commonwealth) prescribed by the regulations for the purposes of this section.
- (5A) This section does not apply to the publishing of any information if, in the opinion of the Minister, it is in the public interest to do so.
- (6) This section does not prevent a person being given access to a document in accordance with the *Government Information (Public Access) Act 2009*.
- (7) In this section, a reference to the production of a document or other thing includes a reference to provision of access to the document or other thing.

#### **206AA Authority to publish certain other information**

The Secretary may, despite any other Act or law, publish any information relating to gaming machine activities or operations in this State if, in the opinion of the Minister, it is in the public interest to do so. The authority to publish under this section is limited to matters of a regulatory, statistical or industry wide nature.

#### **206A, 207 (Repealed)**

#### **208 Delegations**

- (1) An office holder may delegate to a person any function conferred or imposed on the office holder by or under this Act, other than this power of delegation.
- (2) A person to whom a function has been delegated by the Minister or the Commissioner of Police may delegate the function to another person, subject to any conditions to which the delegation by the Minister or the Commissioner is subject.
- (3) In this section—

**office holder** means the Minister, the Commissioner of Police or the Secretary.



## **209 Relationship with [Environmental Planning and Assessment Act 1979](#)**

- (1) An environmental planning instrument (whether made before or after the commencement of this section) under the [Environmental Planning and Assessment Act 1979](#) cannot prohibit or require development consent for, or otherwise regulate or restrict, the installation, keeping or operation of approved gaming machines in hotels or on the premises of clubs or any other premises.
- (2) If an environmental planning instrument contains any provision in contravention of subsection (1), the provision is taken to have no effect.
- (3) A consent authority (within the meaning of the [Environmental Planning and Assessment Act 1979](#)) cannot—
  - (a) as a condition of any development consent under that Act, prohibit or otherwise regulate or restrict the installation, keeping or operation of approved gaming machines in a hotel or on the premises of a club or any other premises, or
  - (b) refuse to grant any such development consent to a hotel or club for any reason that relates to the installation, keeping or operation of approved gaming machines in a hotel or on the premises of a club.
- (4) The installation, keeping or operation of an approved gaming machine in a hotel or on the premises of a club is not an activity for the purposes of Part 5 of the [Environmental Planning and Assessment Act 1979](#).
- (5) Any approval or authorisation under this Act to keep an approved gaming machine in a hotel or on the premises of a club is not an approval for the purposes of Part 5 of the [Environmental Planning and Assessment Act 1979](#).

## **210 Regulations**

- (1) The Governor may make regulations, not inconsistent with this Act, for or with respect to any matter that by this Act is required or permitted to be prescribed or that is necessary or convenient to be prescribed for carrying out or giving effect to this Act.
- (2) In particular, regulations may be made for or with respect to the following—
  - (a) the manufacture and assembly of, and the design and construction of, approved gaming machines,
  - (b) the supply, offering to supply, sale, acquisition, ownership, possession, keeping, use, operation, transport, control, management, servicing, repair, maintenance, disposal and destruction of approved gaming machines,
  - (c) the means of identification, and the appearance, of approved gaming machines,
  - (d) the terms and conditions of acquisition, ownership, disposal and destruction of

- approved gaming machines,
- (e) the types of approved gaming machines which may, or may not, be kept in hotels and on the premises of clubs,
  - (f) the installation and location of approved gaming machines in hotels and on the premises of clubs,
  - (g) the offering and provision of prizes and bonuses relating to the use of approved gaming machines and the calculation and determination of the prizes and bonuses,
  - (g1) the operation of temporary self-exclusion schemes for the patrons of hotels and clubs,
  - (h) the keeping of records in relation to the keeping of approved gaming machines, the form in which the records are to be kept, the transfer of the records, the inspection of the records and the obtaining of copies of the records,
  - (i) the furnishing of returns, including periodic returns, in relation to approved gaming machines,
  - (j) tampering or interfering with approved gaming machines,
  - (k) the examination and inspection of approved gaming machines,
  - (l) the sealing of an approved gaming machine to prevent it from being operated without breaking the seal,
  - (m) the withdrawal of an approved gaming machine from operation until a defect in the gaming machine is rectified,
  - (n) the removal of approved gaming machines from hotels and the premises of clubs and the disposal of approved gaming machines by sale or otherwise,
  - (o) the rebuilding or reconstruction of approved gaming machines and the distribution of used or second-hand approved gaming machines,
  - (p) information to be provided on or in relation to approved gaming machines and the display of signs on or in relation to approved gaming machines,
  - (q) security procedures for the manufacture, assembly, storage, handling, transport, consignment and receipt of approved gaming machines,
  - (r) intra-hotel and intra-club linked progressive gaming systems,
  - (s) the keeping and operation of electronic payment gaming machines in hotels and on the premises of clubs,

