



New South Wales

Liquor and Gaming Legislation Amendment Bill 2018

Explanatory note

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

The following Bills are cognate with this Bill:

Casino Control Amendment Bill 2018,

Gaming Machines Amendment (Leasing and Assessment) Bill 2018,

Registered Clubs Amendment (Accountability and Amalgamations) Bill 2018.

Overview of Bill

The objects of this Bill are as follows:

- (a) to include the General Counsel of the Independent Liquor and Gaming Authority (***the Authority***) within the definition of ***key official*** for the purposes of the *Gaming and Liquor Administration Act 2007* and to update and provide greater flexibility in relation to employment restrictions applying to former key officials,
- (b) to enhance the enforcement powers under the *Betting and Racing Act 1998*, *Public Lotteries Act 1996* and *Totalizator Act 1997* and provide greater consistency with the way liquor and gaming legislation is enforced under Part 4 of the *Gaming and Liquor Administration Act 2007*,
- (c) to standardise and increase penalties for certain offences committed by corporations and other persons under the *Betting and Racing Act 1998*, *Casino Control Act 1992*, *Gaming Machines Act 2001*, *Liquor Act 2007*, *Public Lotteries Act 1996* and *Totalizator Act 1997* and make other minor changes to penalty levels,
- (d) to make provision with respect to the personal executive liability of directors and other corporate officers as a consequence of corporate offences under the *Betting and Racing Act 1998*,

- (e) to strengthen provisions prohibiting the offering of inducements to gamble and certain forms of gambling advertisements and totalizator advertisements under the *Betting and Racing Act 1998* and *Totalizator Act 1997*,
- (f) to provide for first instance review by the casino operator of voluntary exclusion orders and exclusion orders made by the operator in relation to problem gamblers instead of by the Authority under the *Casino Control Act 1992* and to omit an unnecessary requirement for the casino operator to notify the Authority in writing of the making of an exclusion order,
- (g) to remove unnecessary regulatory provisions from the *Gambling (Two-up) Act 1998*, *Gaming Machines Act 2001* and *Liquor Act 2007*,
- (h) to enable approved gaming machines to be destroyed with the authorisation of the Authority under the *Gaming Machines Act 2001*,
- (i) to decrease the maximum penalty that may be imposed for an offence against the regulations under the *Gaming Machines Act 2001* and *Liquor Act 2007* from 100 penalty units to 50 penalty units and to transfer from the *Gaming Machines Regulation 2010* and *Liquor Regulation 2008* to their respective parent Acts certain regulations with increased penalties and to make other provision with respect to the imposition of penalties and sanctions,
- (j) to enable higher education providers (such as the National Art School) to be prescribed by the regulations under the *Liquor Act 2007* as tertiary institutions for the purposes of that Act so that on-premises licences may be granted in respect of their premises,
- (k) to enable identifying information about persons in respect of whom licensees in premises in prescribed precincts have imposed licensee bans to be included and held on the prescribed precinct ID scanner system under the *Liquor Act 2007*,
- (l) to enable the Authority to declare that a person is ineligible to stand for election or to hold a position as secretary or a member of the governing body of a club under the *Registered Clubs Act 1976* for a longer period than 3 years.

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.

Schedule 1 Amendment of Acts and regulations

Betting and Racing Act 1998 No 114

Schedule 1.1 amends the *Betting and Racing Act 1998*:

- (a) to achieve the object referred to in paragraph (b) of the Overview, by aligning the enforcement powers under the Act with the enforcement powers under Part 4 of the *Gaming and Liquor Administration Act 2007* (except so much of section 35 of that Act as abrogates the protection against self-incrimination for individuals compelled to answer questions) (**Schedule 1.1 [2], [3], [7]–[10], [18], [19], [20], [23] and [24]**), and
- (b) to achieve the object referred to in paragraph (c) of the Overview, by altering the maximum penalties for offences under sections 14, 18C and 19 of the Act (**Schedule 1.1 [4]–[6]**), and
- (c) to achieve the object referred to in paragraph (d) of the Overview, by inserting section 36AA into the Act (**Schedule 1.1 [22]**), and
- (d) to achieve the object referred to in paragraph (e) of the Overview, by transferring offences relating to gambling advertisements and inducements to gamble from Division 2 of Part 2 of the *Betting and Racing Regulation 2012* into the Act and increasing the penalties for corporations committing those offences and by clarifying provisions concerning

responsibility for publication of gambling advertisements (**Schedule 1.1 [1], [11]–[17] and [21]**).

