

Passed by both Houses



New South Wales

Gambling Legislation Amendment (Gaming Machine Restrictions) Bill 2000

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I certify that this PUBLIC BILL, which originated in the LEGISLATIVE ASSEMBLY, has finally passed the LEGISLATIVE COUNCIL and the LEGISLATIVE ASSEMBLY of NEW SOUTH WALES.

*Clerk of the Legislative Assembly.
Legislative Assembly,
Sydney, , 2000*



New South Wales

Gambling Legislation Amendment (Gaming Machine Restrictions) Bill 2000

Act No , 2000

An Act to amend the *Registered Clubs Act 1976*, the *Liquor Act 1982* and the *Casino Control Act 1992* to restrict the keeping of additional gaming machines in clubs and hotels, and for other purposes.

I have examined this Bill, and find it to correspond in all respects with the Bill as finally passed by both Houses.

Chairman of Committees of the Legislative Assembly.

The Legislature of New South Wales enacts:

1 Name of Act

This Act is the *Gambling Legislation Amendment (Gaming Machine Restrictions) Act 2000*.

2 Commencement

This Act commences on the date of assent.

3 Amendment of Registered Clubs Act 1976 No 31

The *Registered Clubs Act 1976* is amended as set out in Schedule 1.

4 Amendment of Liquor Act 1982 No 147

The *Liquor Act 1982* is amended as set out in Schedule 2.

5 Amendment of Casino Control Act 1992 No 15

The *Casino Control Act 1992* is amended as set out in Schedule 3.

Schedule 1 Amendment of Registered Clubs Act 1976

(Section 3)

[1] Parts 10B and 10C

Insert after Part 10A:

Part 10B Freeze on number of approved gaming devices kept by clubs

88AD Duration of freeze

- (1) This Part applies during the period:
 - (a) commencing at 12 pm on 28 March 2000, and
 - (b) ending at the time (not earlier than 12 pm on 28 March 2001) appointed by proclamation.
- (2) The time appointed for the end of the period may be altered by a further proclamation or proclamations published before the time so appointed.
- (3) In this Part, the *period of the freeze* is the period during which this Part applies, as provided by this section.

88AE Number of gaming devices in each club not to be increased during the period of the freeze

- (1) The maximum number of approved gaming devices that a registered club may keep during the period of the freeze must not exceed the maximum number of approved gaming devices that the club was authorised to keep under this Act at the beginning of the period of the freeze.
- (2) This section applies to any authority under this Act to keep approved gaming devices, whether given by or on behalf of the Licensing Court or the Board.
- (3) This section is subject to the other provisions of this Part.

- (4) For the purposes of this Part, an authority to keep a multi-terminal gaming machine is taken to be an authority to keep the number of approved gaming devices that corresponds to the number of player terminals on that multi-terminal gaming machine.

88AF Exceptions to the freeze

- (1) This Part does not prevent an increase in the maximum number of approved gaming devices that a registered club is authorised to keep under this Act if the club establishes that its financial viability will be seriously threatened during the period of the freeze if it is unable to keep the additional devices.
- (2) The applicant is required to establish such a serious threat to its financial viability to the satisfaction of the Licensing Court or the Board (whichever is dealing with the application under this Act for the additional devices).
- (3) The Licensing Court or the Board may take into account any submission by the applicant for the purposes of this section, including with respect to building works:
 - (a) that were commenced or recently completed, or for which contractual arrangements had been made, at the beginning of the period of the freeze, and
 - (b) that were only undertaken because of the expectation of funding to be provided by the keeping of additional approved gaming devices.
- (4) The Licensing Court or the Board may decline to deal with any such application until:
 - (a) a qualified auditor or person appointed by the Court or Board has provided it with a report on the financial viability of the club, and
 - (b) the club has made the arrangements required by the Court or the Board to facilitate the provision of the report (including arrangements for the club to meet the costs of the report and to enable the person providing the report to be given access to records and releases from any obligation of confidentiality with respect to information provided to the Court or the Board).

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- (5) An authority that is given under this Act for additional devices is to be limited to the extent necessary to prevent the serious threat to the club's financial viability. Accordingly, the authority:
- (a) may be given for a lesser number of devices than that applied for, or
 - (b) may be limited in its duration so that all or any of the additional devices concerned are required to be disposed of at a specified time during the period of the freeze, or
 - (c) may be subject to any other condition that the Licensing Court or the Board considers appropriate.
- (6) Part 10C (Social impact assessment of gaming devices) does not apply to an application to which this section applies.

