

Queensland



**GAMING MACHINE AND
OTHER LEGISLATION
AMENDMENT ACT 2003**

Act No. 41 of 2003



GAMING MACHINE AND OTHER LEGISLATION AMENDMENT ACT 2003

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MINOR AMENDMENTS OF GAMING MACHINE ACT 1991

Queensland



**Gaming Machine and Other Legislation
Amendment Act 2003**

Act No. 41 of 2003

**An Act to amend the *Gaming Machine Act 1991* and the *Commercial
and Consumer Tribunal Act 2003***

[Assented to 6 June 2003]

The Parliament of Queensland enacts—

PART 1—PRELIMINARY

1 Short title

This Act may be cited as the *Gaming Machine and Other Legislation Amendment Act 2003*.

2 Commencement

This Act commences on 1 July 2003.

PART 2—AMENDMENT OF GAMING MACHINE ACT 1991

3 Act amended in pt 2 and schedule

This part and the schedule amend the *Gaming Machine Act 1991*.

4 Amendment of s 29 (Appeals to Minister)

Section 29(9)(i), (j) and (k)—

omit.

5 Amendment of s 32 (Appeals to commission)

(1) Section 32(1A)(a) to (g)—

renumber as section 32(1A)(d) to (j).

(2) Section 32(1A)—

insert—

- ‘(a) a decision, under section 87(1), refusing, for a decrease proposal that is an application, to approve a decrease in the approved number of gaming machines for a licensee’s licensed premises;
- (b) a decision, under section 87(1), approving, for a decrease proposal that is an application, a decrease in the approved number of gaming machines for a licensee’s licensed premises that is less than the decrease sought in the application;
- (c) a decision, under section 87(1), approving, for a decrease proposal that is a request or report, a decrease in the approved number of gaming machines for a licensee’s licensed premises;’.

6 Insertion of new s 54A

Part 2—

insert—

‘54A Chief executive may issue guidelines

- ‘(1) The chief executive may issue guidelines to inform persons about—
- (a) the attitude the chief executive is likely to adopt on a particular matter; or
 - (b) how the chief executive administers this Act.

Example 1—

The chief executive might issue a guideline stating how the chief executive decides applications for a decrease under section 86 for category 1 licensed premises.

Example 2—

The chief executive might issue a guideline about dealing with operating authorities under this Act.

‘(2) The chief executive must keep copies of the guidelines available for inspection, free of charge, by members of the public at—

- (a) the department’s head office and regional offices; and
- (b) other places the chief executive considers appropriate.

‘(3) Also, the chief executive must, if asked by a person, give the person a copy of a guideline, or an extract from a guideline, free of charge.’.

7 Amendment of s 56 (Application for gaming machine licences)

(1) Section 56(1)(b) and (c)—

omit, insert—

- ‘(b) the holder of a general liquor licence; or
- (c) the holder of a prescribed liquor licence; or
- (d) a body corporate that—
 - (i) has applied to become the holder of a general liquor licence or a club liquor licence; or
 - (ii) is the proposed transferee in a liquor licence transfer application relating to a club liquor licence; or
- (e) an individual who has applied to become the holder of a general liquor licence; or
- (f) the proposed transferee in a liquor licence transfer application relating to a general liquor licence or prescribed liquor licence; or
- (g) a subsidiary operator, other than a subsidiary operator that is a non-proprietary club.’.

(2) Section 56(2)(a), (b) and (c)—

omit, insert—

- ‘(a) if the application is made by an applicant mentioned in subsection (1)(a), (b) or (c)—premises specified in the applicant’s liquor licence; or
- (b) if the application is made by an applicant mentioned in subsection (1)(d) or (e)—premises specified in the applicant’s application for a liquor licence or the liquor licence transfer application naming the applicant as the proposed transferee; or
- (c) if the application is made by an applicant mentioned in subsection (1)(f)—category 1 licensed premises specified in the liquor licence transfer application naming the applicant as the proposed transferee; or
- (d) if the application is made by an applicant mentioned in subsection (1)(g)—the part of special facility premises for which the applicant is a subsidiary operator.’.