- (t) the signs to be displayed in the premises of clubs in relation to gaming machine areas,
  - (u) any other matter that relates to the keeping or operation of approved gaming machines in hotels and on the premises of clubs,
  - (v) any matter relating to the operation of an authorised CMS,
  - (w) any matter relating to CMS licences and links licences,
  - (x) any matter relating to the operation of an authorised linked gaming system,
  - (y) the purposes for which money in the Community Development Fund may be applied,
  - (z) the transfer and forfeiture of gaming machine entitlements,
  - (z1) requiring the payment of specified fees in relation to applications made, approvals and certificates given, and other matters arising, under this Act.
- (3) The regulations may create offences punishable by a penalty not exceeding 50 penalty units.
- (4) The regulations may exempt specified persons or classes of persons from any provision of this Act or the regulations.
- (5) A regulation may apply, adopt or incorporate any publication as in force from time to time.

## **211 Savings, transitional and other provisions**

Schedule 1 has effect.

## **212-215 (Repealed)**

## **216 Review of Act**

- (1) The Minister is to review this Act to determine whether the policy objectives of the Act remain valid and whether the terms of the Act remain appropriate for securing those objectives.
- (2) The review is to be undertaken as soon as possible after the period of 5 years from the date of assent to this Act.
- (3) A report on the outcome of the review is to be tabled in each House of Parliament within 12 months after the end of the period of 5 years.

## Schedule 1 Savings, transitional and other provisions

(Section 211)

### Part 1 Preliminary

#### 1 Regulations

- (1) The regulations may contain provisions of a savings or transitional nature consequent on the enactment of the following Acts—

this Act

*Gaming Machines Amendment Act 2002*

*Gaming Machines Further Amendment Act 2002*

*Gaming Machines Amendment (Shutdown Periods) Act 2003*

*Gaming Machines Amendment (Miscellaneous) Act 2003*

*Gaming Machines Amendment Act 2004*

*Gaming Machines Amendment Act 2005*

*State Revenue and Other Legislation Amendment (Budget) Act 2007*, but only to the extent that it amends this Act

*Miscellaneous Acts (Casino, Liquor and Gaming) Amendment Act 2007*, to the extent that it amends this Act

*Gaming Machines Amendment Act 2008*

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

any other Act that amends this Act

- (2) Any such provision may, if the regulations so provide, take effect from the date of assent to the Act concerned or a later date.
- (3) To the extent to which any such provision takes effect from a date that is earlier than the date of its publication in the Gazette, the provision does not operate so as—
- (a) to affect, in a manner prejudicial to any person (other than the State or an authority of the State), the rights of that person existing before the date of its publication, or
  - (b) to impose liabilities on any person (other than the State or an authority of the State) in respect of anything done or omitted to be done before the date of its

publication.

## Part 2 Provisions consequent on enactment of this Act

### 2 Preservation of existing gaming machine approvals and authorisations

(1) In this clause—

**existing gaming machine approval or authorisation** means any approval or authorisation in respect of a poker machine or approved amusement device—

- (a) granted under a provision of the *Liquor Act 1982* or the *Registered Clubs Act 1976* repealed by this Act, and
- (b) in force immediately before the repeal of the provision.

(2) An existing gaming machine approval or authorisation is, subject to this Act and the regulations, taken to be an approval or authorisation in force under this Act.

(3) The conditions to which an existing gaming machine approval or authorisation is subject are, subject to the regulations, taken to be conditions imposed by or under this Act and may be revoked or varied in accordance with this Act.

### 3 Saving of existing gaming-related licences and work permits

(1) In this clause—

**existing gaming-related licence** means a gaming-related licence—

- (a) granted under a provision of the *Liquor Act 1982* or the *Registered Clubs Act 1976* before the repeal of the provision by this Act, and
- (b) in force immediately before the repeal of the provision.