88AG Freeze does not apply to authority for replacement gaming devices

- (1) This Part does not affect an application for an authority to acquire and keep approved gaming devices if the approval of any such application does not result in any increase in the total number of approved gaming devices authorised to be kept by the registered club as provided by sections 88AE and 88AF.
- (2) Examples of applications that may be approved include the following:
- (a) an application for the disposal of one device and for the immediate or later acquisition of a replacement device,
 - (b) an application for the disposal of a number of devices and for the acquisition of a multi-terminal gaming machine with that number of player terminals.

88AH Miscellaneous provisions

- (1) This Part extends to an authority to keep approved gaming devices provided by the conditions of the certificate of registration of a club or by any other means.
- (2) This Part does not apply to a device that is kept by a registered club on a trial basis as provided by section 79A or by section 167 of the *Liquor Act 1982* (as applied by Part 10A).

- (3) This Part does not affect any authority under this Act relating to subsidiary equipment.
- (4) This Part applies to approved gaming devices even if they are part of an authorised linked gaming system under Part 12.
- (5) If the certificate of registration of a club relates to 2 or more separate and distinct premises, this Part applies separately to each of those premises. If the authority of a club to keep approved gaming devices does not distinguish between the different premises at which the devices are to be kept, the club is taken to be authorised to keep at each of those premises the same proportion of the total maximum number of devices it is authorised to keep as the proportion of devices actually kept at each of those premises at the beginning of the period of the freeze.
- (6) An authority to keep approved gaming devices that cannot be given because of this Part during the period of the freeze cannot be given during that period with effect from or after the end of that period.
- (7) An authority to keep approved gaming devices that was given after the beginning of the period of the freeze and before the commencement of this Part ceases to have effect to the extent that it contravenes this Part.
- (8) This Part has effect in respect of any pending application for authority to keep approved gaming devices even if the application was made before the commencement of the period of the freeze or before the commencement of this Part.
- (9) Damages or compensation are not payable by or on behalf of the Crown because of:
 - (a) the enactment or operation of this Part, or for the consequences of that enactment or operation, or
 - (b) a representation or conduct of any kind about any limitation on the keeping of approved gaming devices by clubs.

In this subsection, *the Crown* means the Crown within the meaning of the *Crown Proceedings Act 1988*, and includes the Board or any officer, employee or agent of the Crown or the Board.

Part 10C Social impact assessment of gaming devices

88AI Object of Part

- (1) The provisions of this Part are a means (but not the only means) of giving effect to the primary objects of this Act referred to in section 3A (Gambling harm minimisation and responsible conduct of gambling activities are primary objects of the Act).
- (2) The provisions of this Part are in addition to the other provisions of this Act with respect to the making of applications to which this Part applies and the determination of those applications.

88AJ Application of Part

- (1) This Part applies to the following applications under this Act:
 - (a) an application under section 7, 17A, 18, 19, 19A, 20 or 21 (a premises-related application),
 - (b) an application under Part 10 or 10A for authority to acquire and keep approved gaming devices (a device-related application).
- (2) This Part does not apply to any such application made to the Licensing Court or the Board if:
 - (a) in the case of a premises-related application—the Court or Board is satisfied that the application is not concerned with the keeping of approved gaming devices by the club or with an increase in the number of devices to be kept by the club, or
 - (b) in the case of a device-related application—the application does not seek an increase in the maximum number of approved gaming devices that the club is authorised to keep at any of its premises.
- (3) This Part extends to an application made before the commencement of this Part that has not been finally determined on that commencement.

88AK Social impact assessment of applications

- (1) A social impact assessment is required to be furnished by the applicant in connection with an application to which this Part applies.
- (2) The Licensing Court or Board, whichever is dealing with the application, may dispense with the need for a social impact assessment if satisfied that an assessment is not necessary in the particular circumstances of the case having regard to the likely minimal social impact of the additional approved gaming devices concerned.
- (3) The Licensing Court or Board is required to give its reasons for any decision to dispense with the need for a social impact assessment.