(3) Section 56—

insert—

‘**(6)** In subsection (2)(d), a reference to the part of special facility premises for which an applicant for a gaming machine licence mentioned in subsection (1)(g) is a subsidiary operator is a reference to—

- (a) the part of special facility premises the holder of the special facility liquor licence for the premises has, with the approval of the relevant chief executive, let or sublet to the applicant; or
- (b) the part of special facility premises in relation to which the holder of the special facility liquor licence for the premises has, with the approval of the relevant chief executive, entered into a franchise or management agreement with the applicant.’.

8 Amendment of s 59 (Number of gaming machines and hours of gaming to be fixed on grant of gaming machine licence)

Section 59(2A), (3A) and (5)—

omit.

9 Amendment of s 68 (Issue of gaming machine licences generally)

(1) Section 68(2), before ‘the following’—

insert—

‘each of’.

(2) Section 68(2)(d)—

renumber as section 68(2)(e).

(3) Section 68(2)—

insert—

‘(d) for a gaming machine licence for category 1 licensed premises—

- (i) the authority region in which the licensed premises are located; and
- (ii) the number of operating authorities for the licensed premises, including the number of operating authorities, if

any, for the licensed premises that must be sold at an authorised sale; and

- (iii) the registration number of each operating authority for the licensed premises; and
- (iv) the date of the most recent sale, if any, of an operating authority for the licensed premises;’.

10 Amendment of s 78 (Certain applications under Liquor Act 1992 subject to chief executive’s certificate)

Section 78—

insert—

‘(4) Subsection (5) applies if, under subsection (3), arrangements are made for a gaming machine licence (a **“new licence”**) to be issued at the same time as the transfer of a liquor licence and an associated gaming licence for the liquor licence is cancelled under section 96(1) because of the transfer of the liquor licence.

‘(5) All operating authorities, if any, for the licensed premises under the cancelled associated gaming machine licence are transferred by operation of this subsection to the holder of the new licence.

‘(6) In subsection (5)—

“operating authority”, for the licensed premises under the cancelled associated gaming machine licence, does not include an operating authority that must be sold at an authorised sale.’.

11 Insertion of new s 80B

Part 3, division 6—

insert—

‘80B Restriction on installation and operation of gaming machines for category 1 licensee

‘A category 1 licensee must not, at the licensee’s licensed premises, install and operate more than the number of gaming machines that is equal to the endorsed number of operating authorities for the licensed premises.

Maximum penalty—200 penalty units.’.

12 Amendment of s 81 (Application to increase approved number of gaming machines)

Section 81(1), ‘, other than a category 1 licensee,’—

omit.

13 Amendment of s 86 (Proposals to decrease approved number of gaming machines)

(1) Section 86—

insert—

‘(1A) However, a category 1 licensee may not apply for a decrease under subsection (1) that is more than half the approved number of gaming machines for the licensee’s licensed premises immediately before the application is made.’.

(2) Section 86(5)(c)—

renumber as section 86(5)(d).

(3) Section 86(5)—

insert—

‘(c) accompanied by the gaming machine licence for the licensed premises; and’.

14 Insertion of new s 86A

After section 86—

insert—

‘86A Restriction on applying for decrease for category 1 licensed premises

‘(1) If an operating authority for category 1 licensed premises is sold at an authorised sale, a licensee for the licensed premises may not apply for a decrease under section 86(1) for the licensed premises within 1 year after the date of the sale.

‘(2) However, subsection (1) does not apply to a licensee if the chief executive is satisfied that compliance with the subsection is likely to impose an unreasonable financial burden on the licensee.’.

15 Replacement of ss 87 and 88

Sections 87 and 88—

omit, insert—

‘87 Decision on decrease proposal

‘(1) The chief executive must consider a decrease proposal received by the chief executive and either—

- (a) approve, by a stated number, a decrease in the approved number of gaming machines for the licensed premises of the licensee; or
- (b) refuse to approve a decrease in the approved number.

‘(2) The chief executive—

- (a) may approve a decrease that is less than the decrease sought in a decrease proposal; and
- (b) must not, for category 1 licensed premises, approve a decrease that is more than half the approved number of gaming machines for the licensed premises immediately before the application for the decrease is made.