(2) An existing gaming-related licence is, subject to the regulations, taken to be a gaming-related licence of the corresponding kind (as determined by the Board) in force under this Act.

(3) A work permit issued under section 178 of the *Liquor Act 1982* or section 90A of the *Registered Clubs Act 1976* and in force immediately before the commencement of this clause is, subject to the regulations, taken to be a work permit of the corresponding kind (as determined by the Board) in force under this Act.

(4) Subject to the regulations, any application made under the *Liquor Act 1982* or the *Registered Clubs Act 1976* for a gaming-related licence before the commencement of this clause is, if the application was not finally determined before that commencement, taken to have been made under this Act and may be dealt with in accordance with this Act.

#### 4 Saving of existing TAB exclusive licences

- (1) A licence in force under Division 4 of Part 11 of the *Liquor Act 1982* and in force immediately before the repeal of that Division by this Act is taken to be a CMS licence in force under this Act.
- (2) A licence in force under Part 12 of the *Liquor Act 1982* and in force immediately before the repeal of that Part by this Act is taken to be a links licence in force under this Act.
- (3) An investment licence in force under Part 13 of the *Liquor Act 1982* and in force immediately before the repeal of that Part by this Act is taken to be an investment licence in force under this Act.

#### 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.

#### 6 Replacement gaming machines in registered clubs affected by existing club freeze

- (1) This clause applies in relation to a registered club if—
  - (a) the club, immediately before 28 March 2000, applied under the *Registered Clubs Act 1976* to the Board for authorisation under that Act to replace a poker machine with another poker machine (**the replacement machine**), and
  - (b) the application to keep the replacement machine was not granted by 28 March 2000 and, because of the enactment of Part 10B of the *Registered Clubs Act 1976* (**the club freeze**), was not able to be granted after that date.
- (2) The Board may, if satisfied that the effect of the club freeze prevented the processing of any such application for a replacement machine, authorise the registered club to keep the replacement machine provided the authorisation to keep the machine it replaces is cancelled.
- (3) This clause has effect despite any other provision of this Act.

#### 7 Revocation of certain “hardship” grants in relation to clubs

- (1) In this clause—

**relevant hardship application** means an application to keep additional gaming machines in a registered club, being an application under the *Registered Clubs Act 1976* that—

- (a) was made before 26 July 2001, and
- (b) was dealt with in accordance with section 88AF of that Act (as in force before its

repeal by this Act).

- (2) If a relevant hardship application was initially refused by the Board before 26 July 2001 but was subsequently granted by the Board after that date, the granting of the relevant hardship application is, by the operation of this clause, revoked and is taken to have had no effect unless the Director-General determines, by notice in writing to the Board and the registered club concerned, that the granting of the relevant hardship application continues to have effect.

## **8 Protection of existing contractual arrangements (hotel lessees)**

- (1) In this clause—

**hotel owner** means a person who owns the business conducted under the authority of the hotelier's licence concerned.

**lessee** means a person who exercises the authority conferred by a hotelier's licence under a lease, as in force at the commencement of this clause, with the hotel owner.

- (2) If—

- (a) poker machine entitlements are allocated in respect of a hotelier's licence, and  
(b) a lessee is exercising the authority conferred by the licence,

the poker machine entitlements are, for the purposes of this Act, taken to be allocated in respect of the lessee and the lessee is, for the duration of the lease, authorised (subject to this Act) to keep approved gaming machines in accordance with any such poker machine entitlements.

- (3) If the lessee assigns the lease to another person in accordance with the terms of the lease, the lessee may, in accordance with this Act, transfer any poker machine entitlements held by the lessee to the other person as part of the assignment.
- (4) For the purposes of subclause (2), the duration of the contractual arrangements includes any extension of those arrangements that is legally enforceable (such as an option for renewal).

## **9 Updating of certain references**

Subject to the regulations, in any Act (other than this Act) or in any instrument made under an Act or in any other document—

- (a) a reference to—

- (i) an approved amusement device within the meaning of the [Liquor Act 1982](#), or  
(ii) a poker machine, or an approved or authorised poker machine, within the meaning of the [Registered Clubs Act 1976](#),

is taken to be a reference to an approved gaming machine within the meaning of this Act, and

- (b) a reference to a poker machine area within the meaning of the *Registered Clubs Act 1976* is taken to be a reference to a gaming machine area within the meaning of this Act.

