

## 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 *Gaming Machines Act 2001* as follows:

- (a) to prevent any increase in the number of gaming machines that may be kept on the premises of a large-scale club,
- (b) to clarify that certain special arrangements in relation to large-scale clubs apply only until such time as the club complies with the existing requirement to reduce its allocated number of poker machine entitlements,
- (c) to allow the transfer, through a class 1 social impact assessment, of any number of poker machine entitlements between different premises of a registered club if the premises are situated in a non-metropolitan area and are within 50 kilometres of each other,
- (d) to make a number of other miscellaneous amendments to enhance or clarify the operation of the Act.

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

**Clause 4** omits section 68 (1) (g) of the *Liquor Act 1982* which provides for the making of a complaint to the Licensing Court on the ground that a hotelier has failed to pay gaming machine tax in accordance with the *Gaming Machine Tax Act 2001*. Such a complaint may lead to the Court taking disciplinary action against the hotelier. The provision will, however, be included in the *Gaming Machines Act 2001* (see **Schedule 1 [36]**).

### Schedule 1 Amendment of Gaming Machines Act 2001

**Schedule 1 [1]** provides that the Act does not prohibit the keeping or operation of a gaming machine that is used for research purposes.

**Schedule 1 [3]** makes it clear that the number of gaming machines that may be kept on the relevant premises of a large-scale club (ie premises with more than 450 gaming machines) may not be increased during the 5-year period in which the club is, under section 15A of the Act, required to reduce the number of poker machine entitlements allocated in respect of those premises by 10% or to 450 (the *individual venue cap*). The amendment also makes it clear that once the club complies with the requirement under section 15A, the maximum number of gaming machines that the Liquor Administration Board may authorise the club to keep on those premises will be the individual venue cap. **Schedule 1 [2]** is a consequential amendment.

**Schedule 1 [5]** provides that if the number of poker machine entitlements allocated in respect of a large-scale club's relevant premises is not reduced in accordance with the requirement under section 15A, the remaining number of entitlements that the club was required to transfer in order to reach the reduced number are to be forfeited to the Board. **Schedule 1 [4]** makes it clear that the requirement under section 15A for a large-scale club to reduce its allocated number of poker machine entitlements applies only in relation to those premises with more than 450 gaming machines.

At present under section 17 of the Act, a registered club that had less than 10 gaming machines immediately before the commencement of that section (which was 2 April 2002) may apply for additional poker machine entitlements (which are referred to as *free club entitlements*) so as to bring its number of entitlements to 10. **Schedule 1 [6]** prevents such a club from applying for free club entitlements once the club transfers any of its allocated entitlements.

Section 21A (2) of the Act provides that any transfer of poker machine entitlements by a large-scale club to another set of its premises will require the forfeiture of one entitlement per transfer block regardless of the distance between the premises involved. **Schedule 1 [8]** provides that this special qualification applies in relation to a large-scale club only until such time as the club complies with the requirement under section 15A of the Act to reduce its allocated number of poker machine entitlements. **Schedule 1 [7]** is a consequential amendment.

**Schedule 1 [9]** makes it clear that a class 2 social impact assessment is required in connection with the transfer by a large-scale club of more than 4 (rather than 4 or more) poker machine entitlements to another set of its premises.

**Schedule 1 [10]** makes it clear that the pooling by hoteliers of approved amusement devices (**AADs**) for the purposes of section 22 of the Act (which allows a hotelier to exchange a certain number of AADs for one poker machine entitlement) will apply only in relation to remnant AADs. As a result of the proposed amendment, a hotelier who surrenders AADs in combination with another hotelier cannot be allocated a poker machine entitlement if either of the hoteliers has 3 or more AADs (in the case of metropolitan hotels) or 2 or more AADs (in the case of country hotels).

**Schedule 1 [11], [12], [16] and [17]** remove references to a hotelier's or registered club's authorisation to keep gaming machines being surrendered by the hotelier or club. The Act does not provide for the surrendering of any such authorisation.

**Schedule 1 [14]** provides that if a registered club has ceased to trade the club will be able to transfer its poker machine entitlements within 12 months (or such longer period as the Board may allow) of ceasing to trade. **Schedule 1 [13]** is a consequential amendment.

Section 30 of the Act currently exempts large-scale clubs from the requirement that the approval to keep any hardship gaming machines under Division 3 of Part 3 of the Act must be forfeited before any poker machine entitlements can be transferred from the club concerned. **Schedule 1 [15]** provides that this exemption has effect in relation to a large-scale club only until such time as the club complies with the requirement under section 15A of the Act to reduce its allocated number of poker machine entitlements.

**Schedule 1 [18]** makes it clear that a social impact assessment is required to be provided in connection with an application to keep gaming machines for the first time on any temporary premises, or for the first time on the premises of a new hotel or new club, and is subsequently required only in connection with an application that would increase the SIA threshold (as defined in the Act) for those temporary premises or for the new hotel or new club.

**Schedule 1 [20]** provides that a class 1 social impact assessment is required in connection with the transfer of any number of poker machine entitlements from one set of premises of a registered club to another set of its premises if both sets of premises are situated in a non-metropolitan area and are within 50 kilometres of each other. At present under the Act and the regulations, a class 2 social impact assessment would be required if more than 4 poker machine entitlements are being transferred. **Schedule 1 [19]** clarifies the circumstances generally in which a class 1 social impact assessment is required.

**Schedule 1 [21]** enables the regulations to specify a time within which the Board is required to determine social impact assessments under Division 1 of Part 4 of the Act.

**Schedule 1 [22]** inserts a definition of **public holiday** for the purposes of the provisions that deal with the mandatory shutting down of gaming machines.

**Schedule 1 [23]** makes it clear that the authorisation to keep a gaming machine

ceases to have effect if the Board authorises the disposal of the gaming machine. **Schedule 1 [24] and [25]** restate provisions that refer to a registered club moving to other premises so as to more accurately reflect the scheme under the *Registered Clubs Act 1976*.

**Schedule 1 [28]** makes it clear that an interim work permit may be cancelled for late payment of the periodic licence fee in relation to the permit. **Schedule 1 [29]** enables an application to be made for the reinstatement of an interim work permit that has been cancelled because of the late payment of the periodic licence fee and **Schedule 1 [33] and [34]** extend the provisions relating to the refunding of fees on the suspension, cancellation or surrender of gaming-related licences so that they apply also to interim work permits. **Schedule 1 [26], [27], [30]–[32] and [35]** are consequential amendments.

**Schedule 1 [36]** enables a complaint to be made to the Licensing Court that a hotelier or registered club has not paid gaming machine tax, or a penalty or interest due for late payment of gaming machine tax, under the *Gaming Machine Tax Act 2001*. **Schedule 1 [37]** provides that the disciplinary action that the Court may impose in relation to such a complaint may include cancelling the hotelier's or club's authorisation or approval to keep gaming machines.

**Schedule 1 [38]** enables regulations of a savings or transitional nature to be made as a consequence of the enactment of the proposed Act. **Schedule 1 [39]** inserts savings and transitional provisions consequent on the enactment of the proposed Act.