

GAMING MACHINE AMENDMENT BILL 1997

EXPLANATORY NOTES

Short Title

Gaming Machine Amendment Act 1997.

Objectives of the Legislation

The legislation will provide a regulatory framework for the enhanced conduct of machine gaming in Queensland's clubs and hotels, following the *Review of Queensland Gaming Machine Regulatory Arrangements*.

Reasons for the Legislation

The introduction of this Bill will allow for the licensing of commercial gaming machine monitoring operators and approved financiers to provide flexibility and responsiveness to the gaming industry and ensure that gaming is conducted with the same high levels of probity and integrity.

The legislation will also provide for the government to withdraw from the ownership of gaming machines, with this role being taken by industry participants including gaming machine licensees, licensed monitoring operators and approved financiers.

The changes will also provide for a progressive taxation system based on metered win. This system will reduce the taxation burden on hotels and most clubs.

Estimated Cost for Government Implementation

The Queensland Office of Gaming Regulation will be responsible for the administration of the legislation and an additional cost of approximately \$250,000 will be incurred annually to cover regulatory and administrative expenses.

Assessment of Bill's Consistency with Fundamental Legislative Principles

The Bill has been prepared taking into consideration the fundamental legislative principles.

Consultation

Inter-departmental consultation was carried out with:

Liquor Licensing Division and Red Tape Reduction Task Force
(Department of Tourism, Small Business and Industry);

Department of the Premier and Cabinet;

Department of Economic Development and Trade;

Department of Families, Youth and Community Care;

Office of Racing.

The following organisations were consulted during the process of conducting the Review and/or through submissions and further consultation following the release of the White Paper:

Registered and Licensed Clubs Association (RLCA);

Queensland Hotels Association (QHA);

Club Managers Association (CMA);

Austotel;

TAB;

Golden Casket Lottery Corporation;

RSL Clubs Association;

Gaming Machine Manufacturers Association;

Jupiters Limited;

Criminal Justice Commission, and
a range of other interested parties.

NOTES ON PROVISIONS

Clause 1 Short Title of the Act.

Clause 2 It is intended that the Act will commence on a date to be fixed by proclamation.

Clause 3 The Gaming Machine Act is to be amended.

Clause 4 Amendment to add definitions of terms referred to in the Act and to delete terms no longer used.

Clause 5 Amendment to add sections which deal with the meaning of an “associate”.

Clause 6 Provides for only minor procedural appeals on an operator’s licence renewal or licence replacement by chief executive. (Operator’s licence appeals generally to a Magistrates Court).

Clause 7 Provides a minor amendment to the section heading and clarifies the matters for consideration by the Minister.

Clause 8 Adds new sections 25A to 25F to provide that operator’s licence appeals may be made to a Magistrates Court, how the appeal process is to work, the powers of the Magistrates Court, and right of appeal on the decision of the Magistrates Court.

Clause 9 Amendment expands the existing secrecy provisions to apply to a licensed operator or a person who is, or was employed by, a licensed operator.

Clause 10 Amendment omits reference to Section 54 (in Section 44) which has been omitted.

Clause 11 Amendment omits Section 54 from the Act.

Clause 12 Amendment of the provision relating to an increase in gaming machines The basis of one test applied by the chief executive when making a recommendation to the commission on an application for an increase in gaming machines, has been altered.

Clause 13 Adds a new part to provide for the licensing of commercial monitoring system operators.

Proposed Section 72A Interpretation of references to the operations of monitoring operators.

Proposed Section 72B Interpretation of references to particular licensed monitoring operators.

Proposed Section 72C Interpretation of references to particular monitoring operators' licences.

Proposed Section 72D Provides that a licensed operator or an associate of the licensed operator is affected by control action under the Corporations Law if the operator or associate has executed a deed or company arrangement, is the subject of a winding up, or is the subject of an administrator, liquidator, and receiver etc.

Proposed Section 72E Provides the criteria which the chief executive will consider in deciding whether an applicant is suitable to be recommended for a monitoring operator's licence.

Proposed Section 72F Provides the criteria which the chief executive will consider in deciding whether the associates of an applicant are suitable persons to be an associate of an applicant for a monitoring operator's licence.

