



New South Wales

# Gaming Machines Amendment Bill 2002

## Explanatory note

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

### Overview of Bill

The objects of this Bill are as follows:

- (a) to enable prospective hoteliers to apply for hardship gaming machines under the *Gaming Machines Act 2001*,
- (b) to facilitate the surrender of approved amusement devices by hoteliers in exchange for poker machine entitlements,
- (c) to facilitate the allocation and transfer of poker machine entitlements (in particular, by providing that a hotelier or registered club may transfer in blocks of 2 entitlements so long as one of the entitlements is forfeited),
- (d) to provide that the prohibition on hoteliers and clubs publishing gaming machine advertising is to include other persons,
- (e) to create an offence of providing false or misleading statements under the *Gaming Machines Act 2001*,

- (f) to make other miscellaneous amendments to clarify the operation of the *Gaming Machines Act 2001*,
- (g) to make miscellaneous amendments of a minor or consequential nature to the *Casino Control Act 1992*, the *Fines Act 1996*, the *Liquor Act 1982* and the *Registered Clubs Act 1976*.

## 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 giving effect to the amendments to the *Gaming Machines Act 2001* set out in Schedule 1.

**Clause 4** is a formal provision giving effect to the amendments set out in Schedule 2 to the Acts specified in that Schedule.

## Schedule 1 Amendment of Gaming Machines Act 2001

**Schedule 1 [1]** makes it clear the definition of *approved gaming machine* includes those gaming machines that are specially approved for the purposes of linked gaming systems under Part 10 of the Act.

**Schedule 1 [2]** simplifies the definition of *gaming machine area* which applies to registered clubs.

**Schedule 1 [3]** makes it clear that the requirement under section 13 of the Act for large-scale clubs to reduce the number of gaming machines that they have by a specified proportion within 5 years also applies to the corresponding number of poker machine entitlements allocated in respect of the club concerned.

**Schedule 1 [4]** replaces the term “gaming machine” with “poker machine” for the purposes of consistency with the other provisions of section 15 of the Act.

**Schedule 1 [5]** provides that poker machine entitlements may be transferred by hoteliers or registered clubs in blocks comprising 2 or 3 entitlements (at present a block must comprise 3 entitlements) while preserving the requirement that one entitlement per transfer block must be forfeited. **Schedule 1 [6]–[8], [12]** and **[13]** are consequential amendments. **Schedule 1 [9]** removes a superfluous provision.

**Schedule 1 [10]** and **[11]** enable hoteliers to pool their authorisations to keep approved amusement devices in order to facilitate the surrender of the required number of approved amusement devices that may be exchanged for poker machine entitlements.

**Schedule 1 [14]** makes it clear that when a hotelier's licence is removed to other premises the poker machine entitlements allocated in respect of the licence may be transferred in accordance with the requirements of Division 2 of Part 3 of the Act.

**Schedule 1 [15]** makes it clear that hardship applications for gaming machines under Division 3 of Part 3 of the Act may be made by hoteliers and registered clubs that do not have any gaming machines at the time of the application.

**Schedule 1 [16]** makes it clear that hoteliers who, as at 19 April 2001, were authorised to keep 15 or more poker machines cannot make a hardship application for more machines.

**Schedule 1 [17]** makes it clear that prospective hoteliers (eg persons who have a conditional grant for a new or removed hotelier's licence) may make hardship applications. **Schedule 1 [18]** is a consequential amendment.

**Schedule 1 [19]** provides that the Liquor Administration Board cannot approve of a hotelier keeping hardship gaming machines if the approval would result in the hotelier having more than 15 poker machines at the time the approval is given.

**Schedule 1 [20]** makes it clear that a social impact assessment can be provided before the application for authorisation under Part 5 of the Act to keep gaming machines is made. **Schedule 1 [21]** also makes it clear that prospective hoteliers and registered clubs may provide social impact assessments in relation to the prospective keeping of gaming machines.

**Schedule 1 [22]** makes it clear that social impact assessments must comply with the requirements of Division 1 of Part 4 of the Act.

**Schedule 1 [23]** enables the regulations to provide for the manner in which the approval of a social impact assessment will operate.

