

Gaming Machines Amendment Bill 2005

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

Overview of Bill

The object of this Bill is to amend the *Gaming Machines Act 2001* (***the Principal Act***) as follows:

- (a) to provide for the allocation of poker machine entitlements to certain hotels and registered clubs that have not been allocated entitlements under the existing arrangements,
- (b) to make it an offence for a hotelier or registered club not to enter into arrangements for making problem gambling counselling services available to patrons,
- (c) to make it an offence for a hotelier or registered club not to enter into arrangements for establishing self-exclusion schemes for patrons or to publicise the availability of such schemes,
- (d) to make it an offence to supply or install unapproved gaming machine software and to create other offences in relation to the regulation of gaming machines,
- (e) to require gaming machine technicians to ensure that hotel or club gaming machines are connected to an authorised centralised monitoring system,
- (f) to make it clear that the Liquor Administration Board may cancel a hotelier's or registered club's authorisation to keep gaming machines if the hotel or club fails to pay gaming machine tax or the CMS monitoring fee,
- (g) to enable special inspectors to require hoteliers, registered clubs and holders of gaming-related licences, by notice in writing, to provide information and documents in relation to their businesses,
- (h) to extend the authority to publish information in relation to gaming machines,
- (i) to make other miscellaneous amendments of a minor or consequential nature.

This Bill also amends the *Casino Control Act 1992* as follows:

- (a) to make it an offence for the casino operator not to enter into arrangements for making problem gambling counselling services available to casino patrons,
- (b) to require the casino operator to pay a responsible gambling levy to the Casino Control Authority (which will replace the existing casino community benefit levy) and to provide for the payment of the levy into a Responsible Gambling Fund,
- (c) to enable the Minister to pay money out of the Responsible Gambling Fund for any purpose that is consistent with the provisions of the trust deed set up to administer the expenditure of the money in the Fund.

Outline of provisions

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

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

Clause 3 is a formal provision that gives effect to the amendments to the *Gaming Machines Act 2001* set out in Schedule 1.

Clause 4 is a formal provision that gives effect to the amendments to the *Casino Control Act 1992* set out in Schedule 2.

Schedule 1 Amendment of Gaming Machines Act 2001

Schedule 1 [1] enables the Board, subject to the regulations, to allocate poker machine entitlements to hotels and registered clubs that did not receive their initial allocation of entitlements under section 15 of the Principal Act. The criteria for determining a venue's eligibility to be allocated entitlements will be specified in the

regulations.

Schedule 1 [2] and [20] correct typographical errors.

Schedule 1 [3] makes it clear that the amalgamation of a registered club with another club does not in itself result in the transfer, to the “parent” club, of the poker machine entitlements allocated to the premises of the former club.

Schedule 1 [4] makes it clear that the transfer of registered club’s poker machine entitlements is not required if the club has temporarily ceased to trade.

Schedule 1 [5] makes it clear that the requirement for a registered club to transfer its poker machine entitlements within 12 months from when it permanently ceases to trade does not apply if the club has only one set of premises. **Schedule 1 [6]** is a consequential amendment.

Schedule 1 [7] provides that the current requirement under section 46 of the Principal Act for a hotelier or registered club to arrange for the provision of problem gambling counselling services will be an offence with a maximum penalty of 100 penalty units.

Schedule 1 [8] makes the same amendment in relation to the existing requirement for hoteliers and registered clubs to arrange for self-exclusion schemes to be available for patrons.

Schedule 1 [9] makes it clear that the Board may cancel or suspend a hotelier’s or registered club’s authorisation to keep gaming machines if the hotel or club fails to pay gaming machine tax or the CMS monitoring fee.

Schedule 1 [10] provides for the Director of Liquor and Gaming, instead of the Board, to approve of technical standards for gaming machines. **Schedule 1 [25]** is a consequential amendment.

Schedule 1 [11] provides for the payment, in connection with an application to the Board for the declaration of a device as an approved gaming machine, of the cost of ensuring the device’s compatibility with an authorised CMS.

