

GAMING MACHINES AMENDMENT BILL 2008

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Bill introduced on motion by Mr Kevin Greene.**Agreement in Principle****Mr KEVIN GREENE** (Oatley—Minister for Gaming and Racing, and Minister for Sport and Recreation) [10.15 a.m.]: I move:

That this bill be now agreed to in principle.

The Gaming Machines Amendment Bill 2008 contains a range of amendments to the Gaming Machines Act. The amendments seek to achieve a number of aims: to continue to implement appropriate harm minimisation and responsible gambling requirements and to refine existing requirements; to provide greater certainty for industry and to introduce some simplification in the administrative processes; to increase integrity and compliance within the gaming industry; to cut red tape; and to provide clarification and machinery changes to allow the Act to operate more effectively and efficiently. When the Gaming Machines Act came into force, as it introduced a new regulatory framework for the operation of gaming machines in New South Wales, it included a requirement for a five-year review of the Act to ensure that the objectives of the Act remain valid and that the Act is operating appropriately and effectively.

This review process was undertaken in 2007. Extensive consultation was undertaken with industry participants, community groups, problem gambling counselling services and individuals, and a report was tabled in Parliament in December 2007. The report found that the policy objectives of the Act remain valid but a number of amendments could be made to improve the operation and effectiveness of the Act. The bill before the House contains these recommended amendments. A great deal of time has been spent ensuring that each of the amendments will achieve the intended outcome and will enhance the operation of the Act and will further improve the regulatory environment of gaming machine operation in New South Wales.

This bill introduces a number of additional and significant harm minimisation and responsible gambling requirements. First, the bill reduces the statewide gaming machine cap by 5,000. The cap will be reduced from 104,000 to 99,000. This means that there are 5,000 fewer gaming machine entitlements available for hotels and clubs to operate than there were six years ago. The entitlements for those 5,000 machines have been permanently removed from operation, which means that that number of machines will never be able to operate in New South Wales gaming venues again. This reduction is just the beginning. The Act provides that the cap will be further reduced at least once every five years. The Government is committed to an ongoing reduction in gaming machine numbers in New South Wales.

Another significant harm minimisation initiative included in the bill is prohibiting cash withdrawals from credit cards through ATM and EFTPOS facilities in gaming venues. This further strengthens the already significant restrictions in place on providing credit for gambling in hotels and registered clubs. Another key responsible gambling initiative included in the bill is giving the Director of Liquor and Gaming power to require a venue to take action if gaming machines are located in a way that would inappropriately advertise or attract the attention of people outside the venue. It is not considered appropriate that a venue be able to circumvent the strict prohibitions on gaming machine signage and advertising by using the placement of gaming machines to attract attention to their availability to people outside the venue; this may include machines being both seen and heard. I note that the decisions by the director are subject to administrative review by the Casino, Liquor and Gaming Control Authority, and publicly available guidelines will be available to give guidance on what is inappropriate.

The bill also introduces a limit on the number of multi-terminal gaming machines [MTGMs] that a club may operate. MTGMs are gaming machines that operate casino-style games such as blackjack or roulette. The bill limits the number that an individual club can operate to no more than 15 per cent of its total number of gaming machine entitlements. The review report noted that some club venues had significant numbers of MTGMs in their venue, up to 40 per cent in one case. Given the higher bet limits and prize limits on MTGMs and that they run casino-style games, it is considered appropriate to limit their use to a certain level. It is not appropriate that club venues operate such a significant proportion of MTGMs that their gaming floors resemble mini-casinos. Only 15 clubs have MTGM numbers over the 15 per cent limit. Given the significant investment that these club venues have made in the MTGM technology, it is proposed to give them five years to reduce their MTGM numbers to the 15 per cent limit.

One of the more significant changes introduced by the bill is the introduction of the local impact assessment process, or LIA. This is a new framework for assessing the appropriateness of the placement of additional gaming machines in licensed venues. The new system classifies each local government area [LGA] into band 1, 2 or 3. There are different requirements in place under the new LIA system, depending on which band a venue falls into due to its location. Generally, the bands take into account gaming machine density, the expenditure on gaming machines and relevant social data. The new LIA system will have clear guidelines on what is required of a venue if it seeks additional machines, depending on the number sought and the location of the venue.

