

1993
THE LEGISLATIVE ASSEMBLY
FOR THE AUSTRALIAN CAPITAL TERRITORY

(As presented)

(Treasurer)

Gaming Machine (Amendment) Bill 1993

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(Treasurer)

Gaming Machine (Amendment) Bill 1993

**A BILL
FOR**

**An Act to amend the *Gaming Machine Act 1987* and
to make a consequential amendment to the *Unlawful
Games Act 1984***

The Legislative Assembly for the Australian Capital Territory enacts as follows:

Short title

- 5 1. This Act may be cited as the *Gaming Machine (Amendment) Act 1993*.

Commencement

2. (1) Section 1 and this section commence on the day on which this Act is notified in the *Gazette*.
- 10 (2) The remaining provisions commence on a day, or respective days, fixed by the Minister by notice in the *Gazette*.
- (3) If a provision referred to in subsection (2) has not commenced before the end of the period of 6 months commencing on the day on which

this Act is notified in the *Gazette*, that provision, by force of this subsection, commences on the first day after the end of that period.

Principal Act

3. In this Act, "Principal Act" means the *Gaming Machine Act 1987*.¹

5 Interpretation

4. Section 4 of the Principal Act is amended—

10 (a) by omitting the definitions of "class A gaming machine", "class B gaming machine", "class C gaming machine", "gaming machine", "gross revenue" and "percentage pay-out" and substituting the following definitions:

" 'class A gaming machine' means a single-stake machine—

- (a) designed to be played by the insertion of a coin;
- (b) designed to allow for the payment of winnings by the discharge of coins from the machine;
- 15 (c) designed to allow winnings of no more than 40 times the amount of the coin inserted to play the machine; and
- (d) equipped with a recording device;

20 'class B gaming machine' means a gaming machine of a kind prescribed by the regulations, being—

- (a) a single-stake machine equipped with a recording device; or
- (b) a multi-stake machine equipped with a recording device;

25 'class C gaming machine' means a gaming machine of a kind prescribed by the regulations, being—

- (a) a single-stake machine equipped with a recording device; or
- 30 (b) a multi-stake machine equipped with a recording device;

'gaming machine' means a machine—

- (a) designed for playing a game of chance, or of mixed chance and skill;
- (b) designed to be played (wholly or in part)—

(i) by the insertion of 1 or more coins or tokens; or

(ii) by the application of a monetary credit, registered on the machine; and

5 (c) which offers, or which appears to offer, persons a chance to win monetary or other valuable consideration by playing the machine;

10 'gross revenue', in relation to a licensee or person, means all revenue derived by the licensee or person from the operation of gaming machines, after deducting from that revenue—

15 (a) the amount of winnings for playing the machines paid or payable in accordance with the machines' indicated prize scales (excluding linked jackpots); and

(b) any amount set aside under a linked jackpot arrangement for the payment of linked jackpots;

20 'percentage pay-out', in relation to a gaming machine, means the percentage calculated for that machine in accordance with section 16A;";

(b) by omitting the definitions of "bonus prizes", "multi-coin machine" and "single-coin machine"; and

(c) by inserting the following definitions:

25 " 'acquire', in relation to a gaming machine, includes the lease or hire of the machine from a person, but does not include the repossession of the machine;

'dispose of', in relation to a gaming machine, includes the lease or hire of the machine to a person;

30 'game', in relation to a gaming machine, means a play, or a series of plays, initiated by the application of a single stake registered on the machine;

'inter-club permit' means a permit issued under section 45B;

35 'licensed gaming machines', in relation to a licence, means gaming machines of the number, class, type, basic stake denomination and percentage pay-out specified in the licence;

‘linked jackpot’ means winnings in connection with a linked jackpot arrangement operated in accordance with a permit under Division 4 of Part V, paid or payable as additional winnings in connection with a jackpot obtained on a gaming machine in that arrangement;

‘multi-stake machine’ means a gaming machine designed to allow single or multiple stakes, to a maximum value prescribed under section 4A for each game;

‘NSW Liquor Administration Board’ means the Liquor Administration Board constituted by the *Liquor Act 1982* of the State of New South Wales;

‘permit holder’ means the holder of an inter-club permit;

‘recording device’, in relation to a gaming machine, means a sealable device designed to record every action of the machine automatically;

‘repossession’, in relation to a gaming machine, includes the taking of possession of the machine under a default provision in a financial agreement;

‘single-stake machine’ means a gaming machine designed to allow single stakes—

(a) of no more than 1 coin for each game, to a maximum value prescribed under section 4A for each game; or

(b) in the case of a machine played by the application of credit—to the maximum value referred to in paragraph (a) for each game;

‘tax law’ means an Act or regulations specified in section 3 of the Taxation (Administration) Act;”.