**Schedule 1 [24]** makes it clear that the approval under section 41 of the Act of an "early opener" hotel or club having a different shutdown period for its gaming machines is an approval for those days only that the hotel or club continues to open and close in accordance with the specified "early opener" criteria.

**Schedule 1 [25]** extends the prohibition on hoteliers and clubs publishing gaming machine advertising to other persons (such as gaming machine dealers and manufacturers). **Schedule 1 [27]** replaces the existing definition of *gambling-related advertising* in section 43 of the Act with a definition of *gaming machine advertising* that covers any form of advertising about the playing of gaming machines in hotels and clubs as well as the supply, sale and manufacture of gaming machines. **Schedule 1 [26], [29] and [30]** are consequential amendments.

**Schedule 1 [28] and [31]** make it clear that sections 43 (Prohibition on publishing gaming machine advertising) and 44 (Prohibition on displaying gambling-related sign) of the Act prevail over the provisions of the *Business Names Act 1962*.

**Schedule 1 [32]–[34]** make minor amendments to section 46 of the Act.

**Schedule 1 [35]** makes it clear that patron “self-exclusion” schemes in hotels and clubs are to be conducted in accordance with section 49 of the Act and the regulations.

**Schedule 1 [36]** extends to registered clubs (which are corporate entities) the protection from liability that is given to certain persons under section 49 of the Act in relation to self-exclusion schemes and also makes it clear that no liability is incurred if a participant in such a scheme enters or remains in a nominated area of a hotel or club.

**Schedule 1 [37] and [38]** are amendments for the purposes of statute law revision.

**Schedule 1 [39]** creates an offence of making a statement that is false or misleading in any application or other instrument or document made under the Act or the regulations.

**Schedule 1 [40]** enables regulations of a savings or transitional nature to be made as a consequence of the proposed Act.

**Schedule 1 [41]** validates certain things (such as hardship applications by prospective hoteliers) that are done before the proposed Act commences.

## **Schedule 2 Amendment of other Acts**

**Schedule 2.1** amends section 76A of the *Casino Control Act 1992* which regulates the provision of promotional prizes by the casino operator in relation to the playing of gaming machines as well as the conduct of gaming machine player reward schemes. The requirements under the section are currently expressed as being

conditions of the casino licence. The amendments provide instead for the requirements under section 76A to be expressed as offences (with a maximum penalty of 100 penalty units) which will not apply in relation to the casino operator until 2 October 2002.

**Schedule 2.2** amends Schedule 1 to the *Fines Act 1996* (which contains a list of the statutory provisions under which penalty notices are issued) to include the relevant provisions of the *Casino Control Act 1992* and the *Gaming Machines Act 2001*. The amendment will enable penalty notices issued under these Acts to be enforced in accordance with the scheme under Part 3 of the *Fines Act 1996*.

**Schedule 2.3** contains minor amendments to the *Liquor Act 1982* that are consequential on the enactment of the *Gaming Machines Act 2001*.

**Schedule 2.4** amends the *Registered Clubs Act 1976* to make it clear that the prohibition under section 33A of that Act on holding a hotelier's licence or having a financial interest in a hotel applies only to the secretary of a registered club and not to managers of clubs. Section 39A of that Act is also amended to provide that the requirement to declare any financial interest in a hotel to the governing body of a registered club will not apply to the secretary of the club because the secretary is prohibited under section 33A from having such an interest.



New South Wales

# Gaming Machines Amendment Bill 2002

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New South Wales

# Gaming Machines Amendment Bill 2002

No. , 2002

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## A Bill for

An Act to amend the *Gaming Machines Act 2001* to make further provision with respect to the regulation, control and management of gaming machines in hotels and registered clubs; to make miscellaneous amendments to certain other Acts; and for other purposes.