Proposed Section 72G Provides that the chief executive may consider other criteria in deciding whether the applicant is a suitable applicant for a monitoring operator's licence.

Proposed Section 72H Provides the criteria which an application for a monitoring operator's licence must satisfy.

Proposed Section 72I Provides that the chief executive may require the applicant, or associate, to provide further information about the application.

Proposed Section 72J Provides that the applicant must advise the chief executive of any change in circumstances that may affect the application before the application is granted or refused.

Proposed Section 72K Provides that the applicant must advise the chief executive of any change in circumstances affecting information contained in the disclosure affidavit accompanying the application before the application is granted or refused.

Proposed Section 72L Provides that the chief executive must consider an application as soon as practicable after receiving the application.

Proposed Section 72M Authorises the chief executive to investigate the applicant and/or associates for the purposes of determining suitability.

Proposed Section 72N Authorises the chief executive to require the commissioner of police to provide a written report on the person's criminal history.

Proposed Section 72O Provides that the chief executive must recommend to the commission that the application either be granted or refused.

Proposed Section 72P Provides that the commission may grant or refuse to grant an application having regard to the chief executive's recommendation and other issues the commission considers relevant.

Proposed Section 72Q Provides that a monitoring operator's licence is issued on the conditions that the commission considers necessary or desirable.

Proposed Section 72R Sets out the form of the monitoring operator's licence.

Proposed Section 72S Provides that the term of the monitoring operator's licence is 10 years.

Proposed Section 72T Provides that the commission may change the conditions of a monitoring operator's licence if the commission considers it necessary or desirable.

Proposed Section 72U Provides that, if the commission changes the conditions of a monitoring operator's licence, the licence must be returned to the chief executive to be amended as necessary.

Proposed Section 72V Provides for a licensed operator to apply for an extension of the licence for a maximum of 1 month with the approval of the chief executive.

Proposed Section 72W Sets out the criteria for applying for a renewal of a monitoring operator's licence.

Proposed Section 72X Sets out the conditions under which the chief executive either renews or refuses to renew the licence.

Proposed Section 72Y Provides for the licensed operator to apply to the chief executive for the replacement of a licence that has been lost, stolen, destroyed or damaged.

Proposed Section 72Z Provides that a monitoring operator's licence is not transferable.

Proposed Section 72ZA Provides that a licensed operator may surrender its licence by written notice given to the chief executive and when the surrender may take effect.

Proposed Section 72ZB Provides for the Minister to approve an audit program for investigating licensed operators or their associates.

Proposed Section 72ZC Sets out the conditions under which the chief executive may conduct an investigation into a licensed monitoring operator.

Proposed Section 72ZD Sets out the conditions under which the chief executive may conduct an investigation into an associate of a licensed operator.

Proposed Section 72ZE Requires that a person under investigation must supply information as requested by the chief executive.

Proposed Section 72ZF Provides that a person must comply with Clause 72ZE, unless the person has a reasonable excuse.

Proposed Section 72ZG Sets out the grounds for suspension or cancellation of a monitoring operator's licence.

Proposed Section 72ZH Sets out the requirements for a show cause notice given by the chief executive to a licensed operator.

Proposed Section 72ZI Requires that the chief executive notify interested persons of a show cause action against a licensed operator.

Proposed Section 72ZJ Requires that the chief executive must consider all written representations made during the show cause period.

Proposed Section 72ZK Provides for ending the show cause process against a licensed operator without further action.

Proposed Section 72ZL Allows the chief executive to censure a licensed operator in circumstances which do not warrant suspension or cancellation.

Proposed Section 72ZM Allows the chief executive to direct a licensed operator to rectify a matter which was a ground for suspension or cancellation and is capable of being rectified.

Proposed Section 72ZN Provides for the chief executive to recommend to the commission that the monitoring operator's licence be suspended or cancelled.

Proposed Section 72ZO Provides for the commission to make a decision on the show cause action having regard to the chief executive's recommendation, the accepted representations and any other information the commission considers relevant.

Proposed Section 72ZP Provides for written notice to be given to the licensed operator by the chief executive of a decision by the commission to suspend or cancel the licence.

Proposed Section 72ZQ Provides for the immediate suspension of a monitoring operator's licence by the commission.

