



New South Wales

Casino Legislation Amendment Bill 2022

Explanatory note

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

Overview of Bill

The object of this Bill is to amend the *Casino Control Act 1992* and the *Gaming and Liquor Administration Act 2007* to implement recommendations of the Casino Inquiry Report by the Hon P A Bergen SC, including to—

- (a) establish the New South Wales Independent Casino Commission as a new independent regulator, and
- (b) extinguish compensation triggers for casino operators in relation to regulatory action taken by Parliament, the Government and the Commission.

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.

Schedule 1 Amendment of Casino Control Act 1992 No 15

Establishment of NSW Independent Casino Commission and Casino Supervisory Fund

Schedule 1[90] inserts proposed Part 9A into the *Casino Control Act 1992* (*the Act*) which establishes the NSW Independent Casino Commission (the *NICC*). The proposed Part also sets out matters in relation to the following—

- (a) the functions of the NICC,

- (b) the membership and appointment of Commissioners and Assistant Commissioners to the NICC,
- (c) arrangements for the supply of certain NSW Police Force records to the NICC,
- (d) the NICC's annual report and report of operations,
- (e) the seal of the NICC.

Schedule 1[102] provides for the Constitution and procedure of the NICC.

Schedule 1[81] inserts proposed section 115AB which establishes the Casino Supervisory Fund (the *Fund*) in the Special Deposits Account. The proposed section provides that money in the account is under the control and management of the NICC, and sets out the amounts that must be paid into, and from, the Fund. **Schedule 1[79]** and **[80]** make consequential amendments.

Compensation triggers

Schedule 1[96] inserts a new section 156 to provide that compensation for regulatory action that has an effect on the following is not payable by or on behalf of the Crown—

- (a) a casino licence or casino operator,
- (b) a relevant person,
- (c) another matter connected to the management or operation of a casino.

The terms *compensation*, *regulatory action*, *relevant person* and *Crown* are defined in the proposed section.

Prohibition on promotional prizes and junkets

Schedule 1[69] inserts proposed section 76A which prohibits the use of promotional prizes by casino operators. Casino operators are also required to provide each participant in a player reward scheme with information about problem gambling counselling services available to patrons of the casino under the Act, section 72A. The proposed section also sets out certain requirements for casino operators that conduct a player reward scheme.

Schedule 1[69] also inserts proposed section 76B which prohibits, as a condition of a casino licence, the casino operator from—

- (a) promoting or conducting junkets, or
- (b) paying a commission, or another financial or non-financial benefit to a person not playing at the casino by reference to another person's turnover of play or another gambling metric.

The terms *player reward scheme*, *promotional prizes* and *junket* are defined in the proposed sections.

Schedule 1[55] and **[60]–[68]** make consequential amendments.

Anti-money laundering requirements

Schedule 1[4] provides that a primary object of the Act is to ensure that each casino operator prevents money laundering and terrorism financing activities within the operations of the casino.

Schedule 1[91] provides that an object of the NICC is to maintain and administer systems for the licensing, supervision and control of a casino for the purpose of ensuring the casino operator prevents money laundering and terrorism financing activities within the operations of the casino.

Schedule 1[51] makes an amendment to the certificate of competency requirements for the functions of special employees in relation to money laundering and terrorism financing.

Schedule 1[52] specifies the period for which closed-circuit television footage recorded for conducting monitoring and surveillance of operations in the casino must be kept.

Schedule 1[57] inserts the following—

- (a) proposed section 71 requires a casino operator to ensure gaming machines and certain gaming-related signs are not visible outside the boundary of the casino,

- (b) proposed section 71A makes it a condition of a casino licence that all gaming conducted at the casino must be by use of a player card issued to each patron. The proposed section also provides for the regulations to prescribe requirements with which a player card must comply.

Schedule 1[59] prohibits a casino operator from accepting more than \$1,000 cash from a customer in a day for wagering purposes.

Schedule 1[84] provides that the system of internal controls for a casino must include requirements for the casino operator to address certain risks associated with money laundering, terrorism financing and matters relating to responsible gambling.

Schedule 1[88] requires a casino operator who submits a suspicious matter report to AUSTRAC to also give a copy of the report to the NICC.

Schedule 1[89] inserts proposed section 131A which requires a casino operator to engage a person, who has been approved by the NICC in accordance with the proposed section, as a compliance auditor for the casino. The proposed section also sets out certain obligations for the compliance auditor. **Schedule 1[35]** provides that a contract for the engagement of a compliance auditor for a casino is a *controlled contract* for the Act, Part 3, Division 2.

Amendments to probity approval provisions

Schedule 1[3] replaces the definition of *close associate* of a casino operator or an applicant for a casino licence.

Schedule 1[5] places an onus on applicants to provide clear and convincing evidence of suitability for suitability assessments made by the NICC under the Act.