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<b>The Legislature of New South Wales enacts:</b>	1
<b>1 Name of Act</b>	2
This Act is the <i>Gaming Machines Amendment Act 2002</i> .	3
<b>2 Commencement</b>	4
This Act commences on a day or days to be appointed by proclamation.	5 6
<b>3 Amendment of Gaming Machines Act 2001 No 127</b>	7
The <i>Gaming Machines Act 2001</i> is amended as set out in Schedule 1.	8
<b>4 Amendment of other Acts</b>	9
Each Act specified in Schedule 2 is amended as set out in that Schedule.	10 11



<b>Schedule 1</b>	<b>Amendment of Gaming Machines Act 2001</b>	1
	(Section 3)	2
<b>[1]</b>	<b>Section 4 Definitions</b>	3
	Insert “, and includes any specially approved gaming machine within the meaning of section 141” after “device” in the definition of <i>approved gaming machine</i> in section 4 (1).	4 5 6
<b>[2]</b>	<b>Section 4 (1), definition of “gaming machine area”</b>	7
	Omit “and which is not physically separated from any other part of the club”.	8 9
<b>[3]</b>	<b>Section 13 Large-scale clubs required to reduce number of gaming machines</b>	10 11
	Insert after section 13 (2):	12
	(3) The requirement under subsection (1) extends to the corresponding number of poker machine entitlements allocated in respect of the large-scale club’s relevant premises.	13 14 15
	(4) Accordingly, a large-scale club must, before the end of each year of the 5-year period referred to in subsection (1), transfer the number of poker machine entitlements ( <i>the relevant entitlements</i> ) that corresponds to the number of approved gaming machines required to be disposed of in respect of that year as determined by the regulations. The transfer of any such relevant entitlements must be in accordance with Division 2 of Part 3.	16 17 18 19 20 21 22 23
	(5) If, at the end of the period of 3 months immediately following the end of each such year, any of the relevant entitlements have not been transferred, the remaining relevant entitlements are automatically forfeited to the Board.	24 25 26 27
<b>[4]</b>	<b>Section 15 Initial allocation of poker machine entitlements</b>	28
	Omit “gaming” from section 15 (4). Insert instead “poker”.	29

<b>[5] Section 20 General requirements relating to transfer of poker machine entitlements</b>	1 2
Omit section 20 (3) (a). Insert instead:	3
(a) a transfer must comprise one or more blocks of 2 or 3 poker machine entitlements nominated by the transferor (referred to in this Division as a <i>transfer block</i> ),	4 5 6
<b>[6] Section 20 (3) (b)</b>	7
Omit “block of 3 poker machine entitlements”.	8
Insert instead “transfer block”.	9
<b>[7] Section 20 (4)</b>	10
Omit “block of 3 poker machine entitlements may comprise”.	11
Insert instead “transfer block may comprise poker machine”.	12
<b>[8] Section 21 Other provisions relating to transferring of poker machine entitlements</b>	13 14
Omit “for every 2 that are transferred” wherever occurring from section 21 (2) and (5).	15 16
Insert instead “per transfer block”.	17
<b>[9] Section 21 (3)</b>	18
Omit the subsection.	19
<b>[10] Section 22 Hoteliers may exchange approved amusement devices for poker machine entitlements</b>	20 21
Insert “(either alone or in combination with any other hotelier in such an area)” after “the hotelier” in section 22 (1) (a).	22 23
<b>[11] Section 22 (1) (b)</b>	24
Insert “(either alone or in combination with any other hotelier whose hotel is a country hotel)” after “the hotelier”.	25 26

<b>[12] Section 23 Transfer of poker machine entitlements when hotelier's licence cancelled or surrendered</b>	1 2
Omit section 23 (1). Insert instead:	3
(1) If a hotelier's licence or a hotelier's authorisation under Part 5 to keep approved poker machines is surrendered or cancelled, any poker machine entitlements allocated in respect of the licence concerned may, in accordance with this Division, be transferred.	4 5 6 7 8
<b>[13] Section 24 Transfer of poker machine entitlements when club registration cancelled or surrendered</b>	9 10
Omit "may be transferred in any number so long as one entitlement for every 2 is forfeited to the Board" from section 24 (1).	11 12
Insert instead "may, in accordance with this Division, be transferred".	13
<b>[14] Section 25</b>	14
Omit the section. Insert instead:	15
<b>25 Transfer of poker machine entitlements if hotelier's licence is removed to other premises</b>	16 17
If:	18
(a) a hotelier's licence is removed under the <i>Liquor Act 1982</i> to other premises that are situated more than 1 kilometre from the previous premises, and	19 20 21
(b) the hotelier applies for authorisation under Part 5 to keep, at those other premises, any number of the approved poker machines for which poker machine entitlements have been allocated in respect of the hotelier's licence,	22 23 24 25 26
the removed licence is, for the purposes of this Division, taken to be another hotelier's licence to which the poker machine entitlements may, in accordance with this Division, be transferred.	27 28 29 30
<b>Note.</b> The effect of the above provision is to facilitate the transfer of poker machine entitlements to new premises so long as one entitlement per transfer block is forfeited. See also section 58 (2) which provides that the	31 32 33