‘(3) If the decrease proposal is a request or report, the chief executive must, before making a decision—

- (a) by written notice given to the licensee affected by the proposal—
 - (i) advise the licensee of the relevant details of the proposal; and
 - (ii) invite the licensee to give the chief executive a written submission about the proposal within a reasonable time stated in the notice; and
- (b) consider any written submission of the licensee received within the stated time.

‘(4) If the decrease proposal is an application, the chief executive—

- (a) must not refuse to approve a decrease if the refusal is likely to impose an unreasonable financial burden on the licensee; and
- (b) must not approve a decrease that is greater than the decrease sought in the application.

‘(5) If the decrease proposal is an application by a category 1 licensee and the decrease is approved under subsection (1)(a), the number of

operating authorities for the licensee's licensed premises that is more than the approved number of gaming machines for the licensed premises must be sold at an authorised sale.

'(6) If the decrease proposal is an application by a category 1 licensee, the chief executive may, if asked in writing by the licensee at the time the application is made, approve a decrease conditional on the sale of an operating authority for the licensed premises under the licensee's gaming machine licence for each gaming machine to be disposed of under the approval.

'(7) If an approval is conditional as mentioned in subsection (6), the approval has effect, in relation to each gaming machine to be disposed of under the approval, when an operating authority for the gaming machine is sold.

'(8) If the decrease proposal is a request or report relating to category 2 licensed premises, the chief executive may not approve a decrease if the approval is likely to impose an unreasonable financial burden on the licensee.

'88 Disposal of gaming machines for decrease proposal

'(1) If the chief executive approves a decrease in the approved number of gaming machines for licensed premises of a licensee, the chief executive must approve the way in which the gaming machines subject to the decrease may be disposed of.

'(2) An approval under subsection (1) may provide for the disposal of the gaming machines by the sale or destruction of the machines.

'88A Notice of decision about decrease proposal

'(1) The chief executive must immediately give written notice of a decision under section 87(1) to the licensee if—

- (a) the decision relates to an application and is a decision approving a decrease that is equal to the decrease sought in the application;
or
- (b) the decision relates to a request or report and is a decision refusing to approve a decrease.

‘(2) The chief executive must immediately give the licensee an information notice for a decision under section 87(1) if—

- (a) the decision relates to an application and is a decision—
 - (i) refusing to approve a decrease; or
 - (ii) approving a decrease that is less than the decrease sought in the application; or
- (b) the decision relates to a request or report and is a decision approving a decrease.

‘(3) A notice under subsection (1) or (2) must include notice of, or be accompanied by written notice of, any relevant approval of the chief executive under section 88(1).

‘88B Replacement licence for decrease proposal

‘(1) This section applies if a licensee receives a notice under section 88A relating to a decision approving a decrease for the licensee’s licensed premises.

‘(2) The licensee must, within 7 days after receiving the notice, give to the chief executive—

- (a) the licensee’s gaming machine licence; and
- (b) the fee prescribed under a regulation.

Maximum penalty—40 penalty units.

‘(3) If the chief executive receives a gaming machine licence for a licensee under subsection (2), the chief executive must as soon as practicable—

- (a) replace the licensee’s licence; and
- (b) give the replacement licence to the licensee.

‘(4) If the replacement licence is for category 1 licensed premises, the replacement licence must include the information mentioned in section 68(2)(d).’.

16 Amendment of s 89 (Matters to be taken into account for decrease proposal)

(1) Section 89(1), ‘recommendation to the commission’ —

omit, insert—

‘decision’.

(2) Section 89(2)—

omit.

(3) Section 89(3), ‘commission or’ —

omit.

(4) Section 89(4), ‘The commission or chief executive also’ —

omit, insert—

‘Also, the chief executive’.

17 Amendment of s 90 (Surrender or disposal of gaming machines on approval of decrease)

(1) Section 90(1), ‘commission’ —

omit, insert—

‘chief executive’.

(2) Section 90(4)—

renumber as section 90(5).

(3) Section 90—

insert—

‘(4) Despite subsection (3), if the approval for the decrease is conditional on the sale of an operating authority for each gaming machine to be disposed of under the approval, the required time for disposing of a gaming machine in relation to the decrease is the period ending 1 month after the sale of an operating authority for the gaming machine.’.