Schedule 1[28] expands the application of the Act, section 34 to a “relevant person” rather than a “casino operator”. **Schedule 1[29]** defines *relevant person* for the purposes of that section.

Schedule 1[41] inserts proposed Part 3, Division 3 which provides for the following matters in relation to close associates—

- (a) approvals of persons to be close associates,
- (b) the granting, and revocation, of exemptions from the requirement to obtain an approval,
- (c) notice requirements,
- (d) investigations, inquiries and disciplinary action against close associates.

Schedule 1[25] makes a consequential amendment.

Schedule 1[94] expands the list of law enforcement agencies in the Act, section 149(7) in relation to information gathering for law enforcement purposes.

Miscellaneous

Schedule 1[1], [8], [56] make consequential amendments to definitions.

Schedule 1[6] omits the Act, sections 5 and 5A which provide for the Minister to give certain directions.

Schedule 1[7] provides for a maximum of 2 casino licences to be in force under the Act at a particular time. **Schedule 1[9]–[12]** and **[14]** make consequential amendments.

Schedule 1[13], [27], [39], [40], [42], [44], [58], [72], [74]–[78], [85], [97], [100] and **[101]** amend penalty provisions.

Schedule 1[15], [20] and **[83]** replace references to “licensee” with “casino operator”.

Schedule 1[16]–[18] make amendments in relation to restrictions on gaming in the Barangaroo restricted gaming facility.

Schedule 1[19] requires a casino operator, in the management and operation of the casino, to cooperate with the NICC in relation to the NICC exercising its functions under the Act.

Schedule 1[21]–[24] make amendments in relation to disciplinary action against a casino operator to—

- (a) increase the pecuniary penalty that may be imposed on the casino operator, and
- (b) provide for enforceable undertakings as a disciplinary action, and
- (c) set out matters in relation to enforceable undertakings, including the variation, withdrawal and publishing of enforceable undertakings, and the steps that may be taken if a person fails to comply with an undertaking.

Schedule 1[26] specifies the way in which a review of a casino licence and the suitability of a casino operator is to be carried out, and provides for matters relating to the costs of a review.

Schedule 1[30] requires a casino operator, as a condition of a casino license, to ensure a major change in the state of affairs existing in relation to the casino operator, that is within the operator's power to prevent, does not occur other than with the prior written approval of the NICC. **Schedule 1[31]** clarifies that a major change in the state of affairs is taken to be within the operator's power to prevent if the major change can be prevented by a holding company of the casino operator.

Schedule 1[32] and [95] make consequential amendments.

Schedule 1[33] and [34] make amendments in relation to the cost of investigations into major changes referred to in Schedule 1[30] and [31].

Schedule 1[36]–[38] make the following amendments in relation to controlled contracts to—

- (a) make it an offence for a casino operator to enter into, or become a party to, a controlled contract without notifying the NICC,
- (b) set out certain matters in relation investigations under the Act, section 37, and require a casino operator to inform the NICC if the operator becomes aware of a change in a party to a controlled contract that would or may affect the suitability of the party,
- (c) enable the NICC to issue and revoke interim approvals of controlled contracts.

Schedule 1[43] exempts a special employee from holding a licence under the Act, section 44 if the employee holds a close associate approval issued under proposed section 42E.

Schedule 1[45] and [46] enable disciplinary action to be taken under the Act, section 59 against former licensees.

Schedule 1[47] reduces the period, from 14 days to 48 hours, in which a casino operator must notify the NICC of the cessation of functions of a licensed employee.

Schedule 1[48]–[50] expand the application of the Act, section 64 to certain close associates.

Schedule 1[53] expands the conditions of a casino licence in relation to the conduct of gaming to enable chips for gaming in the casino to be issued if the chips are paid for in reward points or another similar promotional method. **Schedule 1[54]** provides for certain offences in relation to the issuing of chips.

Schedule 1[70] provides an inspector a right of entry to a casino to exercise functions conferred or imposed on the inspector by the Act, the NICC, other liquor and gaming legislation or another Act.

Schedule 1[71] requires a casino operator to take the following actions as a condition of the casino licence if the operator, or the person for the time being in charge of the casino, gives an exclusion order to a person other than on the person's voluntary application—

- (a) give notice of the order to the other casino operator,
- (b) cancel a player card of the person subject to the order,
- (c) ensure that a player card is not issued to the person subject to the order unless written permission for the issue of the card to the person is given by the NICC or Commissioner of Police.

Schedule 1[73] requires a casino operator to take reasonable steps to prevent a person who is the subject of an exclusion order for the casino from entering the casino.

Schedule 1[82] provides for the calculation of duty and levies payable under the Act, Part 8 that are based on casino revenue.

