



# Legislative Assembly

## Gaming Machines Amendment Bill

09/04/2002

### Hansard Extract

#### Second Reading

**Mr FACE** (Charlestown—Minister for Gaming and Racing, and Minister Assisting the Premier on Hunter Development) [7.43 p.m.]: I move:

That this bill be now read a second time.

On 26 July 2001 the Treasurer and I jointly announced the gaming reform package. At the time of that announcement it was recognised that the development of a new scheme for transferable entitlements for gaming machines was such a significant reform that it was important to consult broadly in the development of that scheme. Over the next four to 4½ months there was extensive consultation with the club and hotel associations, as well as with community representatives. During the course of those consultations the initial broad principles were refined and modified further. In view of the complexity of the existing legislation, the opportunity was taken in drafting the gaming reform package amendments to transfer all gaming machine provisions relating to clubs and hotels from the Liquor and Registered Clubs Act and place them in a new Gaming Machine Act.

The scale and timeframe of the drafting exercise was such that it was inevitable that there would be some drafting issues identified at a later stage. Ever since the passage of the bill through Parliament in early December 2001 the Department of Gaming and Racing has been implementing administrative arrangements for the new transferable entitlement scheme and the allocation of hardship gaming machines. This process has resulted in all aspects of the new legislation being subjected to very close scrutiny, with the result that some flaws have been identified. The bill before the House today will rectify those minor drafting anomalies. One of the features of the new legislation was to require large-scale clubs—that is, clubs that have more than 450 gaming machines—to shed up to 10 per cent of their machines. However, the legislation does not currently require those clubs to also shed the relevant number of poker machine entitlements that are held in respect of those machines.

The bill before the House will rectify that omission. The bill includes several changes to facilitate the transfer of poker machine entitlements. One of these changes will allow hotels and clubs to transfer poker machine entitlements in blocks of two or three if that is their preference. However, it will still be a requirement that for each block transferred, no matter whether it is a block of two or three entitlements, there will have to be forfeiture of one entitlement. The practical effect of this change will be that hotels or clubs that are left with just two poker machine entitlements will be permitted to transfer one of those remaining two entitlements to another hotel or club, provided they forfeit the other one.

Another proposed amendment will allow the pooling of approved amusement devices [AADs] by hoteliers in order to facilitate the surrender of the required number of approved amusement devices that may be exchanged for poker machine entitlements. For example, the legislation presently provides that hotels in metropolitan areas may exchange three AADs in return for one poker machine entitlement. There may be cases where hotels are left with just one or two AADs that they are unable to exchange. The amendment will allow such hotels to pool their remaining AADs in order to allow an exchange for a poker machine entitlement. The bill replaces the current section 25—which deals with the transfer of poker machine entitlements if a hotelier's licence is removed to other premises—with a redrafted version.

This will rectify a technical difficulty which arises from the general requirement that entitlements may be held only in respect of premises that are currently subject to either a hotelier's licence or a certificate of registration. The bill includes a range of measures aimed at facilitating the lodgement and processing of hardship applications by hoteliers and prospective hoteliers. For example, the bill will make it clear that hardship applications may be made by hoteliers who do not currently have any gaming machines. This rectifies a problem with the current Act that suggests that only hotels that currently have between one and 14 gaming machines are permitted to apply for additional entitlements on hardship grounds. The bill will also make it clear that any hotel that was authorised to keep 15 or more gaming machines at the time of the commencement of the hotel gaming machine freeze will not be permitted to apply for hardship gaming machines.

It was clearly the intent of the current legislation to allow certain prospective hoteliers to apply for gaming machine entitlements on hardship grounds. However, the outcome has been that only a current hotelier can apply for hardship gaming machines. There are quite a few cases where persons had applied for a new or removed hotel licence prior to the freeze, but those applications have not been progressed in view of the uncertainty about gaming machine numbers. The bill will make it clear that prospective hoteliers—for example, persons who have a conditional grant for a new or removed hotelier's licence, or persons who applied before 19 April 2001 for a hotelier's licence—may make hardship applications.

The current legislation prohibits hoteliers and clubs from publishing any advertising that promotes participation in gambling activities involving gaming machines. However, the legislation does not presently prohibit other parties, such as gaming machine manufacturers or operators such as the TAB, from promoting gaming machines. The bill will amend the advertising controls to extend the prohibition on gaming machine advertising to all persons. The Act presently requires every hotelier and registered club with gaming machines to establish a self-exclusion scheme that patrons may avail themselves of. The legislation also provides indemnity from civil and criminal liability for a "responsible person" for any act done or omitted in good faith in accordance with the section in relation to a self-exclusion scheme. The definition of "responsible person" includes only natural persons and not corporate bodies. Under this definition club entities are potentially exposed as they are, generally, corporations. The bill will broaden the definition of "responsible person" so that it includes registered clubs—a much-needed protection.

The current Liquor Act and Registered Clubs Act both include an offence for making a false or misleading statement in relation to applications. This offence applies to any application, declaration or affidavit that is made under each Act, and applies to gaming machine matters as well as to liquor matters. The offence has not been carried forward to the new Gaming Machines Act 2001. The bill will rectify that omission. The bill makes a number of other statute law revision amendments to the Gaming Machines Act 2001 that I will not go into in detail. The bill also makes minor amendments to various other Acts. For example, the Casino Control Act 1992 is to be amended to provide that any breach of requirements relating to promotional prizes and player reward schemes is an offence rather than a condition of the casino licence. This approach is consistent with the requirements for clubs and hotels. The amendments to the other Acts are in the nature of statute law revision.

The new Gaming Machines Act is, by its nature, a very complex piece of legislation. I am sure it will be the subject of very close scrutiny over the forthcoming months and years, and there is a very good chance that this House will be required to consider further amendments in due course as my ministry and the department have strict instructions to audit, monitor or overview what is happening with this very important piece of legislation. The amendment bill does not change the thrust or spirit of the Government's gaming machine reforms in any way. I commend the bill to the House.