	removal of a hotelier's licence has the effect of cancelling the hotelier's authorisation to keep gaming machines (with the result that the hotelier is required to apply for authorisation to keep gaming machines in the new premises).	1 2 3 4
<b>[15]</b>	<b>Section 26 Application for additional gaming machines on special grounds</b>	5 6
	Insert after section 26 (2):	7
	(3) Subject to this Division, a hardship application may be made by a hotelier or registered club even though the hotelier or club is not, at the time of the application, authorised to keep any approved gaming machines. Accordingly, a reference in this Division to the keeping of additional approved gaming machines by any such hotelier or club is a reference to the keeping of the approved gaming machines to which the hardship application relates.	8 9 10 11 12 13 14 15
	(4) A reference in this section to a hotelier includes a reference to a prospective hotelier as referred to in section 27 (2A).	16 17
<b>[16]</b>	<b>Section 27 Hardship applications by hoteliers and prospective hoteliers</b>	18
	Omit section 27 (1). Insert instead:	19
	(1) A hotelier who, as at 19 April 2001, was authorised under the <i>Liquor Act 1982</i> to keep 15 or more approved poker machines is not entitled to make a hardship application.	20 21 22
<b>[17]</b>	<b>Section 27 (2A)–(2C)</b>	23
	Insert after section 27 (2):	24
	(2A) A person (referred to in this Division as a <i>prospective hotelier</i> ) may make a hardship application if:	25 26
	(a) the person would, but for the fact the person is not a hotelier, satisfy the grounds referred to in subsection (2) (b) for making such an application, or	27 28 29
	(b) an application ( <i>the hotel application</i> ) was made on or before 19 April 2001 (but not determined by that date):	30 31
	(i) for a hotelier's licence in respect of specified premises, or	32 33

	(ii) for the removal of a hotelier's licence to those premises,	1 2
	and the hardship application relates to the keeping of approved gaming machines at those premises.	3 4
	(2B) A hardship application may be made by a prospective hotelier under subsection (2A) (b) even though the hotel application was made by a person other than the prospective hotelier.	5 6 7
	(2C) For the purposes of subsections (2A) and (2B), a reference to a hotel application includes a reference to an application made after 19 April 2001 (but before 2 April 2002):	8 9 10
	(a) for a hotelier's licence in respect of the premises to which the hotel application under subsection (2A) (b) relates, or	11 12 13
	(b) for the removal of a hotelier's licence to those premises.	14
<b>[18]</b>	<b>Section 27 (7)</b>	15
	Insert "or prospective hotelier" after "hotelier".	16
<b>[19]</b>	<b>Section 29 Approval to keep hardship gaming machines</b>	17
	Insert after section 29 (1):	18
	(1A) In the case of a hotelier, the Board may not approve of the hotelier keeping such number of hardship gaming machines as would, at the time the approval is given, result in the hotelier keeping more than 15 approved poker machines.	19 20 21 22
	(1B) If a hardship application is made by a prospective hotelier, the Board may refuse the application or it may approve the keeping of hardship gaming machines subject to the prospective hotelier being granted a hotelier's licence. If the hotelier's licence is not granted within 3 years of the Board's approval, the approval is revoked.	23 24 25 26 27 28
<b>[20]</b>	<b>Section 33 Social impact assessment must be provided in connection with application for authorisation to keep gaming machines</b>	29 30
	Insert "The social impact assessment may be provided before the application is made or at the same time as the application is made." after "applies." in section 33 (1).	31 32 33