Insertion

5. After section 4 of the Principal Act the following section is inserted:

Maximum stake values—prescription

“4A. The regulations may prescribe maximum stake values for the purposes of the definitions of ‘multi-stake machine’ and ‘single-stake machine’ in section 4.”.

Relationship with other laws

6. Section 5 of the Principal Act is amended by inserting in paragraph (b) “, in accordance with this Act,” after “operation”.

Insertion

7. Before Division 1 of Part IV of the Principal Act the following Division is inserted in Part IV:

“Division 1A—Authority conferred by licences**5 Authorised activities**

“13A. A licence authorises the licensee, subject to this Act—

- (a) to acquire and dispose of the licensed gaming machines;
- (b) to install the licensed gaming machines on the licensed premises; and
- 10 (c) to operate the licensed gaming machines on the licensed premises—
 - (i) if the licensee is a club—at any time at which the premises are open to members of the club; or
 - 15 (ii) in any other case—at any time at which the premises are open for the sale of liquor.”.

Grant or refusal of licences—General Licensees and On Licensees

8. Section 15 of the Principal Act is amended by omitting paragraph (1) (a) and substituting the following paragraph:

- 20 “(a) the applicant does not comply with a requirement under subsection 18 (1) or (2) of the Taxation (Administration) Act to give information to the Commissioner;”.

Insertion

25 9. After section 16 of the Principal Act the following section is inserted:

Percentage pay-out—calculation

30 “16A. (1) The percentage pay-out for a class A or class C gaming machine, not being a machine in a linked jackpot arrangement, is the percentage of the value of the defined number of stakes which would be payable as winnings if the machine were to be played using that number of stakes.

35 “(2) The percentage pay-out for a class B gaming machine, not being a machine in a linked jackpot arrangement, is the percentage of the turnover of the machine which would be payable as winnings if the machine were to be played with reasonable strategies that would be adopted by persons displaying average skills in playing the machine.

“(3) The percentage pay-out for a gaming machine in a linked jackpot arrangement is the sum of the following 2 percentages:

- (a) the percentage pay-out which would be applicable to the machine under this section if it were not in a linked jackpot arrangement;
- 5 (b) the percentage of the turnover of the machine which is set aside under the arrangement for the payment of linked jackpots.

“(4) In this section—

10 ‘defined number’, in relation to a class A or class C gaming machine, means the product of the number of stopping positions on each reel in the machine.”

Percentage pay-out—determination

10. Section 17 of the Principal Act is amended by omitting subsection (4).

Conditions for issue of licences—gaming machines

- 15 11. Section 18 of the Principal Act is amended by omitting from subparagraphs (2) (a) (iv) and (b) (iii) and paragraph (3) (c) “to receive coins of a denomination above 20 cents” and substituting “to be played using basic stake denominations of greater than an amount prescribed by the regulations”.

20 Substitution

12. Section 19 of the Principal Act is repealed and the following section substituted:

Conditions for issue of licences—ballots

- 25 “19. (1) A licence shall not be issued to a club unless the Commissioner is satisfied that, at a ballot, a majority of the members of the club who have voted in the ballot have voted in favour of the operation of gaming machines on the club premises.

“(2) A ballot for the purposes of subsection (1) shall be conducted in the manner prescribed by the regulations.”

30 Repeal

13. Section 21 of the Principal Act is repealed.

Substitution

14. Sections 22 and 22A of the Principal Act are repealed and the following section is substituted:

Variation of licences

"22. (1) At the written request of a licensee, the Commissioner may vary the licence for the purpose of—

- (a) reducing the number of licensed gaming machines;
- 5 (b) altering the percentage pay-out of a licensed gaming machine;
- (c) altering the basic stake denomination of a licensed gaming machine; or
- (d) altering the type of a licensed gaming machine.