18 Amendment of s 95 (Surrender of gaming machine licences)

(1) Section 95(1)—

omit, insert—

‘**(1)** A licensee, at any time, may surrender the licensee’s gaming machine licence by giving the chief executive—

- (a) a notification in the approved form; and
- (b) the gaming machine licence, unless the surrender is conditional on the sale of the licensee’s operating authorities.’.

(2) Section 95—

insert—

‘**(2A)** If a category 1 licensee surrenders the licensee’s gaming machine licence, all operating authorities for the licensed premises under the licence must be sold at an authorised sale.

‘**(2B)** If the licensee is a category 1 licensee, the notification under subsection (1) may state the surrender is conditional on the sale of the licensee’s operating authorities for the licensed premises under the licence.

‘**(2C)** If the notification states the surrender is conditional on the sale of the licensee’s operating authorities, the licensee must give the licence to the chief executive immediately after the licensee is aware all the operating authorities have been sold.

Maximum penalty—40 penalty units.’.

(3) Section 95(8), ‘A licensee’—

omit, insert—

‘Subject to subsection (8A), a licensee’.

(4) Section 95—

insert—

‘**(8A)** If the surrender of a gaming machine licence is conditional on the sale of the licensee’s operating authorities, the licensee must, within 1 month after each sale of operating authorities for the licensed premises under the licence, dispose of the number of gaming machines equal to the number of operating authorities sold.

Maximum penalty—200 penalty units.’.

19 Amendment of s 96 (Action affecting gaming machine licences based on action affecting liquor licences)

Section 96—

insert—

‘(1A) However, if a special facility liquor licence for an associated gaming licence is surrendered merely because the licensee for the associated gaming licence is issued with a general liquor licence, the associated gaming licence is not taken to be cancelled under subsection (1).’.

20 Amendment of s 97 (Cancellation or suspension of gaming machine licences and letters of censure)

Section 97(1)(c)—

insert—

‘(ia) considers that the licensee has contravened section 80B, 109C or 411(1);¹ or’.

21 Insertion of new pt 3A

After section 109—

insert—

**‘PART 3A—OPERATING AUTHORITIES FOR
CATEGORY 1 LICENSED PREMISES**

‘Division 1—Preliminary

‘109A Limit on number of operating authorities

‘(1) The maximum number of operating authorities under this Act is the number prescribed under a regulation.

1 Section 80B (Restriction on installation and operation of gaming machines for category 1 licensee), 109C (Purchase of operating authority at authorised sale) or 411 (Registration for allocation of operating authorities)

‘(2) For this Act, operating authorities of the number prescribed under subsection (1) are declared to exist.

‘(3) Subsection (4) applies if the Minister intends to recommend to the Governor in Council the making of a regulation that will change the maximum number of operating authorities to a number that is greater than the number prescribed under the first regulation made under subsection (1).

‘(4) Before making the recommendation, the Minister must have regard to whether the population of the State has grown.

‘Division 2—Sale of operating authorities

‘109B Sale of operating authority

‘An operating authority may be sold only by an entity (the “**selling entity**”), and in the way, prescribed under a regulation.

‘109C Purchase of operating authority at authorised sale

‘(1) A person must not purchase an operating authority unless—

- (a) the person is a category 1 licensee and purchases the operating authority at an authorised sale; and
- (b) the person has, for the category 1 licensed premises for which the operating authority is purchased, an approved number of gaming machines that is more than the licensee’s endorsed number of operating authorities; and
- (c) unless the authorised sale is conducted for the whole of the State—the category 1 licensed premises for which the operating authority is purchased are located in the authority region for which the authorised sale is conducted.

Maximum penalty—200 penalty units.

‘(2) A person must not, for category 1 licensed premises, purchase more than the number of operating authorities equal to the difference between the approved number of gaming machines and the endorsed number of operating authorities for the licensed premises.

Maximum penalty—200 penalty units.

‘(3) If an operating authority is transferred to a person by the operation of section 78(5), the person is taken not to have purchased the operating authority.

‘109D Dealing with amounts received on sale of operating authorities of the State

‘If at an authorised sale an operating authority of the State is sold, the selling entity must pay the amount received for the authority into the community investment fund established under section 314.

