



Queensland

Gaming Machine Amendment Regulation (No. 1) 2011

Explanatory Notes for SL 2011 No. 234

made under the

Gaming Machine Act 1991

General outline

Short title

Gaming Machine Amendment Regulation (No. 1) 2011.

Authorising law

- For section 9(a) of the *Gaming Machine Regulation 2002* - Sections 60 and 85 of the *Gaming Machine Act 1991*.
- For section 10A of the *Gaming Machine Regulation 2002* - Section 109A of the *Gaming Machine Act 1991*.
- For section 51(2) and 51(3)(f) of the *Gaming Machine Regulation 2002* - Section 312 of the *Gaming Machine Act 1991*.
- For section 53(2)(a) and 53(2)(b) of the *Gaming Machine Regulation 2002* - Section 316B of the *Gaming Machine Act 1991*.

Policy objectives and the reasons for them

The policy objectives of this subordinate legislation are to:

- support hotels and clubs in Queensland by reducing the tax burden on these industries;
- support the hotel industry by slightly increasing the cap on the number of gaming machines available to individual hotels in consideration for a reduction in the overall number of gaming machine operating authorities available to hotels; and
- minimise the potential for harm from gaming machine gambling by offsetting the 500 gaming machines that can be approved for casinos with a subsequent reduction in the overall statewide authority cap for hotels.

The Regulation will reduce the maximum number of operating authorities available to hotels from 20,000 to 19,500. This reduction is in order to offset the Queensland Government's approval of 500 extra gaming machines in the casinos sector in Queensland and ensure that the overall number of gaming machines available in Queensland will not increase as a result of the additional gaming machines for casinos.

The Regulation also proposes a number of tax and other concessions for the hotel industry to offset the reduction in gaming machine authorities.

These concessions include a reduction in the percentage of gaming machine tax payable by hotels, with a similar amendment being made to reduce the top marginal tax rate for category 2 licensed premises (i.e. clubs). This amendment will support the hotel industry in exchange for concessions made by it in relation to reducing the total number of gaming machine operating authorities available to it.

An amendment is also made so that the health services levy for hotels is now only applicable for amounts of monthly taxable metered win that are more than \$140,000. This amendment will mean that there is no tax payable on amounts of monthly taxable metered wins below \$140,000. This amendment will also support the hotel industry in exchange for concessions made by it in relation to reducing the total number of gaming machine operating authorities available to it.

The Regulation will also increase the maximum number of gaming machines able to be granted for each hotel. The amendment to section 9(a) of the Regulation to increase the maximum number of gaming machines to 45 will allow hotels the ability to install slightly more gaming machines in a single premises. This amendment is designed to increase flexibility and support the hotel industry.

Achievement of policy objectives

By reducing the overall number of gaming machine operating authorities available to hotels from 20,000 to 19,500, the Amendment Regulation will achieve the policy objective of effectively minimising the potential for harm from gaming machine gambling by controlling accessibility to gaming machines.

Further, by reducing the gaming machine tax rates for hotels and clubs, increasing the level of metered win at which the hotel health services levy applies and increasing the number of gaming machines available to individual hotels, the Amendment Regulation also exhibits the Government's willingness to work with stakeholders, reduce the tax burden on industry, and support the hotel and club industries.

Consistency with policy objectives of authorising law

The object of the *Gaming Machine Act 1991* is to ensure that, on balance, the State and the community as a whole benefit from gaming machine gambling.

This package of amendments strikes this balance, by offsetting the approval of 500 extra gaming machines available to the casinos sector in Queensland to encourage private sector investment for the benefit of the State, with a corresponding reduction in the number of gaming machines available to hotels, effectively minimising the overall potential for harm from gaming machine gambling by controlling accessibility to gaming machines. It also proposes a package of tax and other concessions which will support and provide greater flexibility to the hotel industry.

The amendment to section 10A of the *Gaming Machine Regulation 2002* changes the maximum number of operating authorities available to hotels. Under sections 109A (3) and (4) of the *Gaming Machine Act 1991*, where 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, the Minister must have regard to whether the population of the State has grown. When section 10A was first introduced into the *Gaming Machine Regulation 2002* in 2003, it prescribed 18,843 operating authorities. Therefore, even though the *Gaming Machine Amendment Regulation 2011* reduces the maximum number of operating authorities from 20,000 to 19,500, this number is still greater than the

number prescribed under the first regulation, and the Minister is required to have had regard to whether the population of the State has grown.

In 2006, the *Gaming Machine Amendment Regulation (No.1) 2006* amended section 10A of the *Gaming Machine Regulation 2002* to increase the maximum number of operating authorities for category 1 licensed premises (hotels) from 18,843 to 20,000. At the time the 2006 Regulation was passed, the state population had grown since 2003, and it has increased again since 2006.