## **10 General saving**

Anything done under a provision of the *Liquor Act 1982* or the *Registered Clubs Act 1976* (being a provision repealed by this Act) that had any force or effect immediately before its repeal is, to the extent that it could have been done under the corresponding provision of this Act, taken to have been done under this Act, subject to any express or implied provision to the contrary in this Act or the regulations made under this Act.

## **Part 3 Provisions consequent on enactment of Gaming Machines Amendment Act 2002**

### **11 Validation provision**

Anything done before the commencement of the amendments to this Act by the *Gaming Machines Amendment Act 2002* that would have been validly done had those amendments been in force when it was done is validated.

## **Part 4 Provisions consequent on enactment of Gaming Machines Further Amendment Act 2002**

### **12 Definition**

In this Part—

**amending Act** means the *Gaming Machines Further Amendment Act 2002*.

### **13 Initial allocation of poker machine entitlements**

Anything done or omitted to be done by the Board under section 15 that would have been validly done or omitted to be done had the amendments to that section by the amending Act been in force when the thing was done or omitted to be done is validated.

### **14 Transfer of poker machine entitlements by large-scale clubs**

Section 21A, as inserted by the amending Act, extends to an application to transfer poker machine entitlements made before the commencement of that section.

### **15 Surrender of AAD entitlements**

The amendment made to section 22 by the amending Act extends to the surrender, before the commencement of that amendment, by a hotelier under that section of an



authorisation to keep approved amusement devices.

#### **16 Conditions in relation to hardship gaming machine approvals**

Anything done by the Board that would have been validly done had section 29 (1AA), as inserted by the amending Act, been in force when the thing was done is validated.

#### **17 Determination of social impact assessments by Board**

The amendments made to section 37 by the amending Act extend to a social impact assessment that has been provided to the Board before the commencement of those amendments.

#### **18 Restrictions on authorisation to keep approved amusement devices**

Anything done or omitted to be done by the Board that would have been validly done or omitted to be done had section 59A, as inserted by the amending Act, been in force when the thing was done or omitted to be done is validated.

#### **19 Sharing of receipts from gaming machines**

Section 73 (3), as inserted by the amending Act, extends to—

- (a) receipts from the operation of approved gaming machines that have been shared by a hotelier, and
  - (b) payments made by the hotelier in relation to those receipts,
- before the commencement of that subsection.

### **Part 5 Provisions consequent on enactment of [Gaming Machines Amendment \(Shutdown Periods\) Act 2003](#)**

#### **20 Existing approvals in relation to shutdown periods**

- (1) The amendments made by the [Gaming Machines Amendment \(Shutdown Periods\) Act 2003](#) to sections 40 and 41 do not affect the operation of any approval given by the Board under those sections before the commencement of those amendments.
- (2) Section 42 (3) (as inserted by the [Gaming Machines Amendment \(Shutdown Periods\) Act 2003](#)) extends to an approval given by the Board under section 40 or 41 before the commencement of that subsection.

### **Part 6 Provisions consequent on enactment of [Gaming Machines Amendment \(Miscellaneous\) Act 2003](#)**

#### **21 Definition**

In this Part—

**amending Act** means the *Gaming Machines Amendment (Miscellaneous) Act 2003*.

## 22 Exchange of AADs for poker machine entitlements

Section 22 (1B), as inserted by the amending Act—

- (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
- (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).

## 23 Transfer of poker machine entitlements between country clubs

Anything done—

- (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,

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.

## 24 Continuation of existing complaints about non-payment of gaming machine tax

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.

## Part 7 Provisions consequent on enactment of **Gaming Machines Amendment Act 2004**

### 25 Definitions

In this Part—

**amending Act** means the *Gaming Machines Amendment Act 2004*.

**investment licence** means the investment licence granted to TAB and in force under Part 11 immediately before the repeal of that Part by the amending Act.

**TAB** means the company known as TAB Limited established by the *Totalizator Agency Board Privatisation Act 1997*.

### 26 Arrangements for collection of certain fees after transfer of licence

An authorisation in writing, executed by or on behalf of a hotelier or registered club, that

is, immediately before any transfer of a CMS licence or links licence in accordance with this Act, effective to permit the holder of that licence (***the current holder***) to appropriate, by automatic debit from the accounts of the hotelier or club at a bank or financial institution, amounts payable—

(a) as or in respect of the monitoring fee payable under section 134, or

(b) in connection with the operation of an authorised linked gaming system,

continues to have effect after a transfer of the licence and so has effect as if a reference in the authorisation to the current holder were a reference to the person to whom the licence is transferred.

