

Explanatory note

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

Overview of Bill

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

- (a) to rationalise the scheme for the allocation and transfer of poker machine entitlements and to reduce the overall State cap on the number of entitlements allocated,
- (b) to modify the scheme under which hotels and registered clubs can, in accordance with the overall State cap on the number of gaming machines, increase their gaming machine thresholds,
- (c) to remove the limit on the maximum number of gaming machines that may be kept on the premises of a particular registered club,
- (d) to introduce new gambling harm minimisation measures (including authorising the Director of Liquor and Gaming to require venues to move or screen gaming machines that are located in a manner designed to attract the attention of people outside the venue),

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- (e) to introduce new provisions designed to protect the integrity of the gaming machine industry (including offences relating to technicians who carry out work on gaming machines),
- (f) to remove the requirement for persons who act as gaming machine advisers to hold a gaming-related licence,
- (g) to make a number of other miscellaneous amendments of a consequential, minor or machinery nature.

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, except for certain amendments relating to the poker machine entitlements retained by clubs under section 15B of the principal Act (these amendments will commence, or are taken to have commenced, on 1 December 2008).

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 amends section 153 of the Liquor Act 2007 so as to make a decision by the Director of Liquor and Gaming under proposed section 44A of the Gaming Machines Act 2001 (to be inserted by Schedule 1 [46] to the proposed Act) reviewable by the Casino, Liquor and Gaming Control Authority (the Authority).

Clause 5 provides for the repeal of the proposed Act after all the amendments made by the proposed Act have commenced. Once the amendments have commenced the proposed Act will be spent and section 30 of the Interpretation Act 1987 provides that the repeal of an amending Act does not affect the amendments made by that Act.

Schedule 1 Amendment of Gaming Machines Act 2001

Gaming machine thresholds for venues and local impact assessment process

Schedule 1 [44] replaces the social impact assessment scheme under Division 1 of Part 4 of the principal Act with a new scheme that provides for the setting by the Authority of a gaming machine threshold for each venue. The gaming machine threshold for a venue is similar to the existing concept of a SIA threshold (in that it refers to the maximum number of gaming machines that may be authorised to be kept in the venue). Under the new scheme, a venue may apply to the Authority to increase

its gaming machine threshold. The requirements under the proposed Division in relation to a proposed increase will depend on the classification of the local government area in which the venue is situated (the LGA classification is done by the Authority) and the level of the increase applied for. In some cases, these requirements will involve the provision of a local impact assessment (LIA) which must be

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approved by the Authority in order for the venue to get its increased threshold. If the threshold for a venue is increased, the venue will have a limited period in which to acquire poker machine entitlements to fill its threshold.

The new Division also contains special provision for clubs in new development areas (namely, the club will only have to do a class 1 LIA, rather than a more stringent class 2 LIA, if it wants up to 150 gaming machines in a new development area and it will only have to forfeit one in 6 poker machine entitlements (rather than one in 3) when it acquires entitlements to meet its threshold). The new Division also restates the existing provision relating to gaming machines in retail shopping centres. Under the new provision, the gaming machine threshold for a venue in a shopping centre cannot be increased, and if a venue is established in a shopping centre its threshold will be zero.

The amendments made by Schedule 1 [2], [9], [20], [31] and [56] are consequential on the introduction of the new gaming machine threshold scheme. Schedule 1 [8], [57] and [58] are consequential on the provisions about retail shopping centres being moved to the new Division 1 of Part 4.

Amendments relating to tradeable poker machine entitlement scheme

Schedule 1 [14] reduces the overall State cap on the number of gaming machines from 104,000 to 99,000 (the new cap will refer to the number of poker machine entitlements instead of actual machines). Provision is also made to further reduce the State cap by regulation, as the number of poker machine entitlements will be progressively reduced as a result of entitlements being forfeited when venues trade them.

Schedule 1 [16] makes it clear that the scheme for allocating (or acquiring) poker machine entitlements is subject to the overall State cap and that a gaming machine cannot be kept in a venue unless it is authorised to be kept in the venue.

Schedule 1 [18] repeals a transitional provision relating to the reduction of poker machine entitlements held by certain clubs. The clubs have paid to retain these entitlements (which they would have otherwise been required to forfeit) and the gaming machines to which the retained entitlements related have been removed from the relevant premises under the existing provision.

Schedule 1 [19], [22], [23], [27], [30] and [32]–[37] make miscellaneous changes to the way in which the tradeable poker machine entitlement scheme operates.

Schedule 1 [21] removes the provision for the allocation of “free” poker machine entitlements to certain clubs (such as small or new clubs).