‘109E Dealing with amounts received on sale of licensee’s operating authority

‘(1) If at an authorised sale only 1 licensee’s operating authorities are sold, the selling entity must deal with the amount received for the authorities as follows—

- (a) a percentage of the amount received must be paid into the community investment fund established under section 314;
- (b) the balance must be paid to the licensee.

‘(2) If at an authorised sale 2 or more licensee’s operating authorities are sold, the selling entity must deal with the amount received for the authorities as follows—

- (a) a percentage of the amount received for all of the authorities sold must be paid into the community investment fund established under section 314;
- (b) the balance must be paid to the licensees in the amounts worked out as provided for under a regulation.

‘(3) The selling entity must calculate the amount to be paid into the community investment fund under subsection (2)(a) in the way prescribed under a regulation.

‘(4) The percentage mentioned in subsections (1)(a) and (2)(a) is the percentage prescribed under a regulation.

‘(5) In this section—

“licensee”, in relation to an operating authority, includes a person other than a licensee if the person was a licensee and the operating authority is sold for the person at an authorised sale.

‘Division 3—Other matters about operating authorities

‘109F When operating authorities become operating authorities of the State

‘(1) An operating authority of a licensee becomes an operating authority of the State and stops being an operating authority of the licensee by operation of this subsection if the licensee’s gaming machine licence—

- (a) expires under section 72; or
- (b) is not renewed under section 76; or
- (c) lapses under section 80A(1); or
- (d) is cancelled under section 96 because the licensee’s liquor licence is cancelled or surrendered; or
- (e) is cancelled under section 97(16)(d) or (17)(a).

‘(2) Subsection (3) applies if, at any time, the endorsed number of operating authorities for licensed premises is more than the approved number of gaming machines for the licensed premises because of—

- (a) the operation of section 80A(2) or 85AA(2) or (3); or
- (b) the approval of a decrease proposal that is a request or report under section 87(1);² or
- (c) other circumstances prescribed under a regulation.

‘(3) The number of operating authorities that is more than the approved number of gaming machines for the licensed premises stop being operating authorities of a licensee and become operating authorities of the State by operation of this subsection.

2 Section 80A (When gaming machine licence lapses and number of approved gaming machines changes), 85AA (When approval lapses and number of additional gaming machines changes) or 87 (Decision on decrease proposal)

‘109G Compensation is not payable

‘No compensation is payable to a licensee or other person because an operating authority of the licensee or person becomes an operating authority of the State by operation of this Act.

‘109H Operating authority not to be encumbered

‘An encumbrance to the extent it is over an operating authority is of no effect.

‘109I Issuing replacement gaming machine licence to show endorsed number of operating authorities

‘(1) This section applies if a category 1 licensee purchases an operating authority or a selling entity sells, for a category 1 licensee, an operating authority for category 1 licensed premises.

‘(2) The licensee must, within 7 days after the purchase or sale of the operating authority, give to the chief executive—

- (a) the licensee’s gaming machine licence; and
- (b) the fee prescribed under a regulation.

Maximum penalty—40 penalty units.

‘(3) If the chief executive receives a gaming machine licence for a licensee under subsection (2), the chief executive must as soon as practicable—

- (a) replace the licensee’s licence; and
- (b) give the replacement licence to the licensee.

‘(4) The replacement licence must include the information mentioned in section 68(2)(d).

‘109J Chief executive to review particular provisions of Act

‘The chief executive must, within 2 years after the commencement of this section, start a review of the operation of the provisions of this Act relating to operating authorities.’.

22 Amendment of s 164 (Control system submission)

Section 164—

insert—

‘(4A) However, a supplier’s control system submission need not include particular information mentioned in subsection (4) if the chief executive is satisfied, having regard to the nature of the supplier’s supply operations, that the information is not necessary for the chief executive’s proper consideration of the submission under section 166.’.

23 Amendment of s 322 (Disposition of fees etc.)

(1) Section 322(3), after ‘section 319’—

insert—

‘, other than the amount mentioned in subsection (3A)’.

(2) Section 322—

insert—

‘(3A) Despite subsection (3), an amount of the payment assessed by the chief executive each month as the gaming machine tax equal to the amount prescribed under a regulation multiplied by the maximum number of operating authorities is a controlled receipt of the department.’.