10 "(2) At the written request of a licensee, the Commissioner may vary the licence for the purpose of increasing the number of licensed gaming machines, having regard to—

- (a) the size and layout of the licensed premises; and
- (b) if the licensee is a club—the number of members of the club.

"(3) The Commissioner shall not approve the variation of a licence—

- 15 (a) if the licensee owes any money to the Territory under a tax law;
- (b) where the licensee is a club—if the Commissioner considers that it is not in the best interests of the members of the club;
- 20 (c) in the case of a variation under paragraph (1) (b), (c) or (d)—if the Commissioner considers that the variation is technically unsuitable, having regard to any technical evaluation by the NSW Liquor Administration Board relevant to the gaming machine in question, or to gaming machines of the same type; or
- 25 (d) in the case of a variation under subsection (2)—where, if the licence were to be varied, the number of licensed gaming machines of a particular class would exceed the maximum number of machines of that class for which the licence could have been issued.

"(4) As soon as practicable after varying a licence, the Commissioner shall give the licensee a notice specifying—

- 30 (a) the variation; and
- (b) the period within which the licensee is required to implement the changes authorised by the variation.

"(5) Subject to subsection (6), the variation of a licence comes into effect on the implementation of the changes authorised by the variation.

“(6) The Commissioner may revoke a variation of a licence if he or she is satisfied on reasonable grounds that the licensee has not implemented the changes authorised by the variation within the period specified under paragraph (4) (b).”.

5 Suspension and cancellation of licences—general

15. Section 24 of the Principal Act is amended by omitting paragraph (1) (b) and substituting the following paragraphs:

- 10 “(b) a gaming machine on the licensed premises has been acquired for operation on the premises, or installed or operated on the premises, except in accordance with this Act or with an approval under this Act;
- (ba) the licensee has entered into a contract to finance the acquisition of a gaming machine otherwise than in accordance with an approval under section 37;
- 15 (bb) a contract to finance the acquisition of a gaming machine by the licensee has been varied otherwise than in accordance with the prior approval of the Commissioner under subsection 37 (4);
- (bc) the licensee has repossessed or disposed of a gaming machine except in accordance with this Act or with an approval under this Act.”.
- 20

Substitution

16. Section 26 of the Principal Act is repealed and the following section substituted:

Cancellation of club licences on members’ ballot

- 25 “26. (1) The Commissioner shall cancel a licence held by a club if he or she is satisfied that, at a ballot, a majority of the members of the club who voted in the ballot voted in favour of the cancellation of the licence.

“(2) A ballot for the purposes of subsection (1) shall be conducted in the manner prescribed by the regulations.”.

30 Eligible clubs

17. Section 30C of the Principal Act is amended by adding at the end the following subsection:

- “(4) Paragraph (1) (n) does not apply in relation to a person entitled, directly or indirectly, to a profit, benefit or advantage if—
- 35 (a) the person is entitled (whether or not under the rules of the club) to the profit, benefit or advantage in the course of negotiations on behalf of the club for the acquisition of a gaming machine; and

(b) the profit, benefit or advantage consists only of—

- (i) reasonable food or refreshment offered by a person authorised under the law of another State or Territory to deal in or to sell the gaming machine; or
- 5 (ii) out-of-pocket expenses reasonably incurred in the course of the negotiations, if authorised by a resolution of the club's governing body.”.

Insertion

10 18. After section 30C of the Principal Act the following section is inserted:

Club eligibility—life membership exceeding 5% on 1 January 1992

“30CA. (1) This section applies to a club if, on 1 January 1992, more than 5% of the ordinary members of the club were life members.

15 “(2) If this section applies to a club, on and after 1 January 1992 the eligibility of the club is not to be taken to be affected by reason only that paragraph 30C (1) (f) does not apply to it.

20 “(3) If this section applies to a club, the club ceases to be an eligible club if, at any time after the commencement of section 18 of the *Gaming Machine (Amendment) Act 1993*—

- (a) more than 5% of the ordinary members of the club are life members; and
- (b) the club grants life membership to another ordinary member.”.

Rules to control operation of gaming machines

25 19. Section 31 of the Principal Act is amended by omitting from paragraph (1) (a) “use” and substituting “operation”.