Schedule 1[86] makes it a condition of a casino licence that the casino operator give the NICC complete and full access to certain systems.

Schedule 1[87] makes it a condition of a casino licence that the casino operator maintain a single account, approved by the NICC, at an authorised deposit-taking institution in New South Wales, for all banking transactions by patrons.

Schedule 1[92] specifies certain matters that invalidate an agreement entered into under the Act, section 142.

Schedule 1[93] enables the NICC to publish the results of an enquiry held under the Act, section 143.

Schedule 1[98] provides for the liability of certain persons for an offence against a provision of gaming and liquor legislation committed by a corporation (an *executive liability offence*).

Schedule 1[99] provides for a limitation period of 3 years for offences against the Act.

Schedule 1[103] inserts savings and transitional provisions consequent on the enactment of the proposed Act.

Schedule 1[104] replaces certain references to “Authority” with “NICC”.

Schedule 2 Amendment of Casino Control Regulation 2019

Schedule 2[1] prescribes the matters the NICC must have regard to in deciding whether to grant an exemption to the requirements under proposed section 42B in relation to the approval of close associates.

Schedule 2[2] and [3] make amendments consequent on the proposed Act.

Schedule 2[4]–[10], [12], [13], [15]–[20] and [27]–[34] make amendments to penalty provisions.

Schedule 2[11] and [14] prescribe certain requirements in relation to debit cards and player cards.

Schedule 2[21] specifies that the casino supervisory levy for the 2022-23 financial year is \$19,000,000. **Schedule 2[22]** sets out certain ways in which the levy is to be paid.

Schedule 2[24] omits a clause from the *Casino Control Regulation 2019*, Schedule 1 which prescribes a description of a major change in the state of affairs of a casino operator.

Schedule 2[25] and [26] provide for the termination of a licensee by a casino operator to be a prescribed description of a change in the state of affairs of the licensee.

Schedule 3 Amendment of other legislation

Gaming and Liquor Administration Act 2007 No 91

Schedule 3.2[25] inserts proposed Part 4A into the *Gaming and Liquor Administration Act 2007* to establish the Casino, Liquor and Gaming Coordination Committee. The proposed Part also provides for the membership and functions of the committee.

Schedule 3.1[1]–[4], [6], [10]–[16], [18]–[21], [23], [24], [26]–[30] and [33]–[35] make amendments as a consequence of the proposed Act.

Schedule 3.1[5] provides that the meaning of *close associate* in the *Gaming and Liquor Administration Act 2007*, section 5 does not apply to the *Casino Control Act 1992* and regulations made under that Act.

Schedule 3.1[7] and [8] make amendments in relation to the membership of the Authority.

Schedule 3.1[37] makes a consequential amendment.

Schedule 3.1[9] provides for the authority to employ staff to assist the Authority to exercise its functions.

Schedule 3.1[17] enables information acquired in the exercise of functions under the gaming and liquor legislation to be divulged to the community at large if the Authority, NICC or Secretary certifies that to do so is in the public interest.

Schedule 3.1[22] provides that a function of an inspector is to detect, or assist in detecting, offences committed in a casino.

Schedule 3.1[31] provides for the payment of fees under the gaming and liquor legislation to certain persons. **Schedule 3.1[32]** makes a consequential amendment.

Schedule 3.1[36] reduces the maximum period for which an appointed member of the Authority holds office, subject to the *Gaming and Liquor Administration Act 2007*, Schedule 1, from 5 years to 4.

Schedule 3.1[38] provides that an appointed member of the Authority may not be a member for more than 2 consecutive terms.

Schedule 3.1[39] removes a distinction between full-time and part-time appointed members of the Authority in relation to remuneration. Previously, part-time appointed members were entitled to be paid such remuneration as the Minister determined.

Other legislation

Schedule 3 also amends the following Acts—

- (a) the *Government Information (Public Access) Act 2009* to provide that information relating to audit, investigative, reporting and prosecuting functions of the NICC and the NSW Independent Liquor and Gaming Authority is excluded information under that Act, Schedule 2,
- (b) the *Ombudsman Act 1974* to remove conduct of the Casino Control Authority or any other public authority when exercising functions under the *Casino Control Act 1992* as excluded conduct for the purposes of the *Ombudsman Act 1974*, section 12,
- (c) the *Privacy and Personal Information Protection Act 1998* to—
 - (i) include the NICC and the Independent Gaming and Liquor Authority as a law enforcement agency in that Act, section 3, and
 - (ii) provide that the NICC and the Independent Gaming and Liquor Authority are not required to comply with the information protection principles under the *Privacy and Personal Information Protection Act 1998*,
- (d) the *Statutory and Other Offices Remuneration Act 1975* in relation to remuneration for an appointed member of the Independent Liquor and Gaming Authority, the Chief Commissioner of the NICC and Commissioners of the NICC.