**27 Arrangements necessary for continued operation of authorised CMS or authorised linked gaming system after transfer of licence**

(1) The Minister may, by order published in the Gazette, identify such contracts between a holder of a CMS licence or a links licence and other parties as are, in the Minister's opinion, necessary for the continued operation of the authorised CMS or authorised linked gaming system to which the licence relates.

(2) The publication of such an order operates to require the other parties to the contracts to give any consents that are necessary to permit the assignment or novation of such contracts by the holder of the CMS licence or links licence concerned to the person to whom the licence is transferred in accordance with this Act.

(3) The consents may be given either unconditionally or subject to such conditions as the Minister considers reasonable.

(4) However, if a consent required to be given under this clause is not given within 60 days after it has been duly sought, the consent is taken to have been given unconditionally.

(5) Neither the transfer under this Act of a CMS licence or a links licence nor the operation of this clause is to be regarded—

(a) as a breach of contract or confidence or otherwise as a civil wrong, or

(b) as a breach of any contractual provision prohibiting, restricting or regulating the assignment or transfer of assets, rights or liabilities, or

(c) as giving rise to any remedy by a party to an instrument, or as causing or permitting the termination of any instrument, because of a change in the beneficial or legal ownership of any asset, right or liability, or

(d) as an event of default under any contract or other instrument.

## **28 Cancellation of investment licence**

The investment licence is taken to be cancelled on the repeal of Part 11.

## **29 Preservation of certain arrangements under investment licence**

- (1) Any contract or other arrangement between TAB and a hotelier entered into pursuant to the investment licence and in force immediately before the cancellation of that licence may be completed despite that cancellation and despite the other provisions of this Act.
- (2) However—
  - (a) the contract or arrangement may not be varied so as to extend its term, and
  - (b) no further contract or arrangement of the same kind may be entered into pursuant to the contract or arrangement, and
  - (c) failure to extend the term of the contract or arrangement, or to enter into any further such contract or arrangement, does not constitute a breach of, or default under, any contract or arrangement.
- (3) This clause has effect despite the provisions of the contract or arrangement concerned.
- (4) For the purposes of this clause, section 169 applies as it was in force immediately before its amendment by the amending Act.

## **Part 8 Provisions consequent on enactment of [Gaming Machines Amendment Act 2005](#)**

### **30 Definition**

In this Part—

**amending Act** means the [Gaming Machines Amendment Act 2005](#).

### **31 Validation of initial allocation by Board of poker machine entitlements under section 15**

Anything done by the Board before 14 February 2003 in relation to the allocation of poker machine entitlements under section 15 has effect despite the decision of the Supreme Court in *Mellor v Liquor Administration Board*[2003] NSWSC 38 and is not invalidated merely because of that decision.

### **32 Approved technical standards**

Any technical standards approved by the Board under section 62 and in force immediately before the amendment to that section by the amending Act are taken to have been approved by the Director under that section as so amended.

## Part 9 Provisions consequent on enactment of **Miscellaneous Acts (Casino, Liquor and Gaming) Amendment Act 2007**

### 33 Definitions

In this Part—

**amending Act** means the *Miscellaneous Acts (Casino, Liquor and Gaming) Amendment Act 2007*.

**former Board** means the Liquor Administration Board constituted by section 72 of the former Liquor Act.

**former Court** means the Licensing Court constituted under the former Liquor Act.

**Note—**

The Licensing Court is abolished on the repeal of Part 2 of the former Liquor Act—see clause 23 of Schedule 1 to the *Liquor Act 2007*.