Substitution

20. Division 2 of Part V of the Principal Act is repealed and the following Division substituted:

30 “*Division 2—Gaming machine dealings*

Acquisition of gaming machines—general

“35. A person shall not acquire a gaming machine except—

- (a) in accordance with an approval under section 36; or
- (b) from the Territory.

35 Penalty: \$10,000 or imprisonment for 1 year, or both.

Acquisition of gaming machines—approval

“36. (1) An application for approval to acquire a gaming machine shall be in writing, accompanied by—

- 5 (a) the proposed contract for the acquisition (including any proposed order); and
- (b) details of any proposed arrangements for financing the acquisition.

“(2) On application in accordance with subsection (1), the Commissioner shall approve the acquisition of a gaming machine—

- 10 (a) if the applicant is a licensee;
- (b) if the applicant’s licence authorises the applicant to operate the machine;
- (c) if the acquisition is to be under a written contract;
- (d) if the person from whom the machine is to be acquired—
 - 15 (i) is authorised under the law of the Territory, a State or another Territory to sell gaming machines; or
 - (ii) has obtained an approval under section 39F to dispose of the machine;
- 20 (e) unless the Commissioner considers that the machine is technically unsuitable, having regard to any technical evaluation by the NSW Liquor Administration Board relevant to the machine, or to gaming machines of the same type;
- (f) if any proposed arrangements for financing the acquisition are approved (or are to be approved) under section 37; and
- 25 (g) where the applicant is a club—unless the Commissioner is satisfied that it is not in the best interests of the members of the club.

Financial arrangements—approval

30 “37. (1) A licensee shall not enter into an arrangement for financing the acquisition of a gaming machine except in accordance with the approval of the Commissioner.

“(2) An application for approval shall be in writing, accompanied by a copy of all documents associated with the proposed arrangement.

35 “(3) On application in accordance with subsection (2), the Commissioner shall approve an arrangement for financing the acquisition of a gaming machine—

- (a) if the arrangement is to be under a written contract or contracts;

- (b) if the person with whom the arrangement is to be made is a credit provider or finance broker licensed—
 - (i) under the *Credit Act 1985*; or
 - (ii) under any law of a State or another Territory corresponding to that Act;
- (c) if the acquisition is approved, or is to be approved, under section 36; and
- (d) where the applicant is a club—unless the Commissioner is satisfied that it is not in the best interests of the members of the club.

“(4) It is a condition of an approval that no contract forming part of the approved financial arrangements be varied without the prior approval of the Commissioner.

Acquisition of gaming machines—anti-corruption offences

“38. (1) A person shall not offer or provide a profit, benefit or advantage directly or indirectly to—

- (a) a licensee;
 - (b) an employee or agent of a licensee; or
 - (c) a relevant influential person in relation to a licensee;
- as an inducement for the acquisition of a gaming machine by the licensee.

Penalty: \$5,000 or imprisonment for 6 months, or both.

“(2) A person who is—

- (a) a licensee;
- (b) an employee or agent of a licensee; or
- (c) a relevant influential person in relation to a licensee;

shall not accept a direct or indirect profit, benefit or advantage offered as an inducement for the acquisition by the licensee of a gaming machine.

Penalty: \$5,000 or imprisonment for 6 months, or both.

“(3) This section does not apply in relation to a profit, benefit or advantage consisting only of—

- (a) reasonable food or refreshment offered by a person authorised under the law of another State or Territory to deal in or to sell the gaming machine; or

- (b) out-of-pocket expenses reasonably incurred in the course of negotiations for the acquisition of the machine, if authorised—
- (i) where the licensee is a natural person—by the licensee; or
 - (ii) where the licensee is a body corporate—by a resolution of the licensee's governing body.

Possession and control of gaming machines

"39. (1) A person shall not possess or control a gaming machine except in accordance with subsection (2).

Penalty: \$10,000 or imprisonment for 1 year, or both.

- "(2) A person may possess or control a gaming machine—
- (a) in accordance with a licence; or
 - (b) in accordance with an approval to repossess the machine under section 39C.

Operation of gaming machines other than in accordance with licences

"39A. (1) A person shall not permit a gaming machine to be played on premises owned, occupied or managed by the person, unless the machine is operated in accordance with a licence.

Penalty: \$10,000 or imprisonment for 1 year, or both.