Schedule 1 [12] makes it an offence for a person to sell or install a gaming machine component (eg any software) unless it has been approved as part of the approved gaming machine to which it relates.

Schedule 1 [13] requires hoteliers and registered clubs to ensure that gaming machine security seals are replaced if they are broken by technicians or other authorised persons. **Schedule 1 [14]** is a consequential amendment.

Schedule 1 [15] and [16] make it clear that gaming-related licences are, at present, subject to conditions imposed under the Principal Act and that those conditions cannot be varied or revoked by the Licensing Court.

Schedule 1 [17] makes it an offence for a person to sell a gaming machine or component that is subject to an alteration order by the Board (known as a “retrofit” order) unless the required alteration has been made.

Schedule 1 [18] enables the CMS licensee to request a hotelier or registered club to take action to ensure that their gaming machines are connected to the CMS and makes it an offence for the hotelier or club to fail to take the appropriate action.

Schedule 1 [18] also makes it an offence for a technician who carries out any work on a gaming machine in a hotel or club to fail to connect the machine to the CMS before it is used. If the gaming machine cannot be connected, the technician will be required to certify why it cannot be connected and who has the responsibility for ensuring its connection.

Schedule 1 [19] makes it clear that an unpaid CMS monitoring fee is recoverable from the person (including a former hotelier) who is or was liable to pay the fee.

Schedule 1 [21] makes it clear that an inter-club linked gaming system may include a linked gaming system between the different sets of premises of the same club.

Schedule 1 [22] makes it clear that an application for a links licence is made under and in accordance with the provisions of Part 12 of the Principal Act.

Schedule 1 [23] makes it clear that subsidiary equipment used in connection with a

linked gaming system that has been approved by the Minister is taken to be subsidiary equipment approved by the Board.

Schedule 1 [24] enables special inspectors, who are presently empowered to require the provision of information or the production of documents while present in a hotel or registered club or on the premises of a gaming-related licensee, to require a hotelier, club or gaming-related licensee, by notice in writing, to provide or produce business information or documents to the inspector. It will be an offence to fail to comply with any such requirement.

Schedule 1 [26] enables the Minister to vary or suspend the operation of specified provisions of the Principal Act for the purposes of enabling gambling-related research to be carried out, or for the trialling of programs relating to gambling.

Schedule 1 [27] and [28] extend the authority to publish information arising under the Principal Act or about gaming machine activities and operations generally.

Schedule 1 [29] enables regulations of a savings or transitional nature to be made as a consequence of the proposed Act. **Schedule 1 [30]** contains certain transitional provisions (including validating, in light of the decision of the Supreme Court in *Mellor v Liquor Administration Board*, any decision of the Board in relation to the allocation of poker machine entitlements under section 15 of the Principal Act).

Schedule 2 Amendment of Casino Control Act 1992

At present under section 72A of the *Casino Control Act 1992 (the CCA)*, it is a condition of the casino licence that the casino operator is required to enter into arrangements for the provision of problem gambling counselling services to casino patrons. **Schedule 2 [1]** provides that this requirement will be enforced as an offence (with a maximum penalty of 100 penalty units) instead of as a condition of the licence (where a contravention is enforced by the taking of non-criminal disciplinary action against the licensee).

At present under section 115 of the CCA, a casino community benefit levy is payable by the casino operator to the Casino Control Authority. Any such levy is then paid into the Casino Community Benefit Fund to be applied, subject to the relevant trust deed set up to administer the money in the Fund, for the benefit of the community.

Schedule 2 [2]–[5] change the name of the levy to the responsible gambling levy, and the name of the Fund to the Responsible Gambling Fund, and also provide for the money to be applied for purposes relating to responsible gambling. **Schedule 2 [6]** enables the Minister to pay money out of the Responsible Gambling Fund for any purpose that is consistent with the provisions of the trust deed set up to administer the expenditure of the money in the Fund (but only after consulting with the trustees).

Schedule 2 [7] enables regulations of a savings or transitional nature to be made as a consequence of the proposed amendments to the Act. **Schedule 2 [8]** provides for the continuation of the existing Casino Community Benefit Fund as the new Responsible Gambling Fund.