88AL Content of social impact assessment

- (1) A social impact assessment of an application to which this Part applies is required to assess the likely impact on the local community of the granting of the application.
- (2) For the purpose of any social impact assessment, the local community comprises the people in the area or group from which the persons utilising the services and facilities of the club are likely to be drawn.
- (3) The social impact assessment is to address social and economic impacts and set out any net social and economic benefits to the local community.
- (4) The social impact assessment is to contain details of the following:
 - (a) the number of approved gaming devices already kept by the club and the number kept by other registered clubs having the same or a similar local community (and by any hotels in the neighbourhood),
 - (b) past increases in the number of approved gaming devices so kept,
 - (c) the public demand for gambling within the local community,

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- (d) the incidence of problem gambling within the local community,
 - (e) the availability of problem gambling services in the local community,
 - (f) the action proposed to be taken by the club to minimise any harm associated with an increase in the number of approved gaming devices available within the local community (including the action proposed to be taken to protect children),
 - (g) any likely change in the demands on public transport, any likely employment consequences for other businesses in the local community and any likely change in the demands on welfare, health and housing services in the local community,
 - (h) the result of consultation about the application with the local community, the local council in whose area the club premises are or are to be situated, the Department of Community Services, the Department of Health, organisations concerned with the social consequences of gambling and other appropriate bodies,
 - (i) any other relevant matter.

The assessment may also address any benefits or support provided by the club to persons who are not members of the club.

- (5) The regulations may make further provision for or with respect to the furnishing or content of social impact assessments under this Part.

88AM Consultation on application and social impact assessment

- (1) After the applicant has furnished the Licensing Court or the Board with a social impact assessment in connection with an application to which this Part applies, the applicant must:
 - (a) place a copy of the application and the social impact assessment on public exhibition at the premises to which the application relates, and

- (b) publish an advertisement about the application in a local newspaper circulating in the area in which those premises are situated, and
 - (c) provide a copy of the application and social impact assessment to the Director of Liquor and Gaming and the local council at or before the time the advertisement is published.
- (2) The advertisement must:
 - (a) be in the form approved by the Board, and
 - (b) state that a copy of the application and social impact assessment will be available for public inspection at the premises specified in the advertisement, and
 - (c) invite any written submissions on the matter to be made to the Board within 30 days after the publication of the advertisement.
- (3) The application cannot be determined by the Licensing Court or Board until after the expiration of that 30-day period.

88AN Consideration of social impact assessment and submissions

- (1) The Licensing Court or Board is required to take into account any social impact assessment furnished by the applicant in connection with an application to which this Part applies and any written submissions made on the matter within the 30-day period referred to in section 88AM.
- (2) Accordingly, the Licensing Court or Board may grant or reject the application (in whole or in part), grant the application for a temporary period or impose conditions on the grant of the application.
- (3) The power conferred by subsection (2) applies whether or not the provisions of this Act dealing with the determination of those applications confer that power.

[2] Section 79B

Insert after section 79A:

79B Approved gaming devices not permitted in retail shopping centres

(1) In this section:

retail shopping centre means a retail shopping centre within the meaning of the *Retail Leases Act 1994*, and includes:

- (a) any adjoining building, or
- (b) anything declared to be a retail shopping centre by the regulations, but does not include anything excluded from this definition by the regulations.

(2) An approved gaming device cannot be authorised under this Act to be kept (or used and operated) in any part of the premises of a registered club:

- (a) that are part of a retail shopping centre or proposed retail shopping centre, or
- (b) that were part of a retail shopping centre within the previous 12 months.

(3) If an application is granted under this Act that results in any part of the premises of a registered club being moved or extending to a retail shopping centre or proposed retail shopping centre:

- (a) any entitlement under this Act to keep approved gaming devices in that part of the premises of the club ceases, and
- (b) the entitlement revives if:
 - (i) that part of the premises of the club is moved to premises that are not within a retail shopping centre or proposed retail shopping centre, or ceases to be part of the premises of the club, or
 - (ii) that part of the premises of the club ceases to be part of a retail shopping centre for at least 12 months.