**former Liquor Act** means the *Liquor Act 1982* as in force immediately before its repeal by the *Liquor Act 2007*.

### 34 Pending applications and proceedings

- (1) If any authorisation, appointment or other matter is granted or determined pursuant to this clause, it is taken to have been granted or determined under this Act (as amended by Schedule 3 to the amending Act).
- (2) **Proceedings pending before the Licensing Court** If, before the repeal of Part 2 of the former Liquor Act, proceedings in relation to any matter under this Act were commenced in the former Court but the former Court had not determined the matter—
  - (a) the matter may continue to be dealt with and determined by the Local Court as if it were sitting as the former Court, and
  - (b) the provisions of this Act (as in force immediately before being amended by Schedule 3 to the amending Act) and the former Liquor Act continue to apply, as if they had not been amended, for the purposes of—
    - (i) the hearing and determination of the matter, and
    - (ii) any appeal against the former Court's determination of the matter.
- (3) In hearing and determining a matter that is the subject of any such pending proceedings, the Local Court has the same jurisdiction as the former Court had immediately before it was abolished.
- (4) **Matters being dealt with by the Liquor Administration Board** If, before the repeal of

section 72 of the former Liquor Act, any matter under this Act was being dealt with by the former Board (including by any person to whom the functions of the Board were delegated under section 75 of the former Liquor Act) but had not been determined by the date of that repeal—

- (a) the former Board (or the person to whom those functions were delegated) is to continue to deal with the matter as if the former Board had not been abolished, and
- (b) the provisions of this Act (as in force immediately before being amended by Schedule 3 to the amending Act) continue to apply in relation to the determination of the matter by the former Board (or by the person to whom those functions were delegated) as if those provisions had not been so amended.

- (5) If any such pending matter before the former Board is not determined within such period as may be prescribed by the regulations, the Authority may deal with the matter instead under the relevant provision of this Act.
- (6) The continuation, for the purposes of this clause, of the provisions of this Act (as in force immediately before being amended by Schedule 3 to the amending Act) and the former Liquor Act is subject to such modifications as may be prescribed by the regulations.
- (7) For the purposes of this clause, ***amended*** includes repealed.

### **35 Existing conditions imposed by former Court or former Board**

- (1) Any condition imposed by the former Court or the former Board (whether under the former Liquor Act or this Act) in relation to any matter under this Act, being a condition in force immediately before the repeal of Part 4 of the former Liquor Act, is taken to have been imposed by the Authority under this Act (and accordingly a reference to the former Court or the former Board in or in relation to any such condition is to be construed as a reference to the Authority).
- (2) The Authority has such powers as are necessary to give effect to any such condition and may vary or revoke the condition.

### **36 General savings provision**

- (1) Subject to the regulations, anything done under or for the purposes of a provision of this Act that had effect immediately before the provision was amended by Schedule 3 to the amending Act is taken to have been done under or for the purposes of this Act as so amended.
- (2) Without limiting subclause (1), any licence, authorisation or approval that was in force under a provision of this Act immediately before the amendment of the provision by Schedule 3 to the amending Act is taken to be a licence, authorisation or approval in

force under this Act as so amended.

## **Part 10 Provisions consequent on enactment of [Gaming Machines Amendment \(Temporary Freeze\) Act 2008](#)**

### **37 Definition**

In this Part—

**amending Act** means the [Gaming Machines Amendment \(Temporary Freeze\) Act 2008](#).

### **38 Transfer of certain hotel poker machine entitlements**

- (1) The amendments made to section 19 by the amending Act extend to any application for approval to transfer a hotel poker machine entitlement that was made between 7 December 2007 and the commencement of the amending Act.
- (2) If such an application was approved before the commencement of the amending Act, the transfer of the hotel poker machine entitlement to which the application for approval relates has no effect if the approval could not have been given in accordance with section 19 had the amendments made to that section by the amending Act been in force when the approval was given.
- (3) In this clause, **hotel poker machine entitlement** means a poker machine entitlement allocated in respect of a hotelier's licence.

### **39 Approval of certain SIAs**

- (1) Section 37B (as inserted by the amending Act) extends to any social impact assessment that was provided in accordance with Division 1 of Part 4 of this Act between 7 December 2007 and the commencement of the amending Act.
- (2) If such a social impact assessment was approved before the commencement of the amending Act, the approval has no effect (and accordingly the SIA threshold for the hotel or premises concerned is taken not to have been increased) if the approval could not have been given had section 37B been in force when the approval was given.
- (3) For the avoidance of doubt, section 37B does not apply in relation to any social impact assessment that was provided in accordance with Division 1 of Part 4 of this Act before 7 December 2007.