- "(2) A person (in this subsection referred to as 'the defendant') is not guilty of an offence under subsection (1) if evidence is adduced that—
- (a) the conduct alleged to have constituted the offence was due to—
 - (i) reasonable mistake, other than a mistake constituted solely by the reliance of the defendant on information supplied by another person; or
 - (ii) the act or default of another person, or some other cause beyond the defendant's control; and
 - (b) the defendant took reasonable precautions and exercised due diligence to avoid committing the offence;
- and that evidence is not rebutted.

Repossession of gaming machines—general

"39B. (1) A person shall not repossess a gaming machine except in accordance with an approval under section 39C.

Penalty: \$10,000 or imprisonment for 1 year, or both.

"(2) A person who has repossessed a gaming machine shall not permit the machine to be played prior to its disposal, unless the machine is operated in accordance with a licence.

Penalty: \$10,000 or imprisonment for 1 year, or both.

5 "(3) A person (in this subsection referred to as 'the defendant') is not guilty of an offence under subsection (2) if evidence is adduced that—

(a) the conduct alleged to have constituted the offence was due to—

10 (i) reasonable mistake, other than a mistake constituted solely by the reliance of the defendant on information supplied by another person; or

(ii) the act or default of another person, or some other cause beyond the defendant's control; and

(b) the defendant took reasonable precautions and exercised due diligence to avoid committing the offence;

15 and that evidence is not rebutted.

Repossession of gaming machines—approval

"39C. (1) An application for approval for the repossession of a gaming machine shall be in writing, accompanied by information identifying—

20 (a) the person from whom the machine is to be repossessed;

(b) the premises where the machine is currently held; and

(c) the class, type and basic stake denomination of the machine.

25 "(2) On application in accordance with subsection (1), the Commissioner shall approve the repossession of a gaming machine unless he or she believes on reasonable grounds that the applicant would be likely to contravene a condition under subsection (3).

"(3) An approval is subject to the following conditions:

30 (a) that the person given the approval take all reasonable precautions necessary to prevent the repossessed gaming machine being played prior to its disposal;

(b) that the person given the approval permit an authorised tax officer to exercise his or her functions under subsection (4);

(c) such other conditions as the Commissioner thinks fit in relation to the storage of the machine prior to its disposal.

35 "(4) Where an approval is given to repossess a gaming machine, after the machine is repossessed, and before it is disposed of, an authorised tax officer shall—

- (a) take meter readings from the machine;
- (b) seal the recording device on the machine; and
- (c) render the machine inoperable.

5 “(5) A person is not authorised to repossess a gaming machine by reason only that the person is given an approval under this section.

Repossession of gaming machines—contravention of approval conditions

 “39D. (1) A person given an approval to repossess a gaming machine shall not contravene a condition of the approval under subsection 39C (3).

10 Penalty:

- (a) in the case of a natural person—\$2,000;
- (b) in the case of a body corporate—\$10,000.

 “(2) A person (in this subsection referred to as ‘the defendant’) is not guilty of an offence under subsection (1) if evidence is adduced that—

- 15 (a) the conduct alleged to have constituted the offence was due to—
- (i) reasonable mistake, other than a mistake constituted solely by the reliance of the defendant on information supplied by another person; or
 - (ii) the act or default of another person, or some other cause
- 20 beyond the defendant’s control; and
- (b) the defendant took reasonable precautions and exercised due diligence to avoid committing the offence;

and that evidence is not rebutted.

Disposal of gaming machines—general

25 “39E. A person shall not dispose of a gaming machine except in accordance with an approval under section 39F.

 Penalty:

- (a) in the case of a natural person—\$10,000 or imprisonment for 1 year, or both;
- 30 (b) in the case of a body corporate—\$50,000.

Disposal of gaming machines—approval

 “39F. (1) An application for approval to dispose of a gaming machine shall be in writing, accompanied by information identifying—

- (a) the person who is to acquire the machine;

- (b) the premises where the machine is currently held; and
- (c) the class, type and basic stake denomination of the machine.

“(2) On application in accordance with subsection (1), the Commissioner shall approve the disposal of a gaming machine—

- 5 (a) if the person who is to acquire the machine is authorised—
 - (i) to operate the machine under a licence; or
 - (ii) to sell, or to operate, the machine under a law of a State or another Territory; and
- (b) where the applicant has repossessed the machine—
 - 10 (i) if the repossession is approved under section 39C; and
 - (ii) unless the Commissioner is satisfied on reasonable grounds that the applicant has contravened that approval.