<b>[21] Section 33 (3)</b>	1
Insert after section 33 (2):	2
(3) Despite section 57, a social impact assessment may be provided by:	3
(a) a person who has applied for, but has not yet been granted, a hotelier’s licence under the <i>Liquor Act 1982</i> , or	4
(b) a club on whose behalf an application for a certificate of registration has been made, but has not yet been granted, under the <i>Registered Clubs Act 1976</i> ,	5
even though an application to which this Division applies has not yet been made by the person or the club.	6
<b>[22] Section 37 Approval of social impact assessment</b>	7
Insert “this Division and” after “the requirements of” in section 37 (3) (a).	8
<b>[23] Section 37 (5)</b>	9
Omit the subsection. Insert instead:	10
(5) The regulations may make provision for or with respect to the manner in which the approval of a social impact assessment is to operate.	11
<b>[24] Section 41 Approval of different shutdown periods for “early openers”</b>	12
Omit section 41 (5). Insert instead:	13
(5) Despite any other provision of this section, the Board’s approval of a hotel or registered club having different shutdown periods may be given only in respect of those days of the week on which the hotel or club has continued:	14
(a) to close for business between midnight and 10 am for a consecutive period of at least 3 hours, and	15
(b) to re-open for business before 10 am.	16

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<b>[25] Section 43 Prohibition on publishing gaming machine advertising</b>	1
Omit “A hotelier or registered club” wherever occurring from section 43 (1) and (3).	2
Insert instead “A person (whether or not a hotelier or registered club)”.	3
	4
<b>[26] Section 43 (1), (2), (3) and (5)</b>	5
Omit “gambling-related” wherever occurring.	6
Insert instead “gaming machine”.	7
<b>[27] Section 43 (6)</b>	8
Omit the definition of <i>gambling-related advertising</i> . Insert instead:	9
<i>gaming machine advertising</i> means any form of advertising that gives publicity to, or otherwise promotes or is intended to promote:	10
(a) the playing of approved gaming machines in a hotel or registered club, or	11
(b) the supply, sale or manufacture of an approved gaming machine,	12
but does not include any such advertising that is excluded from the operation of this section by the regulations.	13
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<b>[28] Section 43 (7)</b>	19
Insert after section 43 (6):	20
(7) This section prevails over the <i>Business Names Act 1962</i> .	21
<b>[29] Section 44 Prohibition on displaying gambling-related signs</b>	22
Omit “or will be displayed as described in” from section 44 (3).	23
Insert instead “displayed in contravention of”.	24
<b>[30] Section 44 (5)</b>	25
Insert “(being a sign that is displayed in contravention of subsection (1))” after “sign”.	26
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<b>[31] Section 44 (7)</b>	1
Insert after section 44 (6):	2
(7) This section prevails over the <i>Business Names Act 1962</i> .	3
<b>[32] Section 46 Provision of problem gambling counselling services</b>	4
Omit “classes of persons” from section 46 (2) (a).	5
Insert instead “persons or bodies”.	6
<b>[33] Section 46 (2) (b)</b>	7
Insert “or bodies” after “persons”.	8
<b>[34] Section 46 (2) (d)</b>	9
Omit “is”. Insert instead “in”.	10
<b>[35] Section 49 Self-exclusion of patrons from hotels and clubs</b>	11
Omit “by the hotelier or registered club” from paragraph (b) of the definition of <i>self-exclusion scheme</i> in section 49 (1).	12 13
<b>[36] Section 49 (5)</b>	14
Omit the subsection. Insert instead:	15
(5) No civil or criminal liability is incurred by a responsible person for a hotel or registered club (or by the registered club itself):	16 17
(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	18 19 20
(b) if a participant enters or remains in the nominated area of the hotel or club.	21 22
<b>[37] Section 66 Non-approved gaming machines may be kept on trial basis</b>	23
Omit “(except section 73)” from section 66 (3).	24
Insert instead “(except section 72)”.	25