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Schedule 1 Amendment of Registered Clubs Act 1976

- (4) Subsection (2) does not apply to any authority given as a result of an application that was finally determined before the commencement of this section (whether or not the premises of the registered club are or become part of a retail shopping centre).
- (5) Subsection (2) does not apply to any authority that does not result in any increase in the total number of approved gaming devices authorised to be kept in the registered club.
- (6) An authority given after the commencement of this section (whether in respect of an application pending at or made after that commencement) has no effect if it contravenes this section.
- (7) This section extends to a device kept in a registered club on a trial basis as provided by section 79A or by section 167 of the *Liquor Act 1982* (as applied by Part 10A).
- (8) Damages or compensation are not payable by or on behalf of the Crown because of:
 - (a) the enactment or operation of this section, or for the consequences of that enactment or operation, or
 - (b) representation or conduct of any kind about any limitation on the keeping of approved gaming devices in retail shopping centres.

In this subsection, *the Crown* means the Crown within the meaning of the *Crown Proceedings Act 1988*, and includes the Board or any officer, employee or agent of the Crown or the Board.

- (9) This section has effect despite anything to the contrary in this Act.

Schedule 2 Amendment of Liquor Act 1982

(Section 4)

[1] Section 161A

Insert after section 161:

161A Approved gaming devices not permitted in retail shopping centres

(1) In this section:

retail shopping centre means a retail shopping centre within the meaning of the *Retail Leases Act 1994*, and includes:

- (a) any adjoining building, or
- (b) anything declared to be a retail shopping centre by the regulations,

but does not include anything excluded from this definition by the regulations.

(2) An approved gaming device cannot be authorised under this Act to be kept (or used and operated) in a hotel:

- (a) that is part of a retail shopping centre or proposed retail shopping centre, or
- (b) that was part of a retail shopping centre within the previous 12 months.

(3) If an application is granted under this Act for the removal of a hotelier's licence to premises that are part of a retail shopping centre or proposed retail shopping centre:

- (a) any entitlement under this Act to keep approved gaming devices in the hotel ceases, and
- (b) the entitlement revives if:
 - (i) the licence is removed to premises that are not within a retail shopping centre or proposed retail shopping centre, or
 - (ii) the premises cease to be part of a retail shopping centre for at least 12 months.

- (4) Subsection (2) does not apply to any authority given as a result of an application that was finally determined before 12 pm on 28 March 2000 (whether or not the hotel is or becomes part of a retail shopping centre).
- (5) Subsection (2) does not apply to any authority that does not result in any increase in the total number of approved gaming devices authorised to be kept in the hotel.
- (6) An authority given after 12 pm on 28 March 2000 (whether in respect of an application pending at or made after that time) has no effect if it contravenes this section.
- (7) This section extends to a device kept in a hotel on a trial basis as provided by section 167 or by section 79A of the *Registered Clubs Act 1976* (as applied by Division 2A of Part 11).
- (8) Damages or compensation are not payable by or on behalf of the Crown because of:
 - (a) the enactment or operation of this section, or for the consequences of that enactment or operation, or
 - (b) a representation or conduct of any kind about any limitation on the keeping of approved gaming devices in retail shopping centres.

In this subsection, *the Crown* means the Crown within the meaning of the *Crown Proceedings Act 1988*, and includes the Board or any officer, employee or agent of the Crown or the Board.
- (9) This section has effect despite anything to the contrary in this Act.

[2] Part 11, Division 1A

Insert after Division 1 of Part 11:

Division 1A Social impact assessment of gaming devices

171A Object of Division

- (1) The provisions of this Division are a means (but not the only means) of giving effect to the primary objects of this Act referred to in section 2B (Gambling harm minimisation and

responsible conduct of gambling activities are primary objects of the Act).

- (2) The provisions of this Division are in addition to the other provisions of this Act with respect to the making of applications to which this Division applies and the determination of those applications.

171B Application of Division

- (1) This Division applies to the following applications under this Act:
- (a) an application under section 40 (1) (b) that is for the removal of a hotelier's licence to a place outside the neighbourhood of the premises from which it is proposed to remove the licence (a premises-related application),
 - (b) an application under section 161 that is for the keeping of approved gaming devices in a new or re-located hotel (a device-related application).

For the purposes of paragraph (b), a new or re-located hotel is a hotel that was not the subject of a hotelier's licence before 12pm on 28 March 2000 or whose licence was removed after that date to a place outside the neighbourhood of the previous premises.

- (2) This Division does not prevent the granting of a premises-related application (including the final grant of the application under section 60), but any such grant of the application does not authorise the keeping of approved gaming devices at the premises to which it is proposed to remove the licence until this Division has been complied with and the keeping of the devices at the premises is authorised by this Division.
- (3) Accordingly, a reference in this Division to an application that is a premises-related application is a reference to so much of the application as relates to the authority to keep approved gaming devices at those premises.
- (4) This Division extends to an application made before the commencement of this Division that has not been finally determined on that commencement.