(3) Section 322(7), ‘may be paid’—

omit, insert—

‘may be retained under subsection (3A) or paid’.

24 Amendment of s 366 (Regulation-making power)

Section 366(2)—

insert—

‘(ga)dividing the State into regions for the purpose of allocating or selling operating authorities;’.

25 Omission of s 367 (Certain directions of Minister subordinate legislation etc.)

Section 367—

omit.

26 Insertion of new pt 12, div 8

Part 12, after section 407—

insert—

‘Division 8—Provisions for Gaming Machine and Other Legislation Amendment Act 2003

‘Subdivision 1—Preliminary

‘408 Definitions for div 8

‘In this division—

“allocation dispute” means a dispute arising from the allocation of an operating authority to a category 1 licensee under section 409 and affecting existing arrangements between parties.

“category 1 licensee” means a person who is a category 1 licensee at the commencement.

“commencement” means the commencement of this section.

“mediation fee” see section 416(2).

“party”, to an allocation dispute, means—

- (a) the category 1 licensee to whom the operating authorities the subject of the dispute are allocated under section 409; or
- (b) the owner or lessor of the licensed premises of the category 1 licensee, or another person prescribed under a regulation, who—
 - (i) under a lease, agreement or other arrangement, has, at the commencement, a financial interest in the conduct of the business of gaming of the category 1 licensee; and
 - (ii) reasonably believes the interest may be adversely affected by the allocation of the operating authorities.

“**proceeding fee**” see section 418(2).

“**tribunal**” means the Commercial and Consumer Tribunal established under the Tribunal Act.

“**Tribunal Act**” means the *Commercial and Consumer Tribunal Act 2003*.

‘Subdivision 2—Allocation of operating authorities

‘409 Allocation of operating authorities

‘(1) This section applies to each category 1 licensee.

‘(2) Immediately after the commencement, the number of operating authorities equal to the approved number of gaming machines for the licensee’s licensed premises are allocated to the licensee for the licensed premises by operation of this subsection.

‘410 Notice about registering for allocation of operating authorities

‘As soon as practicable after the commencement, the chief executive must give each category 1 licensee a written notice stating the licensee must register for the allocation of operating authorities to the licensee under section 409.

‘411 Registration for allocation of operating authorities

‘(1) A category 1 licensee must, within 28 days after receiving a notice under section 410, register, in the approved form, for the allocation of operating authorities to the licensee under section 409.

Maximum penalty—200 penalty units.

‘(2) The registration happens by the licensee giving the approved form properly completed to the chief executive.

‘(3) The approved form must be accompanied by the licensee’s gaming machine licence, unless the licensee has a reasonable excuse.

Maximum penalty—40 penalty units.

‘(4) For subsection (3), if the chief executive has replaced the gaming machine licence under section 412, a reference in the subsection to the

licensee's gaming machine licence is a reference to the gaming machine licence that is replaced.

'412 Chief executive to issue replacement gaming machine licence

'The chief executive must, as soon as practicable after the commencement—

- (a) replace the gaming machine licence of each category 1 licensee; and
- (b) give the replacement licence to the licensee.

'413 Information for replacement gaming machine licence

'A replacement licence given to a licensee under section 412 must state—

- (a) the number of operating authorities allocated to the licensee by operation of section 409; and
- (b) the registration number of each operating authority allocated to the licensee; and
- (c) the authority region in which the licensee's licensed premises are located.

'Subdivision 3—Dealing with allocation disputes under Tribunal Act

'414 Jurisdiction of tribunal

'The tribunal's jurisdiction for this Act is limited to hearing and deciding an allocation dispute between parties and matters relating or relevant to hearing and deciding the dispute.

'415 Application of Tribunal Act

'Subject to this subdivision, the Tribunal Act applies to a proceeding started under that Act for hearing and deciding an allocation dispute to the extent the Tribunal Act is capable of applying.

‘416 Application to tribunal

‘(1) A party to an allocation dispute may, within the period prescribed under a regulation, apply to the tribunal, under the Tribunal Act, section 31,³ to hear and decide the dispute.

‘(2) The application must be accompanied by the fee (the “**mediation fee**”) prescribed under a regulation.