“(3) A person is not authorised to dispose of a gaming machine by reason only that the person is granted an approval under this section.”.

15 Division heading

21. The heading to Division 3 of Part V of the Principal Act is amended by inserting “*and operation*” after “*Installation*”.

Insertion

20 22. After section 42 of the Principal Act the following sections are inserted in Division 3 of Part V:

Meter data records at time of installation

25 “42A. A person installing a gaming machine on licensed premises shall, as soon as practicable after the machine is installed, give the Commissioner a certificate signed by him or her setting out the meter readings on the machine immediately after installation.

Penalty:

- (a) in the case of a natural person—\$2,000;
- (b) in the case of a body corporate—\$10,000.

Operation after installation

30 “42B. After a gaming machine is installed on licensed premises, the licensee shall not operate the machine until after an authorised tax officer has—

- (a) taken meter readings from the machine;

- (b) sealed the recording device on the machine; and
- (c) performed such other functions in relation to the machine as are required by the Commissioner.”.

Division heading

- 5 23. The heading to Division 4 of Part V of the Principal Act is omitted.

Repeal

24. Section 43 of the Principal Act is repealed.

Substitution

- 10 25. Section 45 of the Principal Act is repealed and the following Division substituted:

“Division 4—Linked jackpot arrangements

Operation of linked jackpot arrangements

- 15 “45. A person shall not operate a linked jackpot arrangement between gaming machines except in accordance with an approval under section 45A or an inter-club permit.

Penalty: \$5,000 or imprisonment for 6 months, or both.

Approval of linked jackpot arrangements between gaming machines operated under a single club licence

- 20 “45A. (1) A club holding a licence may apply in writing for approval to operate a linked jackpot arrangement or arrangements between gaming machines operated under the licence.

- 25 “(2) On application in accordance with subsection (1), the Commissioner shall approve a linked jackpot arrangement or arrangements if—

- (a) in relation to each proposed arrangement, each gaming machine proposed to be linked—

- (i) is operated under a single licence held by the applicant;
 - (ii) is of the same class and basic stake denomination; and
 - 30 (iii) offers the same chance of winning linked jackpots as each other machine in the arrangement, if played with the same stakes;
- (b) the financial and operational aspects of the proposed arrangement are in accordance with the regulations; and

(c) the Commissioner considers, on reasonable grounds, that the proposed arrangement is satisfactory, having regard to the interests of—

- 5 (i) the persons playing the machines in the proposed linked jackpot arrangement; and
- (ii) the members of the club.

“(3) It is a condition of an approval that each gaming machine in each approved linked jackpot arrangement displays at all times a sign stating clearly—

- 10 (a) that the machine is part of a linked jackpot arrangement with other machines in the club; and
- (b) the percentage of the turnover of the machine which is to be set aside for the payment of linked jackpots.

Inter-club permits—issue

15 “45B. (1) On application in writing accompanied by the determined fee, the Commissioner shall issue a permit to operate a linked jackpot arrangement or arrangements between gaming machines operated under 2 or more licences, each held by a club, if—

- 20 (a) the Commissioner is satisfied on reasonable grounds that the applicant is a fit and proper person to hold a permit, in consideration of circumstances including those referred to in subsection (2);
- (b) in relation to each proposed arrangement, each gaming machine proposed to be linked—
- 25 (i) is of the same class and basic stake denomination; and
- (ii) offers the same chance of winning linked jackpots as each other machine in the arrangement, if played with the same stakes;
- 30 (c) the financial and operational aspects of each proposed arrangement are in accordance with the regulations; and
- (d) the Commissioner considers, on reasonable grounds, that each proposed arrangement is satisfactory, having regard to the interests of—
- 35 (i) the persons playing the machines in each proposed arrangement;
- (ii) the clubs operating the machines in each proposed arrangement; and

(iii) the members of those clubs.

“(2) For the purposes of paragraph (1) (a), the circumstances relevant to whether an applicant is a fit and proper person to hold a permit include the following:

- 5 (a) if the applicant is a natural person—whether he or she is an undischarged bankrupt;
- (b) if the applicant is a body corporate—whether it is in liquidation;
- (c) whether an amount under a tax law is due by the applicant;
- (d) whether the applicant has contravened a tax law;
- 10 (e) whether the applicant has been convicted of an offence punishable on conviction by a fine of not less than \$10,000 or by imprisonment for a period of not less than 1 year.

