



Gaming Machines Amendment (Miscellaneous) Bill.

Second Reading

The Hon. JOHN HATZISTERGOS (Minister for Justice, and Minister Assisting the Premier on Citizenship) [5.40 p.m.]:
I move:

That this bill be now read a second time.

I seek leave to have the second reading speech incorporated in *Hansard*.

Leave granted.

The Gaming Machines Act, which commenced on 2 April 2002 introduced a wide range of gaming machine reform measures for the New South Wales club and hotel industry. The Act contains extensive harm minimisation and responsible gambling measures and introduced a new scheme permitting the transfer of gaming machine entitlements between venues.

The Gaming Machines Amendment (Miscellaneous) Bill contains a range of miscellaneous amendments to the Gaming Machines Act. These amendments have been identified as necessary to the proper functioning of the Act, as experience is gained in the administrative and operational side of administering this legislation. While many of the amendments are minor, they are worthwhile and achieve a greater clarity for the operation of the Act as a whole.

A number of clarifications are proposed to provisions relating to large-scale clubs. Eighteen Clubs in New South Wales hold more than 450 poker machines and are referred to as large-scale clubs. Under the Act, these clubs must reduce the number of entitlements they hold by 10 per cent, or by such number as would result in the club not exceeding 450 entitlements, over a five-year period commencing in 2002.

Due to refinements aimed at providing these clubs with flexibility in the annual reduction process, there is now a need to clarify an end date by which time all of the required entitlements must be transferred, including those for which an additional short period of time has been given under regulations.

This time limit is proposed as three months after the end of the five-year period. The end date will be July 2007.

The Bill also clarifies that the number of gaming machines held by each large-scale club once the reduction obligations are met, is to be the maximum number of machines that may be held by each large-scale club from then on.

The insertion of a specific limit for large-scale clubs is considered appropriate, given the special exemption already extended to the number of machines that may be operated in large-scale clubs and the strict limits imposed on all other gaming venues.

The Bill will amend the Act to clarify that the special arrangements put in place to ensure the efficient and appropriate reduction of gaming machine numbers in large-scale clubs will cease to apply once the club concerned has met its 10 per cent reduction requirement under the Act. This will allow equality in the transfer arrangements that apply to large-scale clubs and all other clubs once the specific requirements for large-scale clubs are discharged. It will also provide an incentive for large-scale clubs to meet the 10 per cent reduction target earlier than 2007.

The Bill seeks to recognise the specific circumstances faced by non-metropolitan clubs. The Parliament has previously recognised this difference during the debate on the Gaming Machines Further Amendment Bill 2002. A proposal was passed that extended from 1 kilometre to 50 kilometres the distance within which two premises of a non-metropolitan club can be located in order to be allowed to transfer poker machine entitlements between, the premises without forfeiture of any entitlements to the State.

This Bill proposes an amendment in the same spirit. The Act currently requires a comprehensive social impact assessment to be undertaken if a club wishes to transfer gaming machine entitlements to another of its premises which is more than one kilometre away.

While this distance may be appropriate in metropolitan areas, the one kilometre restriction is considered inappropriate in relation to non-metropolitan areas, where the distances between two premises of the one club can be significantly greater.

This Bill will amend the Act to enable non-metropolitan clubs to undertake a more routine social impact assessment when transferring entitlements between premises, provided the club premises are within 50 kilometres of each other.

The clubs will still be required to do a social impact assessment, as this is an important part of the gaming machine control framework established by the Act, but this amendment will allow them to do a standard class one rather than a more onerous class two social impact assessment. This amendment will recognise the different geographical circumstances faced by non-metropolitan clubs and facilitate the management of gaming machine entitlements between relevant non-metropolitan club premises.

The Bill will make it clear that the pooling of video-style approved amusement devices - which may be exchanged for a poker machine entitlement at the rate of three approved amusement devices to one esker machine entitlement, in metropolitan hotels, and a rate of two approved amusement devices to one poker machine entitlement for country hotels - is to apply only when the hoteliers are down to their last remaining approved amusement devices [AADs] and hold an insufficient number to form an appropriate block of machines for transfer by themselves.