Betting and Racing Regulation 2012

Schedule 1.2 amends the *Betting and Racing Regulation 2012* to make amendments consequential on the amendments to the *Betting and Racing Act 1998*.

Casino Control Act 1992 No 15

Schedule 1.3 amends the *Casino Control Act 1992*:

- (a) to achieve the objects referred to in paragraph (f) of the Overview (**Schedule 1.3 [2]–[7]**), and
- (b) to increase from 20 to 50 penalty units the maximum penalty for a licensee failing to give the Authority the notification required under section 63 of that Act in relation to a prescribed change in the state of affairs of the licensee (**Schedule 1.3 [1]**).

Gambling (Two-up) Act 1998 No 115

Schedule 1.4 amends the *Gambling (Two-up) Act 1998* to achieve the object referred to in paragraph (g) of the Overview by removing the ability to require persons under consideration for appointment as an inspector, and key employees, to have their fingerprints and palm prints taken.

Gaming and Liquor Administration Act 2007 No 91

Schedule 1.5 amends the *Gaming and Liquor Administration Act 2007* to achieve the objects referred to in paragraph (a) of the Overview by:

- (a) making the General Counsel of the Authority a key official (and a person who was at any time such a General Counsel, a former key official) for the purposes of that Act (**Schedule 1.5 [1]**), and
- (b) enabling approval to be given for key officials and former key officials to carry out certain employment activities that they are currently restricted from carrying out under section 16 of that Act if the activity does not involve, or is unlikely to involve, any undue risk that is inconsistent with the objects of the Act (**Schedule 1.5 [2]–[4] and [7]**), and
- (c) including within the activities restricted under section 16 soliciting employment, in any capacity, from a gaming or liquor industry peak body (**Schedule 1.5 [5], [6], [8] and [10]**), and
- (d) adjusting the time frames applicable to the restrictions on former key officials so they apply for two years in the case of senior executives, 6 months in the case of certain more junior staff and permanently to former General Counsel of the Authority (**Schedule 1.5 [9]**).

Gaming Machines Act 2001 No 127

Schedule 1.6 amends the *Gaming Machines Act 2001*:

- (a) to achieve the object referred to in paragraph (c) of the Overview, by altering the maximum penalties under sections 50 and 52 of the Act (**Schedule 1.6 [5] and [6]**), and
- (b) to achieve the object referred to in paragraph (g) of the Overview, by removing the penalty for failure to update an application for a gaming-related licence that has not been determined if a change occurs in the information provided in (or in connection with) the application (**Schedule 1.6 [11]**), and
- (c) to achieve the object referred to in paragraph (h) of the Overview, by enabling approved gaming machines to be destroyed by manufacturers of approved gaming machines and holders of dealer's or seller's licences with the authorisation of the Authority and in accordance with certain conditions (**Schedule 1.6 [7], [10] and [13]**), and
- (d) to achieve the object referred to in paragraph (i) of the Overview, by decreasing the maximum penalty that may be imposed by the regulations under section 210 of the Act and

transferring regulations relating to the responsible conduct of gambling training and advertising into the Act (**Schedule 1.6 [1]–[4], [8], [9] and [14]**), and

- (e) to increase the maximum monetary penalty that may be imposed on a licensee as disciplinary action from \$250,000 to \$1,000,000 (**Schedule 1.6 [12]**), and
- (f) to make transitional and savings provisions consequent on the proposed amendments (**Schedule 1.6 [15]**).

Gaming Machines Regulation 2010

Schedule 1.7 amends the *Gaming Machines Regulation 2010* to make amendments consequential on the amendments to the *Gaming Machines Act 2001*.

Law Enforcement (Powers and Responsibilities) Act 2002 No 103

Schedule 1.8 amends the *Law Enforcement (Powers and Responsibilities) Act 2002* as a consequence of amendments to achieve the object referred to in paragraph (b) of the Overview.