Proposed Section 72ZR Provides that a decision to suspend a monitoring operator's licence has the same effect as a decision to cancel, but does not affect a penalty or liability incurred or the exercise of the powers of the commission, the chief executive or an inspector.

Proposed Section 72ZS Provides that each interested person must be notified of the outcome arising out of show cause action.

Proposed Section 72ZT Requires a licensed monitoring operator to notify the chief executive within 7 days of any change in circumstances applying to the licensed operator.

Proposed Section 72ZU Requires a licensed operator to submit a fresh disclosure affidavit within 7 days if a change happens affecting the information contained in the last disclosure affidavit supplied to the chief executive.

Proposed Section 72ZV Requires the licensed operator to notify the chief executive of the commencement or cessation of employment of a secretary or executive officer of the operator within 7 days.

Proposed Section 72ZW Requires that a licensed operator must supply a return to the chief executive stating the names and licence numbers of each licensed key employee employed by the operator within 7 days of the issue or re-issue of the licence.

Proposed Section 72ZX Requires that the licensed operator must give notice to the chief executive stating the names and licence numbers of each licensed key employee who either commences or ceases employment with the operator within 7 days.

Proposed Section 72ZY Requires that a licensed operator must end a licensed key employee's employment if the person is not a licensed key employee within 7 days of the grant or renewal of the operator's licence.

Proposed Section 72ZZ Requires that the principal executive officer or an authorised person on behalf of a licensed operator, must make an affidavit about persons having influence over or receiving benefits from the licensed operator.

Clause 14 Provides for the licensing of key monitoring employees in part 4.

Clause 15 Prohibits unlicensed persons from carrying out the functions of a key monitoring employee.

Clause 16 Provides that the commission may require a key officer of a licensed operator to apply for a key monitoring employee's licence and if the key officer fails to comply, the licensed operator must end the association or employment of the person. If the person's application is refused, the person must stop being a key officer and the licensed operator must end the association or employment of the person.

Clause 17 Provides for applications for licences under this part to include a key monitoring employee's licence.

Clause 18 Provides for the consideration of an application for a key monitoring employee's licence and the destruction of an applicant's fingerprints if the person's application is refused or in the future they cease to be a licensed employee.

Clause 19 Authorises the chief executive to issue a key monitoring employee's licence granted by the commission.

Clause 20 Provides for the renewal of a key monitoring employee's licence before the expiration of the term of the licence, and details renewal requirements.

Clause 21 Requires a licensed key monitoring employee to produce their licence if requested by a person while the employee is carrying out their duties as a key employee.

Clause 22 Provides for the issuing of provisional licences to key monitoring employees.

Clause 23 Provides that a licensee can only store an inactive gaming machine for a period of 1 month, except with the written approval of the chief executive.

Clause 24 Provides that a licensee must keep a register listing all gaming machines on the licensee's licensed premises.

Clause 25 Provides for the installation of an electronic monitoring system on licensed premises by the chief executive and a licensed operator.

Clause 26 Provides that a licensed operator must not charge more than the basic monitoring fee prescribed under a regulation for providing basic monitoring services.

Clause 27 Allows for the making of contracts between licensees and licensed operators for the provision of services without the approval of the commission.

Clause 28 Provides that licensees, licensed operators, approved financiers and gaming trainers may purchase, sell or lease gaming machines as the case may be, with the approval of the chief executive.

Clause 29 Allows for recognised manufacturers to sell gaming machines to licensed operators, approved financiers, licensees or gaming trainers.

Clause 30 Provides for the possession of gaming machines or linked jackpot arrangements by licensed repairers for the purpose of spare parts.

Clause 31 Provides for the possession of gaming machines or linked jackpot arrangements by licensed service contractors for the purpose of spare parts.

Clause 32 Allows for the possession of gaming machines and restricted components provided to licensees by the chief executive, recognised manufacturers, licensed operators and approved financiers.

Clause 33 Allows for the possession of gaming machines etc. provided by the chief executive, a licensed operator or an approved financier, to persons other than licensees, with the approval of the chief executive.

Clause 34 Adds new Sections 141A to 141D.

Proposed S. 141A Provides a proposed new section so that an encumbrance over gaming equipment is of no effect, except where the encumbrance has been given by a licensed operator to an approved financier, or a licensee or gaming trainer, to a licensed operator or approved financier.