Schedule 1 [24] and [25] have the effect of repealing the amendments made to section 19 of the principal Act by the Gaming Machines Amendment (Temporary Freeze) Act 2008.

Schedule 1 [26] makes it clear that the gaming machine threshold for a venue is to be decreased when the venue transfers any of its poker machine entitlements (including those which are required to be forfeited as a result of a transfer).

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Schedule 1 [38], [40] and [41] modify the scheme relating to the approval to keep hardship gaming machines. In particular, if a venue is notified by the Authority that

it has met all of the conditions relating to the approval to keep a hardship gaming machine, the venue will have 12 months to acquire a poker machine entitlement for the machine.

Amendments relating to maximum number of machines in clubs

Schedule 1 [15] removes the limit on the maximum number of gaming machines that may be kept on the premises of a registered club (the current limit is 450 gaming machines). As a consequence of the removal of the cap, provisions relating to large-scale clubs (ie those clubs that had more than 450 gaming machines when the cap was set in 2002), are also removed (see Schedule 1 [6], [17], [28] and [29]).

Schedule 1 [39] is consequential on the removal of those provisions.

Amendments relating to gambling harm minimisation measures

Schedule 1 [46] enables the Director of Liquor and Gaming to require venues to move or screen gaming machines if they are located in a manner that is designed to attract the attention of the public from outside the venue.

Schedule 1 [47] makes it clear that the requirement for a venue to provide problem gambling counselling services only applies if the venue is authorised to keep gaming machines.

Schedule 1 [48] requires a venue to provide an inspector with written evidence of the arrangements that the venue is required to enter into for the provision of problem gambling counselling services.

Schedule 1 [50] provides that if a prize won from playing gaming machines is issued as a cheque, the prize winning cheque must be identified as a prize winning cheque and must include the statement prescribed by the regulations for the purposes of proposed section 47B. Schedule 1 [49] is a consequential amendment. Schedule 1 [50] also makes it an offence for a hotelier or club to permit a cash dispensing facility (such as an ATM) to be located or installed in the venue if the facility provides cash from a credit card account.

Schedule 1 [51] and [52] provide that venues can operate their own self-exclusion schemes for patrons if the scheme is established and conducted in accordance with the regulations.

Amendments relating to gaming-related licences and licensees

Schedule 1 [11], [53], [66], [71], [72], [87], [88] and [102] modify references relating to the holder of a technician's licence in the principal Act (the term technician will refer to the holder of a technician's licence instead of the latter term being used throughout the Act).

Schedule 1 [89] removes the requirement that a person must be licensed to act as a gaming machine adviser (ie a person who gives advice, or issues analyses and reports, about poker machines). As a consequence, Schedule 1 [3], [5], [79], [81], Explanatory note page 5

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[82], [84], [85], [90] and [99] amend provisions relating to gaming machine advisers' licences, and Schedule 1 [80] provides that the authority conferred by a dealer's licence will no longer include acting as a gaming machine adviser. The amendment made by Schedule 1 [80] also makes it clear that a dealer's licence is to specify the premises (rather than places) on which the dealer is authorised to manufacture and assemble gaming machines. Schedule 1 [83] is a consequential amendment.

Schedule 1 [91] provides that conditions may be imposed by the Authority on a work permit either when the permit is issued or at any later time.

Schedule 1 [92] modifies the information relating to interested persons that must be disclosed by an applicant for a gaming-related licence.

Schedule 1 [93] provides that the costs of investigation by the Director or the Commissioner of Police in relation to an application for a gaming-related licence are

payable by the applicant. A similar provision was included in the principal Act before the Act was amended to replace the Licensing Court with the Authority as the body responsible for granting gaming-related licences.

Schedule 1 [94] enables the holder of testing facility licence to apply to change the premises specified in the licence.

Schedule 1 [95] removes a provision that allows the Authority to prevent dealers, when manufacturing poker machines, from using parts that are not made in Australia.

Schedule 1 [96] provides that persons acting under the authority of a dealer's licence may be required by the Authority to alter gaming machines in venues.

Schedule 1 [97] removes a provision enabling an application to be made for a refund of a licence fee when the licence is surrendered. The Authority already has a discretion under section 111 of the principal Act to refund a licence fee when the licence is surrendered or cancelled.

Schedule 1 [98] increases the penalty for certain offences under section 122 of the principal Act (which relate to the provision of financial assistance by gaming-related licensees) from 20 to 50 penalty units.

Schedule 1 [100] provides that the notification required to be given to the Authority by technicians or sellers when they commence (or cease) work with a dealer must be given in the manner approved by the Authority.