“(3) In paragraphs (2) (c), (d) and (e), a reference to an applicant is to be read, where the applicant is a body corporate, as including a reference to each relevant influential person in relation to the body.

“(4) A permit shall specify—

- (a) the full name and address of the permit holder;
- (b) the gaming machines in each linked jackpot arrangement in relation to which the permit is issued, and the clubs where they are
20 situated; and
- (c) the conditions to which the permit is subject.

Inter-club permits—conditions

“45C. (1) The Commissioner shall issue an inter-club permit subject to the following conditions:

- 25 (a) that each gaming machine in an arrangement under the permit display at all times a sign stating clearly—
 - (i) that the machine is part of a linked jackpot arrangement between machines in different clubs; and
 - (ii) the percentage of the turnover of the machine which is to be
30 set aside for the payment of linked jackpots;
- (b) that the financial and operational aspects of each arrangement under the permit not be varied without the prior approval of the Commissioner under section 45H;

(c) if the permit holder is a body corporate—that the permit holder give notice to the Commissioner specifying any of the following changes to the body within 7 days of the change:

- 5
- (i) a person becoming a relevant influential person in relation to the body;
 - (ii) a substantial change in the relationship of a relevant influential person to the body;
 - (iii) a person ceasing to be a relevant influential person in relation to the body.

10 “(2) The Commissioner may issue an inter-club permit subject to such other reasonable conditions as he or she thinks fit, in consideration of the interests of—

- (a) the persons playing the machines in each linked jackpot arrangement under the permit;
- 15 (b) the clubs operating the machines in each such arrangement; and
- (c) the members of those clubs.

Inter-club permits—duration

20 “45D. An inter-club permit remains in force for a period of 1 year commencing on the date of issue of the permit, subject to this Act, but may be renewed in accordance with section 45E.

Inter-club permits—renewal

25 “45E. On application in writing accompanied by the determined fee, the Commissioner shall renew an inter-club permit for the period of 1 year commencing on the day immediately following the day on which, but for its renewal, the permit would have expired.

Inter-club permits—variation at Commissioner’s discretion

“45F. (1) The Commissioner may vary a condition of an inter-club permit imposed under subsection 45C (2), in consideration of the interests of—

- 30
- (a) the persons playing the machines in each linked jackpot arrangement under the permit;
 - (b) the clubs operating the machines in each such arrangement; and
 - (c) the members of those clubs.

35 “(2) A variation under subsection (1) takes effect from a date specified in the notice of variation given pursuant to section 52 (being not less than 28 days after the date of the notice).

Inter-club permits—variation on request by permit holder

“45G. (1) At the written request of the permit holder, the Commissioner may vary an inter-club permit for the purpose of—

- 5 (a) reducing the number of gaming machines in a linked jackpot arrangement, or terminating a linked jackpot arrangement;
- (b) increasing the number of gaming machines in a linked jackpot arrangement under the permit;
- (c) including a new linked jackpot arrangement under the permit;
- (d) including an additional club in a linked jackpot arrangement; or
- 10 (e) varying a condition imposed under subsection 45C (2).

“(2) The Commissioner shall not approve a variation of an inter-club permit unless he or she is satisfied—

- (a) if an additional gaming machine is to be included in a linked jackpot arrangement, that the additional machine—
 - 15 (i) is of the same class and basic stake denomination as the other machines in the arrangement; and
 - (ii) offers the same chance of winning linked jackpots as each other machine in the arrangement, if played with the same stakes;
- 20 (b) if a new linked jackpot arrangement is to be included under a permit, that each gaming machine to be linked—
 - (i) is of the same class and basic stake denomination; and
 - (ii) offers the same chance of winning linked jackpots as each other machine in the arrangement, if played with the same
- 25 (c) if an additional club is to be included in a linked jackpot arrangement (whether an existing arrangement or a proposed new arrangement), that the financial and operational aspects of the arrangement are in accordance with the regulations; and
- 30 (d) that the proposed variation is satisfactory, on reasonable grounds, having regard to the interests of—
 - (i) the persons playing the machines in each proposed linked jackpot arrangement;
 - (ii) the clubs operating the machines in each proposed
 - 35 arrangement; and
 - (iii) the members of those clubs.