Proposed Section 141B Provides that a licensed operator or approved financier cannot repossess gaming machines without written approval of the chief executive, which may be subject to conditions.

Proposed Section 141C Provides that a licensed operator or approved financier can only store machines in a way approved by the chief executive and for a maximum period of 1 year for licensed operators and 1 month for approved financiers, without the written approval of the chief executive.

Proposed Section 141D Provides for the keeping of a register of gaming machines by licensed operators and approved financiers of all gaming machines owned, leased or monitored by them.

Clause 35 Allows for recognised manufacturers to advise the chief executive of the consignment or movement of machines at least 3 days prior to movement, instead of 7 days.

Clause 36 Provides a new section to allow for licensees, licensed operators, approved financiers and gaming trainers to destroy gaming machines.

Clause 37 Provides that recognised manufacturers and suppliers of gaming machines must supply machines only in accordance with an approval obtained from the chief executive.

Clause 38 Provides that a licensed operator must not allow a multiple site linked jackpot equipment to be operated in licensed premises until an approved trust account has been set up for the purpose and that the licensed operator must pay into the account all linked progressive jackpot increments for the period. Also, if the linked jackpot ceases operation, all monies in the account must be paid into the consolidated revenue fund within 7 days.

Clause 39 Provides that a licensee must not allow gaming on a machine unless it has a label affixed by or on behalf of the chief executive.

Clause 40 Provides that a licensed operator must keep accounting records in the approved form in relation to gaming and the conduct of gaming.

Clause 41 Provides for a minor amendment to the existing section heading.

Clause 42 Provides for the auditing of accounts of licensed operators by a registered company auditor approved by the chief executive.

Clause 43 Provides for the monthly gaming machine tax payable by licensees to be calculated on monthly metered win in lieu of gross monthly turnover.

Clause 44 Provides for the situation where rental fees will no longer be

payable to the chief executive for gaming machines not provided by, or no longer owned by, the chief executive. Also, provides for the fees to be paid on or before the day prescribed of the following month in respect of which it is payable.

Clause 45 Provides for the payment of gaming machine tax to the chief executive at a prescribed rate of monthly taxable metered win.

Clause 46 Provides for the elimination of the sport and recreation levy charged as a separate levy on licensees. The sport and recreation benefit fund is retained.

Clause 47 Provides for the elimination of the charities and rehabilitation levy charged as a separate levy on licensees. The charities and rehabilitation benefit fund is retained.

Clause 48 Provides for the elimination of a separate community benefit levy being charged on each licensee and provides for a prescribed percentage of gaming machine tax collected each month to be paid into the fund.

Clause 49 to 54 Deletes reference to “rentals” with regards to forgiven or overpaid monies, disposition of fees, adjustment to fees, recovery of fees paid to the chief executive, offences relating to revenue and replaces it with “fees”, as rentals may no longer be payable by some licensees.

Clause 55 Provides for the chief executive to give directions to licensed operators about the conduct of gaming and the supplying of basic monitoring services to a licensee.

Clause 56 Provides that a licensed key monitoring employee must not play gaming machines that are connected to an electronic monitoring system operated by the licensed operator by whom the employee is employed. Also, the key employee must not play gaming machines on these premises for 30 days after they cease to be an employee of the licensed operator.

Clause 57 Allows for licensed operators to enter into agreements with licensees to share in the proceeds of gaming on the licensee’s licensed premises.

Clause 58 Provides for the disclosure of criminal histories by applicants for licences under Part 3A.

Clause 59 Provides for a regulation making power to apply to the provision of gaming equipment.

Clause 60 Adds new Section 217 and Part 11.

Proposed Section 217 Provides that any approval of the chief executive under this Act may be subject to conditions.

Proposed Part 11—Transitionals Provides a new part to allow for transitional arrangements with respect to the chief executive supplying gaming machines, the payment of taxes etc. and the appointment of inspectors and officers of the division.

Clause 61 Provides for a schedule listing the replacement of “chief executive” in lieu of “director” wherever occurring, for an amendment to Section 26 which allows for the appointment of inspectors and for an amendment to Section 31 to 33 concerning delegations by the chief executive.