

# **Gaming Machine Amendment Regulation 2023**

Explanatory notes for SL 2023 No. 74

Made under the

*Gaming Machine Act 1991*

## **General Outline**

Short Title

*Gaming Machine Amendment Regulation 2023*

### **Authorising law**

Section 109E and 366 of the *Gaming Machine Act 1991*.

### **Policy objectives and the reasons for them**

The objectives of the *Gaming Machine Amendment Regulation 2023* (Amendment Regulation) are to extend the reduced sales commission period for category 1 licensed premises operating authorities by 12 months to afford additional time to complete a comprehensive evaluation of the effect of the reduced sales commission on the transfer of these operating authorities.

There is a prescribed State-wide cap of 19,500 operating authorities for category 1 licensed premises (commercial hotels and most commercial special facilities). The State-wide cap is broken down into three regions – South-East, Coastal and Western – with a separate cap applied to each of the regions.

If a category 1 licensee wishes to sell gaming machine operating authorities, the licensee must participate in an authorised sale conducted by the Public Trustee of Queensland. Sales are conducted by competitive tender with the seller ordinarily obligated to pay 33 per cent of the sale price to the Government's Consolidated Fund following a successful sale.

On 30 June 2022, the *Gaming Machine Regulation 2002* (Gaming Machine Regulation) was amended to temporarily reduce the proportion of proceeds from the sale of category 1 licensed premises operating authorities payable by the seller into the consolidated fund to 15 per cent for a trial period of 12 months (i.e. expiring 30 June 2023).

It was intended these temporary provisions would encourage commercial hotel and commercial special facility licensees to offer unwanted operating authorities into the tender process.

The Queensland Government has determined that additional time is required to complete a comprehensive evaluation of the effect of the reduced sales commission on the transfer of category 1 licensed premises operating authorities.

Consequently, the Amendment Regulation amends section 10BA of the Gaming Machine Regulation to provide the reduced sales commission period is in effect for a two-year period (rather than a 12-month period) from the initial commencement of the section on 30 June 2022. Accordingly, the 15 per cent sales commission payable on category 1 licensed premises operating authorities will be in effect from 30 June 2022 until 30 June 2024 (i.e. an additional 12 months on the original proposed conclusion of the trial period on 30 June 2023).

The ordinary prescribed rate of 33 per cent sales commission for category 1 licensed premises operating authorities will apply from 1 July 2024.

## **Achievement of policy objectives**

The amendments will enable a comprehensive evaluation of the effects of the reduced sales commission payable on the transfer of category 1 licensed premises operating authorities to be undertaken by extending the trial period by an additional 12 months. This ensures the Queensland Government will have a continuous two-year period of data (i.e. 30 June 2022 to 30 June 2024) to evaluate when determining the effectiveness of the trial measures.

## **Consistency with policy objectives of authorising law**

The Amendment Regulation is consistent with the policy objectives of the *Gaming Machine Act 1991* which include regulating the sale of operating authorities.

## **Inconsistency with policy objectives of other legislation**

The Amendment Regulation is not inconsistent with the policy objectives of other legislation.

## **Alternative ways of achieving policy objectives**

Extending the reduced sales commission payable for category 1 licensed operating authorities may only be achieved by amending the subordinate legislation.

## **Estimated cost for Government implementation**

Any associated implementation costs will be met through existing budget allocations.

The impact of the extended reduced sales commission period on the consolidated fund will ultimately depend on the number of operating authorities transferred and the value of the authorities. With the historic low number of transfers prior to the reduced sales commission period, the risk of forgone losses to the consolidated fund is considered to be low.

The proposal will not increase the overall number of operating authorities, the number of authorities available per region, nor the number of authorities approved by the regulator for any particular hotel.

## **Consistency with fundamental legislative principles**

The Amendment Regulation is consistent with fundamental legislative principles.

## **Consultation**

Stakeholders, including the Queensland Hotels Association, support extending the reduced 15 per cent sales commission period for 12 months to allow a formal evaluation to be completed. The concerns previously raised by stakeholders relate to the 33 per cent sales commission for category 1 licensed premises operating authorities presenting an impediment to hotel operators that wished to dispose of gaming authorities.

In line with the *Queensland Government Guide to Better Regulation*, the Department has assessed the regulatory proposal as exempt from further regulatory impact analysis under exclusion category (b), as it relates to the imposition of taxation or a royalty. Accordingly, the Office of Best Practice Regulation has not been consulted.