171C Social impact assessment of applications to which Division applies

- (1) A social impact assessment is required to be furnished by the applicant in connection with an application to which this Division applies.
- (2) The Licensing Court or Board, whichever is dealing with the application, may dispense with the need for a social impact assessment if satisfied that an assessment is not necessary in the particular circumstances of the case having regard to the likely minimal social impact of the total number of approved gaming devices that would be authorised to be kept in the hotel.
- (3) The Licensing Court or Board is required to give its reasons for any decision to dispense with the need for a social impact assessment.

171D Content of social impact assessment

- (1) A social impact assessment of an application to which this Division applies is required to assess the likely impact on the local community of the granting of the application.
- (2) For the purpose of any social impact assessment, the local community comprises the people in the area or group from which the persons utilising the services and facilities of the hotel are likely to be drawn.
- (3) The social impact assessment is to address social and economic impacts and set out any net social and economic benefits to the local community.
- (4) The social impact assessment is to contain details of the following:
 - (a) the number of approved gaming devices already kept in the hotel and the number kept in other hotels having the same or a similar local community (and by any registered clubs in the neighbourhood),
 - (b) past increases in the number of approved gaming devices so kept,
 - (c) the public demand for gambling within the local community,

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- (d) the incidence of problem gambling within the local community,
 - (e) the availability of problem gambling services in the local community,
 - (f) the action proposed to be taken by the hotelier to minimise any harm associated with an increase in the number of approved gaming devices available within the local community (including the action proposed to be taken to protect children),
 - (g) any likely change in the demands on public transport, any likely employment consequences for other businesses in the local community and any likely change in the demands on welfare, health and housing services in the local community,
 - (h) the result of consultation about the application with the local community, the local council in whose area the hotel premises are or are to be situated, the Department of Community Services, the Department of Health, organisations concerned with the social consequences of gambling and other appropriate bodies,
 - (i) any other relevant matter.
- (5) The regulations may make further provision for or with respect to the furnishing or content of social impact assessments under this Division.

171E Consultation on application and social impact assessment

- (1) After the applicant has furnished the Licensing Court or the Board with a social impact assessment in connection with an application to which this Part applies, the applicant must:
 - (a) place a copy of the application and the social impact assessment on public exhibition at the premises to which the application relates, and
 - (b) publish an advertisement about the application in a local newspaper circulating in the area in which those premises are situated, and

- (c) provide a copy of the application and social impact assessment to the Director of Liquor and Gaming and the local council at or before the time the advertisement is published.
- (2) The advertisement must:
 - (a) be in the form approved by the Board, and
 - (b) state that a copy of the application and social impact assessment will be available for public inspection at the premises specified in the advertisement, and
 - (c) invite any written submissions on the matter to be made to the Board within 30 days after the publication of the advertisement.
- (3) The application cannot be determined by the Licensing Court or Board until after the expiration of that 30-day period.

171F Consideration of social impact assessment and submissions

- (1) The Licensing Court or Board is required to take into account any social impact assessment furnished by the applicant in connection with an application to which this Division applies and any written submissions made on the matter within the 30-day period referred to in section 171E.
- (2) Accordingly, the Licensing Court or Board may:
 - (a) in the case of a premises-related application—impose a condition on the hotelier’s licence permitting or prohibiting the keeping of all or any of the approved gaming devices on the premises to which it is proposed to move the licence or permitting the keeping of the devices on those premises for a temporary period or subject to other conditions, or
 - (b) in the case of a device-related application—grant or reject the application (in whole or in part), grant the application for a temporary period or impose conditions on the grant of the application.
- (3) The power conferred by subsection (2) applies whether or not the provisions of this Act dealing with the determination of those applications confer that power.

Schedule 3 Amendment of Casino Control Act 1992

(Section 5)

Section 115 Community benefit levy and fund

Insert after section 115 (6):

- (7) The trustees of a trust deed, when making recommendations for payment of money out of the Fund, are required to take into account any policy guidelines issued to the trustees by the Minister for the purpose of giving effect to the provisions of the trust deed relating to expenditure for the benefit of the community.