As the maximum number of operating authorities under the Amendment Regulation is lower than the current number prescribed, this is consistent with the government's policy of non-proliferation of gambling. It is also considered that the reduction in the number of operating authorities in the Amendment Regulation will have no unintended effects on supply as under the current moratorium, the release of hotel gaming machine operating authorities is capped at 19,310. Therefore, the Amendment Regulation will not increase demand for authorities or lead to artificially inflated prices.

Benefits and costs of implementation

There are costs to the State in reducing the tax rate for hotels. However, as the State will receive additional tax revenue from the 500 extra gaming machines allocated to casinos, the total tax revenue on gaming machines in Queensland is unlikely to reduce significantly.

These amendments will benefit the community as they will both support the objective of gambling legislation by minimising harm to the community by restricting availability of gambling machines, as well as support the hotel and club industries by reducing the tax burden on industry in the current economic climate and increasing the flexibility of hotels to install more gaming machines in individual hotels.

Consistency with fundamental legislative principles

The Amendment Regulation is consistent with fundamental legislative principles as it does not affect the rights and liberties of individuals and does not erode the institution of Parliament.

The Amendment Regulation amends existing provisions in the Gaming Machine Regulation, and there is clear authorisation provided for each

amendment in the Gaming Machine Act. It is therefore appropriate to be placed in subordinate legislation.

Consultation

Significant consultation was undertaken with the Queensland hotel industry regarding the proposed amendments in the Amendment Regulation. Industry representatives are supportive of the amendments.

Commencement

The amendment to section 9(a) of the Regulation is to commence on 1 February 2012.

Other provisions in the Amendment Regulation are to commence on 1 July 2012.

Notes on Provisions

Clause 1 sets out the short title by which the Act will be known.

Clause 2 sets out the commencement date for the amendments. The amendment to Section 9(a) of the Regulation will commence on 1 February 2012 and the other amendments to the Regulation will commence on 1 July 2012.

Clause 3 states that the Regulation to be amended is the *Gaming Machine Regulation 2002*.

Clause 4 amends section 9 of the Regulation to increase the maximum number of gaming machines for category 1 licensed premises (hotels) from 40 to 45. Section 60 of the Gaming Machine Act sets out the basis upon which the number of gaming machines are to be installed and the hours of gaming are to be decided. This section specifies that if a gaming machine licence is to relate to single premises only, the number of gaming machines recommended or fixed by the Queensland Liquor and Gaming Commission must not be greater than the maximum number prescribed under a regulation for the category of licensed premises to which the premises will belong. Section 85 of the Gaming Machine Act also specifies that when fixing increases of the number of gaming machines, (if the licensee's gaming machine licence relates to single premises only), the increase number must be a number that, when added to the current approved

number of gaming machines for the premises, does not result in a total number of gaming machines that is greater than the maximum number prescribed under a regulation for the category of licensed premises to which the licensee's premises relates. Section 9(a) of the *Gaming Machine Regulation 2002* currently sets the maximum number of gaming machines for category 1 licensed premises (hotels) as 40.

Clause 5 amends section 10A of the Regulation to reduce the maximum number of operating authorities for category 1 licensed premises (hotels) from 20,000 to 19,500. Section 109A of the Gaming Machine Act limits the number of gaming machine operating authorities for hotels to a maximum number prescribed under a regulation. Section 10A of the Regulation currently sets this maximum number as 20,000.

Clause 6 amends section 51 of the Regulation to reduce the gaming machine tax rate for category 1 licensed premises (hotels) from 35.91% to 35% and to reduce the top marginal tax rate for category 2 licensed premises from 35.91% to 35%. Section 312 of the Gaming Machine Act sets out that a licensee must pay gaming machine tax to the chief executive each month, and that the amount of gaming machine tax payable by the licensee is the amount represented by the percentage prescribed in the regulation of the monthly taxable metered win for the licensee's licensed premises. Section 51 of the Regulation sets the percentage as 35.91% for hotels and 35.91% for the amount of the monthly taxable metered win that is more than 140,000 for category 2 licensed premises (i.e. clubs).

Clause 7 amends section 53 of the Regulation so that nil percentage of the monthly taxable metered win is payable for the first \$140,000. Section 316B of the Gaming Machine Act specifies that hotels must pay a health services levy to the chief executive each month for the licensee's licensed premises and specifies that the health services levy payable by the hotel is the amount represented by the percentage prescribed under a regulation of the monthly taxable metered win for the licensed premises. Section 53 of the Gaming Machine Regulation currently specifies that for the first \$100,000 of monthly taxable metered win, no levy is charged.

ENDNOTES

- 1 Laid before the Legislative Assembly on . . .
- 2 The administering agency is the Department of Justice and Attorney-General.

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