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<b>[38] Section 78 Modification of gaming machines</b>	1
Omit “the device concerned” wherever occurring.	2
Insert instead “the gaming machine”.	3
<b>[39] Section 206A</b>	4
Insert after section 206:	5
<b>206A False or misleading statements</b>	6
(1) A person must not, in any official document, make a statement that the person knows, or could reasonably be expected to know:	7
(a) is false or misleading in a material respect, or	8
(b) omits material matter.	9
Maximum penalty: 100 penalty units.	10
(2) In this section:	11
<i>official document</i> means any application, instrument or other document that is, for the purposes of this Act or the regulations, given to or lodged with the Board, the Licensing Court, a registrar, the Minister, the Director or the Director-General.	12
<b>[40] Schedule 1 Savings, transitional and other provisions</b>	13
Insert at the end of clause 1 (1):	14
<i>Gaming Machines Amendment Act 2002</i>	15
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Gaming Machines Amendment Bill 2002

Schedule 1      Amendment of Gaming Machines Act 2001

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<b>[41] Schedule 1</b>	1
Insert after Part 2:	2
<b>Part 3 Provisions consequent on enactment of Gaming Machines Amendment Act 2002</b>	3 4
<b>11 Validation provision</b>	5
Anything done before the commencement of the amendments to this Act by the <i>Gaming Machines Amendment Act 2002</i> that would have been validly done had those amendments been in force when it was done is validated.	6 7 8 9

<b>Schedule 2</b>	<b>Amendment of other Acts</b>	1
	(Section 4)	2
<b>2.1</b>	<b>Casino Control Act 1992 No 15</b>	3
<b>[1]</b>	<b>Section 76A Regulation of promotional prizes and player reward schemes</b>	4 5
	Omit “It is a condition of a casino licence that the casino operator must not” from section 76A (2).	6 7
	Insert instead “A casino operator must not”.	8
<b>[2]</b>	<b>Section 76A (2)</b>	9
	Insert at the end of the subsection:	10
	Maximum penalty: 100 penalty units.	11
<b>[3]</b>	<b>Section 76A (4)</b>	12
	Omit the subsection. Insert instead:	13
	(4) If a casino operator conducts a player reward scheme, the casino operator must, in accordance with the regulations:	14 15
	(a) advise the participants in the scheme of the availability of player activity statements that relate to the playing of gaming machines under the scheme, and	16 17 18
	(b) provide each such participant with a player activity statement.	19 20
	Maximum penalty: 100 penalty units.	21
<b>[4]</b>	<b>Section 76A (6)</b>	22
	Omit the subsection. Insert instead:	23
	(6) This section does not apply to or in respect of a casino operator until 2 October 2002.	24 25

<b>2.2</b>	<b>Fines Act 1996 No 99</b>	1
	<b>Schedule 1 Statutory provisions under which penalty notices issued</b>	2 3
	Insert in alphabetical order:	4
	<i>Casino Control Act 1992</i> , section 168A	5
	<i>Gaming Machines Act 2001</i> , section 203	6
<b>2.3</b>	<b>Liquor Act 1982 No 147</b>	7
<b>[1]</b>	<b>Section 4 Definitions</b>	8
	Omit paragraph (e) of the definition of <i>sell</i> in section 4 (1).	9
<b>[2]</b>	<b>Section 45 Grounds of objection</b>	10
	Omit “amusement devices” from section 45 (6) (a) and (c) wherever occurring.	11 12
	Insert instead “gaming machines”.	13
<b>[3]</b>	<b>Section 111C Conditions of minors functions authority</b>	14
	Omit “amusement device” from section 111C (2) (a).	15
	Insert instead “gaming machine”.	16
<b>2.4</b>	<b>Registered Clubs Act 1976 No 31</b>	17
<b>[1]</b>	<b>Section 33A Secretary of club prohibited from holding hotelier’s licence</b>	18
	Omit “or manager” from section 33A (1).	19

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<b>[2] Section 39A Requirement to declare financial interest in hotels</b>	1
Omit section 39A (1). Insert instead:	2
(1) In this section:	3
<i>relevant person</i> means a person who:	4
(a) is a director of a registered club, or	5
(b) is one of the 5 highest paid employees of a registered club.	6
	7