### **40 Multi-terminal gaming machines in clubs**

- (1) Section 61A (as inserted by the amending Act) extends to any application for authorisation to keep a multi-terminal gaming machine that was made between 7 December 2007 and the commencement of the amending Act.
- (2) If such an application was granted before the commencement of the amending Act,

the authorisation to which the application relates has no effect if the application could not have been granted had section 61A been in force when the application was granted.

#### **41 Period of the freeze**

The date appointed for the end of the period of the freeze for the purposes of section 37B or 61A may be altered by a further proclamation or proclamations published before the date so appointed.

#### **42 Crown not liable for any compensation**

- (1) Damages or compensation are not payable by or on behalf of the Crown—
  - (a) because of the enactment of the amending Act or the operation of the amendments made by the amending Act (including the provisions of this Part), or
  - (b) for the consequences of that enactment or operation.
- (2) In subclause (1), **the Crown** means the Crown within the meaning of the *Crown Proceedings Act 1988*, and includes any employee or agent of the Crown.

### **Part 11 Provisions consequent on enactment of [Gaming Machines Amendment Act 2008](#)**

#### **43 Definition**

In this Part—

**amending Act** means the *Gaming Machines Amendment Act 2008*.

#### **44 Special provisions relating to entitlements retained by clubs under former section 15B**

- (1) In this clause—

**retained entitlement** means a poker machine entitlement retained by a registered club in accordance with section 15B (as in force before its repeal by the amending Act).
- (2) If a registered club—
  - (a) forfeited poker machine entitlements in accordance with section 15B (4) (d) (as in force before its repeal by the amending Act), and
  - (b) subsequently transfers, in accordance with Division 2 of Part 3 of this Act, any of its retained entitlements,

each of those forfeited entitlements is, for the purposes of the subsequent transfer of the retained entitlements, taken to be one of the entitlements that the club is required to forfeit to the Authority because of section 20 (3) (b).



- (3) Accordingly, the registered club is exempt from the operation of section 20 (3) (b) to the extent that the club is not required to forfeit poker machine entitlements from a transfer block under that section if those entitlements are, because of subclause (2), already taken to have been forfeited under this clause.
- (4) A registered club may, in accordance with Division 1 of Part 4 of this Act (as inserted by the amending Act), apply to the Authority to increase the gaming machine threshold for the premises of the club by a number that corresponds to all or any of the number of retained entitlements held by the club.
- (5) If the Authority approves the threshold increase application, the Authority is to convert the relevant number of retained entitlements into poker machine entitlements that are allocated in respect of the club's premises and that are transferrable by the club under Division 2 of Part 3 of this Act.
- (6) In converting any such retained entitlements into tradeable poker machine entitlements, one out of every 6 of the converted entitlements must be forfeited to the Authority.

#### **45 Existing SIA thresholds and pending SIA applications**

- (1) The SIA threshold for a venue immediately before the relevant date is, as at that date, taken to be the gaming machine threshold for the venue.
- (2) Except as provided by subclause (3), the amendments made by the amending Act do not affect the operation of any SIA that was approved before the relevant date and had effect immediately before that date.
- (3) If, before the relevant date, the SIA threshold for a venue was not decreased as a result of the transfer of poker machine entitlements from the venue in accordance with Division 2 of Part 3, the Authority is, on the second anniversary of the relevant date, 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 SIA threshold as was not decreased as the result of the transfer.
- (4) Any SIA that was provided to the Board or the Authority in accordance with this Act before the relevant date, but not determined by that date, is to be assessed by the Authority, and otherwise be dealt with, as if it were a local impact assessment accompanying a gaming machine threshold application under Division 1 of Part 4 (as inserted by the amending Act).
- (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.

(5) This clause is subject to the regulations.

(6) In this clause—

**relevant date** means the date on which this clause commences.

**SIA** means a social impact assessment provided under Division 1 of Part 4 (as in force before its repeal by the amending Act).

**SIA threshold** has the meaning given to it under section 4 (1) before the repeal of that definition by the amending Act.

**unused portion** of a SIA threshold means any portion of the threshold for which a poker machine entitlement has not been acquired.

**venue** means a hotel or the premises of a registered club.

#### **46 Existing free club entitlements and pending applications**

(1) In this clause—

**existing free club entitlement** means a poker machine entitlement allocated under section 17 (as in force before its repeal by the amending Act) in respect of the premises of a registered club.