‘(3) Despite the Tribunal Act, section 31(1)(b), the applicant need not pay the fee mentioned in that section to start a proceeding for an allocation dispute.

‘(4) If a party starts a proceeding under the Tribunal Act for an allocation dispute—

- (a) the tribunal must give a copy of the application to the chief executive; and
- (b) each entity that is a respondent under the Tribunal Act in relation to the proceeding, must, within 14 days after being served with a copy of the application, also pay the mediation fee to the tribunal.

‘417 Mediation of allocation dispute

‘(1) This section applies if a party starts a proceeding under the Tribunal Act for an allocation dispute.

‘(2) Despite the Tribunal Act, section 117,⁴ the tribunal must under the section, before hearing the dispute, appoint a mediator or mediators to try to achieve a negotiated settlement of the proceeding.

‘418 Proceeding before tribunal

‘(1) This section applies if a party starts a proceeding under the Tribunal Act for an allocation dispute and the dispute is not settled at mediation.

‘(2) Each party to the proceeding must, within 7 days after the end of the mediation, pay to the tribunal the fee (the “**proceeding fee**”) prescribed under a regulation.

3 The Tribunal Act, section 31 (How to start proceedings)

4 The Tribunal Act, section 117 (Tribunal may appoint mediator)

‘419 Allocation dispute to be taken to tribunal

‘(1) Subject to this subdivision, a proceeding for an allocation dispute must be heard and decided under the Tribunal Act.

‘(2) Payment of a mediation fee or a proceeding fee in relation to a proceeding under the Tribunal Act for an allocation dispute is not a prerequisite for the tribunal appointing a mediator for the dispute or hearing and deciding the dispute.

‘(3) However, if a fee is not paid by a party, the fee is a debt due to the State and may be recovered by the chief executive in a court having jurisdiction for the recovery of the amount claimed.

‘420 Orders relating to allocation dispute

‘(1) Without limiting the Tribunal Act, section 50,⁵ the tribunal may make an order in relation to an allocation dispute about dealing with operating authorities of a party to the dispute, including, for example, an order—

- (a) about the sharing, as between the parties, of any amounts payable to a party under section 109E;⁶ or
- (b) about compensating a party in another way for the sale or other disposal of an operating authority.

‘(2) Also, without limiting the Tribunal Act, section 50, the tribunal may, in hearing and deciding an allocation dispute, consider the following matters—

- (a) the terms of any lease, agreement or other arrangement between the parties relating to the conduct of the business of gaming at category 1 licensed premises;
- (b) the effect a sale or other disposal of operating authorities would have on the capacity of a party to the dispute to obtain finance relating to the future use or development of the licensed premises;

5 The Tribunal Act, section 50 (Directions and orders)

6 Section 109E (Dealing with amounts received on sale of licensee’s operating authority)

- (c) a matter included in a guideline issued by the chief executive under section 54A to the extent it is relevant;
- (d) another matter prescribed under a regulation.

‘Subdivision 4—Other transitional matters

‘421 Appeals

‘(1) Subsection (2) applies if—

- (a) a person has appealed to the Minister before the commencement against a decision of the commission made under the appeal provision; and
- (b) the appeal has not been decided before the commencement.

‘(2) The Minister may hear, or continue to hear, and decide the appeal under this Act as in force before the commencement.

‘(3) Subsection (4) applies if—

- (a) immediately before the commencement a person could have appealed against a decision of the commission made under the appeal provision; and
- (b) the person has not appealed before the commencement.

‘(4) The person may appeal, and the Minister may hear and decide the appeal, under this Act as in force before the commencement.

‘(5) In deciding the appeal, the Minister may make any decision the Minister could have made in relation to the appeal before the commencement.

‘(6) In this section—

“**appeal provision**” means section 88(1) as in force before the commencement.

‘422 Applications for decrease proposal

‘(1) This section applies if—

- (a) a licensee has applied, under section 86, to have the approved number of gaming machines for licensed premises of the licensee decreased; and
- (b) the application has not been decided before the commencement.

‘(2) The application must be dealt with under this Act as in force after the commencement.

‘423 Application of s 80B

‘Section 80B does not apply to a category 1 licensee until the licensee receives a replacement licence under section 412(1) for the licensee’s licensed premises.