Miscellaneous amendments

Schedule 1 [1] replaces the objects of the principal Act. The new objects refer specifically to the on-going reduction of poker machine numbers (which is achieved through the tradeable poker machine entitlement scheme).

Schedule 1 [7] removes an obsolete provision in the definition of new hotel.

Schedule 1 [10] modifies the definition of subsidiary equipment so that it refers specifically to things that affect the playing of a gaming machine or the meters of a gaming machine.

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Schedule 1 [12] requires the Authority to be notified when poker machines are kept or operated for non-gambling purposes and Schedule 1 [13] allows gaming machines to be operated at trade shows provided they are not used for gambling purposes.

Schedule 1 [42] is consequential on other amendments made by the proposed Act in relation to the various gaming machine entitlements that may be held by venues.

Schedule 1 [43] enables Liquor Act poker machine permits (which were issued under section 182C of the Liquor Act 1982 before the principal Act commenced) to be retained for a limited period following the cancellation or surrender of the relevant hotel licence.

Schedule 1 [45] makes it clear that the offence of publishing gaming machine advertising does not apply if the advertising material consists of internal promotional material that has been removed from the venue concerned by a patron for their own personal use.

Schedule 1 [54] enables the Authority to cancel the authorisation of a venue to keep gaming machines if the venue has failed to comply with any conditions of the Authority's approval of a LIA under proposed Division 1 of Part 4 (as inserted by Schedule 1 [44]).

Schedule 1 [55], [62] and [75] provide that certain functions of the Director of Liquor and Gaming in relation to gaming machines are to be exercised instead by the Authority.

Schedule 1 [59]–[61] modify provisions relating to the limit on the number of multi-terminal gaming machines that may be kept by a registered club. In particular, a club will be given 5 years to reduce its number of MTGMs to 15% of its number of poker machine entitlements.

Schedule 1 [63] extends the existing offence of possessing a gaming machine that has not been approved so that it also applies to the supply, sale or installation of an unapproved gaming machine. Schedule 1 [64] provides that the offence of possessing an unapproved gaming machine does not apply in relation to a gaming machine that is kept on a trial basis under section 66 of the principal Act.

Schedule 1 [65] makes it clear that the offence of supplying an unapproved gaming machine component extends to the sale of the unapproved component.

Schedule 1 [67], [68], [70], [73], [74] and [86] modify existing offence provisions relating to gaming machines.

Schedule 1 [69] creates new offences relating to work carried out by technicians.

Schedule 1 [76] creates a new offence of falsely claiming a prize from the playing of a gaming machine.

Schedule 1 [77] consolidates existing offences relating to a person fraudulently gaining an advantage during the design, manufacture, assembly, maintenance or repair of a gaming machine. Schedule 1 [78] is a consequential amendment.

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Schedule 1 [101] makes it clear that a gaming machine is connected to an authorised CMS for the purposes of Part 9 of the principal Act if information in respect of the gaming machine is provided to the authorised CMS in accordance with arrangements approved by the Minister.

Schedule 1 [103] creates a new offence of permitting a gaming machine that is part of a linked gaming system to operate in stand alone mode when the linked gaming system is not operating. The offence will not apply in such circumstances as may be approved by the Minister. If the gaming machine itself ceases to operate as part of the linked gaming system, it will also be an offence to permit the gaming machine to be used for the purposes of gambling during that time.

Schedule 1 [104] requires technicians to ensure that all the components of an authorised linked gaming system (including the actual gaming machines) are properly connected to the system after the technician does any work on the system in a venue.

Schedule 1 [105]–[107] specify additional matters in respect of which an allegation in any proceedings is taken to have been proved.

Schedule 1 [108] re-establishes the Community Development Fund. The Fund is currently established under section 15B of the principal Act, but will have other sources of money paid into it as a consequence of the proposed Act. Schedule 1 [4] and [113] are consequential amendments.

Schedule 1 [109] enables the Minister to give directions to the Authority in relation to certain functions of the Authority.

Schedule 1 [110] enables information acquired under the principal Act to be disclosed to the NSW Police Force or the police force of any other Australian jurisdiction.

Schedule 1 [111], [112] and [114] enable regulations to be made with respect to the operation of temporary self-exclusion schemes for hotel and club patrons, the operation of authorised linked gaming systems and the allocation and transfer of poker machine entitlements.

Schedule 1 [115] enables regulations of a savings or transitional nature to be made as a consequence of the proposed Act.

Schedule 1 [116] includes savings and transitional provisions as a consequence of the proposed Act. In particular, special provision is made in respect of existing SIA thresholds and pending SIA applications that have been provided before the commencement of the proposed Act.