

Supplementary Questions

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What type of extra legislation?

To answer this question in more detail, I will quote from the section of the Gaming Machines Act 2001 covering self-exclusion:

49 self-exclusion of patrons from hotels and clubs

(1) In this section:

self-exclusion scheme means a scheme:

(a) in which a person (the participant) is prevented, at his or her own request, from entering or remaining on any area of a hotel or the premises of a club that is nominated by the participant (the nominated area), and

(b) that is established and conducted in accordance with the regulations.

responsible person means:

(a) in the case of a hotel—any of the following:

- (i) the hotelier,*
- (ii) the manager of the hotel,*
- (iii) an agent or employee of the hotelier or manager,*
- (iv) any other person involved in the conduct of gambling activities in the hotel, or*

(b) in the case of a club—any of the following:

- (i) the secretary of the club,*
- (ii) a director of the club,*
- (iii) an agent or employee of the club,*
- (iv) any other person involved in the conduct of gambling activities on the club's premises.*

(2) For the purposes of this section, the nominated area of the hotel or club premises concerned may comprise the entire hotel or the entire club premises.

(3) If a hotelier or club is authorised to keep approved gaming machines, the hotelier or club must:

(a) ensure that patrons of the hotel or club have access to a self-exclusion scheme, and

(b) publicise the availability of self-exclusion schemes and information about how they operate to the patrons of the hotel or club.

Maximum penalty: 100 penalty units.

(4) It is lawful for a responsible person for a hotel or club, using no more force than is reasonable in the circumstances:

(a) to prevent a participant from entering the nominated area of the hotel or the premises of the club, and

(b) to remove a participant from the nominated area or cause a participant to be removed from that area.

(5) No civil or criminal liability is incurred by a responsible person for a hotel or club (or by the club itself):

(a) for any act done or omitted to be done in good faith, and in accordance with this section and the regulations, to or in respect of a participant, or

(b) if a participant enters or remains in the nominated area of the hotel or the premises of the club.

(6) This section does not limit or otherwise affect the civil liability of a person for negligence that causes personal injury to a person or the death of a person.

<http://www.legislation.nsw.gov.au/inforcepdf/2001-127.pdf?id=ee5f6021-d3cb-4324-f2eb-c33fa16ee19e>

Although the Act states specifically who the responsible parties for self-exclusion are, there is no mention of penalties or consequences to the proprietors for failure to enforce or uphold a self-exclusion scheme. The only mention of penalty relates to the presence of, access to and publicizing of a self-exclusion scheme, but not to the actual operation of a self-exclusion scheme.

Section 5 of the Act above on liability appears to further remove responsibility of the proprietor to enforce their self-exclusion scheme. Unlike the consequences associated with excessive consumption of alcohol, such as potential aggressive or violent behavior, there is very minimal negative impact of problem gambling behavior on the venue itself. Problem gamblers will typically sit quietly in front of the machines while losing large amounts of money. Hence it is doubtful that proprietors of venues will be motivated to stop such

problem gambling behavior or problem gamblers, particularly as these represent large sources of income for the venue.

Thus, for the self-exclusion scheme to be viable, I suggest there be changes introduced into the current Gaming Machines Act addressing the above points, such as the removal of section 5, and the addition of penalties to section 4 (i.e., pertaining to venue failure to prevent or remove a participant from the premises).

Ms Abigail Kazal
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