‘424 Restriction on surrender of gaming machine licence for category 1 licensed premises

‘(1) Despite section 95, a category 1 licensee can not, without the chief executive’s written approval, surrender a gaming machine licence after the commencement.

‘(2) Subsection (1) ceases to apply to the category 1 licensee immediately after—

- (a) if the licensee or another person has applied to the tribunal to start a proceeding under the Tribunal Act for an allocation dispute relating to the licence—the allocation dispute is decided under the Tribunal Act; or
- (b) otherwise—the end of the period prescribed under a regulation for section 416(1).

‘425 Disposal of gaming machines

‘(1) This section applies if, before the commencement—

- (a) the commission approved a decrease in the approved number of gaming machines for a licensed premises; and
- (b) the required time under section 90 for disposing of the gaming machines for the decrease has not ended.

‘(2) The licensee for the licensed premises must dispose of the number of gaming machines stated for the decrease within the required time.

‘426 Directions relating to allocation dispute

‘(1) If a category 1 licensee has not paid a mediation fee or a proceeding fee payable to the tribunal, the chief executive may, by written notice, give the licensee a direction to pay the fee.

‘(2) Subsection (3) applies if, from information available to the chief executive, the chief executive considers an allocation dispute exists.

‘(3) The chief executive may, by written notice, given to the category 1 licensee who the chief executive believes is a party to the dispute a direction to start a proceeding for an allocation dispute in the tribunal by making an application under section 416 in relation to the dispute.

‘427 Disclosure of information

‘(1) A person who is a departmental officer may, to assist a party to an allocation dispute to settle the dispute, disclose to the party information that has come to the person’s knowledge in the exercise of functions under part 3 of this Act.⁷

‘(2) For section 54(5)(a),⁸ a disclosure under subsection (1) is a disclosure for a purpose under this Act.’.

27 Amendment of schedule (Dictionary)

(1) The schedule—

insert—

‘ **“authorised sale”** means a sale of operating authorities under section 109B.

“authority region” means a region of the State prescribed under a regulation.

“endorsed number”, of operating authorities for licensed premises, means the number of operating authorities stated on the gaming machine licence for the licensed premises.

7 Part 3 (Gaming machine licences)

8 Section 54 (Secrecy)

“operating authority” means an authorisation for a category 1 licensee to, subject to this Act, install and operate a gaming machine on category 1 licensed premises.

“operating authority”, of a licensee, means an operating authority, other than an operating authority of the State, endorsed on the licensee’s gaming machine licence as an operating authority for the licensed premises under the licence.

“operating authority”, of the State, means—

- (a) an operating authority that is an operating authority of the State under section 109F; or
- (b) another operating authority, other than an operating authority that is—
 - (i) allocated under section 409; or
 - (ii) transferred by operation of section 78(5); or
 - (iii) purchased at an authorised sale.

“registration number”, of an operating authority, means the unique number assigned to the operating authority by the chief executive.

“selling entity” see section 109B.’.

(2) The schedule, definition “approved number”, ‘section 88’—
omit, insert—

‘section 88 as in force before 1 July 2003 or section 87’.

(3) The schedule, definition “category 1 licensed premises”, paragraph (c), ‘Bowls Club Incorporated’—

omit, insert—

‘Sports Club Inc.’.

PART 3—AMENDMENT OF COMMERCIAL AND CONSUMER TRIBUNAL ACT 2003

28 Act amended in pt 3

This part amends the *Commercial and Consumer Tribunal Act 2003*.

29 Amendment of sch 2 (Dictionary)

Schedule 2, definition “empowering Act”—

insert—

- *Gaming Machine Act 1991*.

SCHEDULE

MINOR AMENDMENTS OF GAMING MACHINE ACT 1991

section 3

- 1 Section 86(7)(c), ‘section 60(4)’—**
omit, insert—
‘section 60(3)’.

- 2 Section 96(4), before ‘unlicensed premises’, second mention—**
insert—
‘be’.

- 3 Section 314(3), after ‘fund’—**
insert—
‘under this Act’.

- 4 Section 354, after ‘departmental officer’—**
insert—
‘’.

SCHEDULE (continued)

5 Section 354, after ‘an inspector’—

insert—

‘.’