For example, if a venue is in a band 3 LGA it is in an area with a high density of machines. Therefore, it will face significant hurdles to getting any additional gaming machines and, in most cases, will have to go through a rigorous class 2 LIA and show an overall positive impact on the LGA before any application is approved. Whereas if a venue is in a band 1 LGA, that is an area of low density of machines. In band 1 LGA fewer requirements need to be met by the applicant in the assessment of an application where only a small or moderate number of machines are sought. This approach seeks to overcome some significant concerns expressed by gaming machine industry participants regarding the current social impact assessment process, which the LIA process is replacing.

The significant information requirements, the detailed analysis necessary and the time taken to consider applications have been sources of frustration to applicants and this new process aims to improve on this. There will be clear guidelines on what is required in an application for additional machines depending on the number of machines sought, the location of the venue and from where the additional machines are being bought. Applicants will no longer be required to provide a cost-benefit analysis as part of their application. Rather, the authority will make this type of assessment based on information provided by the applicant and relevant social profile data gathered by the authority, as required. Under this new process, the applicant will simply provide information on the number of additional machines it wants and detail the positive contribution it will make to the local community in support of its application. This seeks to give hotels and clubs a clear idea of what would be required of them in any application to allow them to make an informed decision on the likely success of an application and, therefore, whether it is worth making the application. This type of certainty is something that industry participants have clearly requested during consultation on this issue.

A number of amendments in the bill relate to requirements for registered clubs. In a number of areas of the bill certain club-specific requirements are included that recognise the important community contribution clubs can make, as well as the specific operational needs of related clubs. The limit of 450 on the maximum number of gaming machines a club can operate has been removed. Removing this limit will encourage larger clubs to amalgamate with smaller struggling clubs, as they will no longer be limited in the maximum number of gaming machines they can operate. Clubs seeking to increase their poker machine entitlements above 450 will be required to submit the appropriate application, which will be assessed subject to the overall threshold of the local government area [LGA]. They will be subject to a thorough review by the Casino, Liquor and Gaming Control Authority. That review will take into account the level of increase and the number of machines in the venue and the LGA.

The Act and regulations will require that venues located in bands 1, 2 and 3 will be subject to the appropriate review mechanism by the authority, depending on the range of the increase in machines proposed and the number of gaming machines in the venue. This ensures that only appropriate increases in gaming machine numbers will be approved by the Casino, Liquor and Gaming Control Authority. That is, clubs in areas with an already high density of machines will find it difficult to obtain approval for additional machines. Clubs will still be subject to the overall State cap and the removal of the maximum limit for clubs will not result in a breach of the overall cap. The review report recommended that the provision giving 10 free gaming machine entitlements to new clubs be repealed. This has been included in the bill and is appropriate given the Government's commitment to reducing gaming machine numbers and avoiding extra entitlements being placed in areas where larger than acceptable numbers may already operate. However, the bill introduces a new provision that assists new clubs in a new way.

The bill proposes a scheme that aims to assist new clubs to establish in new development areas, that is, areas where there is sizable new residential development and there is no registered club present to service the needs of that new community. The bill proposes that a club wishing to establish in a new development area may apply to operate up to 150 gaming machines and for the first 50 machines only one in six needs to be forfeited in any transfer. These areas are to be only in band 1 LGAs, that is, LGAs with a low density of machines, which can accommodate the additional machine numbers. The provision aims to encourage clubs to develop into areas of new growth and establish in areas where there is a need for the type of community facilities that registered clubs can provide. There is also some clarification in the bill about the requirements for gaming venues located in or next to retail shopping centres. The bill retains the current restrictions that state that existing venues in shopping centres cannot get additional gaming machines and that any hotel or club venue establishing in a shopping centre cannot operate gaming machines.

The Gaming Machines Regulation currently has some exceptions to the general requirements that enable clubs to remove or extend into a retail shopping centre. In a number of cases, clubs have sought to redevelop their club facilities and the exemptions have facilitated appropriate development if the club is in a retail shopping area.