(2) An existing free club entitlement cannot be transferred during the period of 3 years immediately following the date on which it was allocated.

(3) A registered club must forfeit to the Authority all of its existing free club entitlements before any other poker machine entitlements allocated in respect of the club's premises can be transferred under Division 2 of Part 3 of this Act.

(4) Any application made (but not determined) under section 17 before its repeal by the amending Act has no effect.

#### **47 Existing advisers' licences and work permits**

An adviser's licence (or work permit issued in relation to an application for such a licence) in force immediately before the commencement of this clause is, on that commencement, taken to be a seller's licence or a work permit issued in relation to an application for a seller's licence, as the case requires.

## **Part 12 Provision consequent on enactment of [Totalizator Amendment Act 2010](#)**

#### **48 Existing multi-terminal gaming machine approval revoked**

The approval under this Act granted on 24 September 2002 in respect of the multi-terminal gaming machine known as "Trackside" is revoked.

## 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.

### Part 14 Provisions consequent on enactment of **Gaming Machines Amendment (Centralised Monitoring System) Act 2015**

#### 55 Definitions

In this Part—

**amending Act** means the *Gaming Machines Amendment (Centralised Monitoring System) Act 2015*.

**existing CMS licence** means the CMS licence in force immediately before the commencement of the amending Act.

#### 56 Transitional arrangements for existing CMS licence

- (1) This Act, as in force immediately before the commencement of the amending Act, continues to apply in respect of the existing CMS licence.
- (2) The Minister may enter into an agreement with the holder of the existing CMS licence to provide for the transition to the CMS licensing arrangements under this Act as amended by the amending Act. Such an agreement may be entered into whether or not a new CMS licence has been granted.
- (3) Any such transitional agreement may provide for—
  - (a) the extension of the operation and management of the authorised CMS for a period of not more than 2 years after the end of the term of the existing CMS licence, and
  - (b) any other matter or thing that was or could be provided for by an existing CMS licence.
- (4) A transitional agreement entered into under this clause is taken to be the existing CMS licence. The monitoring fee payable under section 134 during the period that the transitional agreement is in force may, despite anything in that section, be increased by the Minister in accordance with any increases in the Consumer Price Index (All Groups Index) for Sydney issued by the Australian Statistician.
- (5) The regulations made under Part 1 of this Schedule consequent on the enactment of the amending Act have effect despite anything to the contrary in this clause.

### Part 15 Provisions consequent on enactment of **Liquor and Gaming**

## Legislation Amendment Act 2018

### 57 Definition

In this Part—

**amending Act** means the *Liquor and Gaming Legislation Amendment Act 2018*.

### 58 Existing competency cards

Any competency card that was in force under the *Gaming Machines Regulation 2010* immediately before the insertion of the definition of **recognised competency card** in section 49A by the amending Act is taken to be a competency card within the meaning of that definition.

### 59 Existing conditions of approval to conduct RCG training courses

Any condition that applied to an approval to conduct RCG training courses in force immediately before the insertion of section 49B by the amending Act is taken to be a condition of such an approval for the purposes of section 49B as inserted.

### 60 Disciplinary action against licensees

Section 172 as amended by the amending Act extends to the taking of disciplinary action against a licensee who has been served with a notice to show cause immediately before the amendment but in respect of whom a decision has not been made under section 172 (4).

## Part 16 Provisions consequent on enactment of Gaming Machines Amendment (Leasing and Assessment) Act 2018

### 61 Definition

In this Part—

**amending Act** means the *Gaming Machines Amendment (Leasing and Assessment) Act 2018*.

### 62 Threshold increase applications

- (1) An amendment made by the amending Act extends to a threshold increase application and any related transfer application made on or after the date of introduction into Parliament of the Bill for the amending Act and before the commencement of the amendment (not being an application determined before the commencement of the amendment).
- (2) For the purposes of this Part, a **related transfer application** is an application for the Authority's approval of the transfer of a gaming machine entitlement that is made together with a threshold increase application.

### **63 Transitional arrangements for local statistical areas**

An amendment made by the amending Act to change a reference in this Act or the regulations from a reference to local government area to a reference to local statistical area does not apply to or in respect of an application for the Authority's approval of the transfer of a gaming machine entitlement made before the commencement of the amendment (unless the application is made together with a threshold increase application and so is a related transfer application).

### **Schedules 2-5 (Repealed)**