The Act does not currently specify this restriction for left over or remnant devices, but the legislation has been administered this way in line with the intention, as described in the second reading speech for the Gaming Machines Further Amendment Bill 2002.

Several hotels have approached the Liquor Administration Board to approve the exchange of approved amusement devices that are not remnant devices.

The scheme permitting an exchange of AADs for poker machine entitlements was provided on the assumption that the total number of machines in a venue would go down. Through allowing non-remnant AADs to be exchanged, a significant number of additional poker machines would be moved into a venue but without an associated drop in the overall numbers of gaming machines, as was intended.

Equally importantly, through this proposed method of exchange, the hotelier would be able to increase the number of poker machines in the venue but avoid the established social impact assessment requirements, usually needed for such an increase.

To allow these approaches to be approved, when others have not exploited this loophole, would be to disadvantage hoteliers who have been involved in previous exchanges, done in the spirit of the legislation. The Bill will ensure all hoteliers with these devices are treated in an equal manner.

The Act currently provides that new and small clubs that had less than 10 gaming machines at the time of the club freeze in 2000 can apply for a number of 'free entitlements' that would bring their total number of entitlements to 10.

The Bill will prevent new and small clubs from transferring entitlements to another venue then claiming more 'free entitlements' to bring their-total number back to 10. That will prevent exploitation of the 'free entitlement' scheme.

The Bill will insert a definition of public holiday for the purposes of the legislation. A reduction in the mandatory shut down period for gaming machines can be sought for public holidays. For the sake of clarity, a definition of what is meant by public holiday will be inserted into the Act.

The Bill provides that if a registered club ceases to trade, the club will still be able to transfer its poker machine entitlements within 12 months, or any such longer time as approved by the Liquor Administration Board. This time limit will promote the re-allocation of gaming machine entitlements from closed premises. It will also provide consistency with the requirement that clubs have 12 months to transfer entitlements if a club registration is cancelled or surrendered.

The Bill enables a complaint to be made to the Licensing Court on the ground that a hotelier or club has not paid gaming machine tax or a penalty or interest is due for late payment of any such tax. The Bill provides that the disciplinary action the Court can impose in relation to such a complaint includes cancelling, suspending or modifying the venue's authorisation to keep gaming machines.

It is important for the Court to be able to impose disciplinary procedures for the non-payment of gaming machine tax, as compliance with such requirements is important in determining the appropriateness of a hotelier or club being allowed to operate gaming machines.

The Bill seeks to rectify an ambiguity in the legislation that treats gaming-related licences and work permits differently.

The Act currently allows the Board to cancel a gaming-related licence for the non-payment of a gaming-related fee and reinstate the licence on payment of the fee. The Bill will make it clear that an interim work permit may also be cancelled for non-payment of a gaming-related fee and reinstated upon such payment.

The Bill provides a regulation making power that allows a time period to be stipulated within which the Liquor Administration Board must consider a social impact assessment. It is intended that such a regulation making power will only be used if proposed administrative measures do not achieve the intended result.

A number of minor miscellaneous amendments are proposed in the Bill which deal with drafting errors, minor wording changes or similar clarification. I will not go into the detail of all of these amendments other than to note that they are important to the effective operation of the Act.

I note that it is now the practice that all bills will be scrutinised by the Legislation Review Committee. The Committee's obligations are set out in the Legislation Review Act 1987 and I believe that this Bill does not contain any provisions that fall within the areas of interest to the committee.

The Bill does not contain any provisions that trespass on personal rights or liberties. It does include a number of provisions which close loopholes. The closing of these loopholes may be seen by some, particularly those who seek to exploit them, as restricting their ability to act in a certain way. However, it is considered that closing these loopholes will ensure that the legislation applies in a more equitable fashion across those businesses that it affects.

There is only one regulation making power in the Bill and it is narrow and specific and as such it is not considered that it would inappropriately delegate legislative powers or insufficiently subject the exercise of legislative power to Parliamentary scrutiny.

The Bill does not contain any provisions that make rights, liberties or obligations unduly dependent upon insufficiently defined administrative powers or upon non-reviewable decisions.

I commend the Bill to the House.

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