It is intended to introduce a more straightforward process enabling this type of club development, and it is appropriate that Parliament deal with the making of this, rather than including it in subordinate legislation. The new provisions provide that if a club removes or extends into a retail shopping centre it can only operate gaming machines if patrons will not be able to gain access to the club's premises directly from the retail shopping centre.

The new provisions also provide that the gaming machine threshold for the new premises is no more than the threshold for the club's previous premises and, in the case of a removal, the premises are both within the same suburb or town; and in the case of an extension, the club's premises remain predominantly where it was before the extension. The provision of these requirements may assist clubs to redevelop by providing certainty regarding the requirements for venues seeking to locate in retail shopping centres. The Government is supportive of clubs seeking to redevelop, as this provides improved services for members and the community. Further, facilitating such redevelopment may assist with diversifying income generation of clubs, thereby reducing reliance on gaming activities for club profits.

The Act currently provides for reduced forfeiture rates for related clubs when they transfer entitlements between venues where the venues are located within one kilometre for metropolitan regions and within 50 kilometres for non-metropolitan regions. With the new local impact assessment [LIA] process setting requirements based on local government area, it is now proposed to amend these requirements to allow related club premises to transfer without forfeiture if both premises are within the same local government area. This is regardless of whether it is a metropolitan or non-metropolitan area. If related club premises are in different local government areas a reduced forfeiture rate of one entitlement in every six transferred will apply, rather than one in every three for a normal transfer. It is important to recognise and support the unique relationship of related clubs. This type of relationship allows larger, more successful clubs to support and assist smaller clubs to continue to operate and provide facilities for communities.

Another amendment in the bill is to repeal amendments made relating to the transfer of hotel poker machine entitlements. The policy intention of this provision is to revert to the position existing immediately prior to the Gaming Machines (Temporary Freeze) Act amendments in 2008. Various judicial decisions considered the application of the laws, as they existed prior to the amendments. On reversion to the former provisions, these decisions should again provide guidance on the interpretation of the provisions as they existed prior to the 2008 amendments. The five-year review report recommended that the legislation be amended to ensure that the licence owner be able to object to the transfer of entitlements from a leased hotel in all cases but that the issue should be kept under review. The New South Wales Office of Liquor, Gaming and Racing has held extensive consultation with the hotel industry over this matter and has concluded that the original legislation provides a reasonable framework to allow lessors to object and that the amendments are not required.

The hotel industry has advised that only a very small number of disputes remain unresolved—only 17—and that any legislative amendment would only disrupt a precedent set by court decisions. The unresolved agreements are private financial arrangements between the parties. These are matters best dealt with between the parties and, if necessary, with recourse to the court system. There is no role for government to interfere in these private disputes. This is the way all private disputes are determined in this State and it is appropriate that these disputes are determined in the same way. The Act will continue to allow lessors with a relevant financial interest in a hotel to continue to be able to object to the transfer of poker machine entitlements by a lessee by making a submission to the Casino, Liquor and Gaming Control Authority.

It is important that the gaming machine industry operates with integrity and that the Act supports this, and ensures compliance and strengthens accountability of gaming-related licensees. A number of amendments in the bill seek to achieve this purpose. There are a number of new requirements related to gaming machine technicians, with a new requirement that work undertaken by technicians on gaming machines be recorded by hotels and clubs, and a new offence to ensure that any work done on a gaming machine by a technician does not affect the way the machine is supposed to operate. There are also new offences for falsely claiming a gaming machine prize on a gaming machine and new clear requirements for the operation of linked gaming systems, in particular ensuring that all machines designated to be on a link are actually connected to the link except where specific approval has been given and strict rules about providing relevant information to players are in place.

The amendments in the bill seek to strike a proper balance between the need to impose a regulatory burden on business to ensure that gambling is conducted responsibly and with integrity, and the need to ensure the Government's policy objective of minimising gambling harm in the community. The five-year review of the Gaming Machines Act was a responsible and effective tool to ensure that the regulatory framework for gaming machines operates appropriately and as intended. It provided an opportunity for industry participants, individuals, community groups and others to advise the Government about their views on the Act's operation, and gave a chance to make improvements where necessary. This type of review of the Act will be ongoing and the proposed changes included in this bill will similarly be subject to periodic review to ensure that they are operating as intended and achieving the desired outcomes. I commend the bill to the House.