Liquor Act 2007 No 90

Schedule 1.9 amends the *Liquor Act 2007*:

- (a) to achieve the object referred to in paragraph (c) of the Overview, by altering the maximum penalties for offences under sections 54A, 74, 75, 84, 108 and 109 of the Act (**Schedule 1.9 [4]–[7], [9] and [10]**), and
- (b) to achieve the object referred to in paragraph (g) of the Overview, by removing the penalties for failure to update applications for a licence and certain licence-related authorisations that has not been determined if a change occurs in the information provided in (or in connection with) the application and removing a superfluous provision about court imposed penalties (**Schedule 1.9 [2], [3] and [18]**), and
- (c) to achieve the object referred to in paragraph (i) of the Overview, by decreasing the maximum penalty that may be imposed by the regulations under section 99 of the Act and transferring regulations relating to training in relation to responsible practices in respect of the sale, supply, service and promotion of liquor into the Act (**Schedule 1.9 [8] and [11]**), and
- (d) to achieve the object referred to in paragraph (j) of the Overview, by enabling higher education providers to be prescribed by regulations as tertiary institutions for the purposes of that Act so that on-premises licences may be granted in respect of their premises (**Schedule 1.9 [1]**), and
- (e) to achieve the object referred to in paragraph (k) of the Overview, by enabling identifying information about persons in respect of whom licensees in premises in prescribed precincts have imposed licensee bans to be included and held on the prescribed precinct ID scanner system (**Schedule 1.9 [12]–[15]**), and
- (f) to extend the power under Division 4 of Part 7 of the Act to impose certain sanctions (such as licence suspension or cancellation) in addition to any penalty that may be imposed by a court for an offence to the offence under section 117 (8) of the Act of allowing liquor to be sold or supplied to a minor on licensed premises (**Schedule 1.9 [16] and [17]**), and
- (g) to make transitional and savings provisions consequent on the proposed amendments (**Schedule 1.9 [19]**).

Liquor Regulation 2008

Schedule 1.10 amends the *Liquor Regulation 2008* to make amendments consequential on the amendments to the *Liquor Act 2007*.

Public Lotteries Act 1996 No 86

Schedule 1.11 amends the *Public Lotteries Act 1996*:

- (a) to achieve the object referred to in paragraph (b) of the Overview, by aligning the enforcement powers under the Act with the enforcement powers under Part 4 of the *Gaming and Liquor Administration Act 2007* (except so much of section 35 of that Act as abrogates the protection against self-incrimination for individuals compelled to answer questions) (**Schedule 1.11 [1] and [5]–[10]**), and
- (b) to achieve the object referred to in paragraph (c) of the Overview, by altering the maximum penalties for offences under sections 44, 45 and 46 of the Act (**Schedule 1.11 [2]–[4]**), and
- (c) to make transitional and savings provisions consequent on the proposed amendments (**Schedule 1.11 [11]**).

Public Lotteries Regulation 2016

Schedule 1.12 amends the *Public Lotteries Regulation 2016* to make an amendment consequential on the amendments to the *Public Lotteries Act 1996*.

Registered Clubs Act 1976 No 31

Schedule 1.13 amends the *Registered Clubs Act 1976* to achieve the object referred to in paragraph (l) of the Overview and to make a related savings provision.

Totalizator Act 1997 No 45

Schedule 1.14 amends the *Totalizator Act 1997*:

- (a) to achieve the object referred to in paragraph (b) of the Overview, by aligning the enforcement powers under the Act with the enforcement powers under Part 4 of the *Gaming and Liquor Administration Act 2007* (except so much of section 35 of that Act as abrogates the protection against self-incrimination for individuals compelled to answer questions) (**Schedule 1.14 [1] and [7]–[13]**), and
- (b) to achieve the object referred to in paragraph (c) of the Overview, by altering the maximum penalties under sections 9 and 59 of the Act (**Schedule 1.14 [2] and [3]**), and
- (c) to achieve the object referred to in paragraph (e) of the Overview, by transferring offences relating to totalizator advertisements and inducements to gambling from Division 2 of Part 3 of the *Totalizator Regulation 2012* into the Act and increasing the penalties for corporations committing those offences and by clarifying provisions concerning responsibility for publication of totalizator advertisements (**Schedule 1.14 [4]–[6]**), and
- (d) to make transitional and savings provisions consequent on the proposed amendments (**Schedule 1.14 [14]**).

Totalizator Regulation 2012

Schedule 1.15 amends the *Totalizator Regulation 2012* to make amendments consequential on the amendments to the *Totalizator Act 1997*.