“(3) If the Commissioner varies a permit, he or she shall give a notice to the permit holder specifying—

- (a) the variation; and
- (b) the date of effect of the variation.

5 “(4) A variation under subsection (1) takes effect from the date specified in the notice under paragraph (3) (b).

Inter-club permits—variation of financial and operational aspects

10 “45H. On application in writing, the Commissioner shall approve the variation of the financial and operational aspects of a linked jackpot arrangement under an inter-club permit if—

- (a) the financial and operational aspects of the arrangement, as proposed to be varied, are in accordance with the regulations; and
- 15 (b) the Commissioner considers, on reasonable grounds, that the proposed variation is satisfactory, having regard to the interests of—
 - (i) the persons playing the machines in the arrangement;
 - (ii) the clubs operating the machines in the arrangement; and
 - (iii) the members of those clubs.

20 **Inter-club permits—transfer**

“45J. (1) On the joint application in writing of the permit holder and a proposed transferee accompanied by the determined fee, the Commissioner shall transfer the permit to the proposed transferee if the Commissioner is satisfied on reasonable grounds that the proposed transferee is a fit and proper person to hold a permit, in consideration of circumstances including the following:

- (a) if the proposed transferee is a natural person—whether he or she is an undischarged bankrupt;
- 30 (b) if the proposed transferee is a body corporate—whether it is in liquidation;
- (c) whether an amount under a tax law is due by the proposed transferee;
- (d) whether the proposed transferee has contravened a tax law;
- 35 (e) whether the proposed transferee has been convicted of an offence punishable on conviction by a fine of not less than \$10,000 or by imprisonment for a period of not less than 1 year.

“(2) In paragraphs (1) (c), (d) and (e), a reference to a proposed transferee is to be read, where the proposed transferee is a body corporate, as including a reference to each relevant influential person in relation to the body.

5 Inter-club permits—cancellation

“45K. (1) The Commissioner may cancel an inter-club permit if satisfied on reasonable grounds that—

- 10 (a) the permit was granted in error or in consequence of a false statement made, or misleading information furnished, by the applicant;
- (b) the permit holder has contravened a condition to which the permit is subject;
- (c) the permit holder has contravened a tax law;
- 15 (d) the permit holder has been convicted of an offence—
 - (i) against a tax law; or
 - (ii) punishable on conviction by a fine of not less than \$10,000 or by imprisonment for a period of not less than 1 year;
- (e) if the permit holder is a natural person—he or she is an undischarged bankrupt;
- 20 (f) if the permit holder is a body corporate—it is in liquidation; or
- (g) the permit holder is otherwise not a fit and proper person to hold a permit.

25 “(2) In paragraphs (1) (b), (c) and (d), a reference to the permit holder is to be read, where the permit holder is a body corporate, as including a reference to a relevant influential person in relation to the body.

“(3) The Commissioner shall, before cancelling an inter-club permit, by notice in writing to the permit holder invite the permit holder to show cause why the permit should not be cancelled.

“(4) A notice shall contain—

- 30 (a) particulars of the facts and circumstances relied upon by the Commissioner to establish that a ground for cancellation exists; and
- 35 (b) a statement to the effect that the permit holder may, within such period as is specified in the notice (being a period of not less than 14 days after the date the notice is given), give to the Commissioner written particulars of the facts and circumstances

relied on to show that the inter-club permit should not be cancelled.

5 “(5) If the Commissioner considers on reasonable grounds that a permit holder has not, within the time specified in the notice, showed cause why the inter-club permit should not be cancelled, the Commissioner shall cancel the permit.

“(6) The cancellation of an inter-club permit takes effect on the expiration of the day on which notice of the cancellation is given to the permit holder under section 52.

10 “(7) Within 7 days after receiving a notice of cancellation of an inter-club permit under section 52, the former permit holder shall return the permit to the Commissioner.

Penalty for contravention of subsection (7):

- (a) in the case of a natural person—\$2,000;
- 15 (b) in the case of a body corporate—\$10,000.

Inter-club permits—surrender

“45L. (1) A permit holder may surrender the inter-club permit by written notice to the Commissioner, accompanied by the permit.

20 “(2) The surrender of an inter-club permit takes effect 28 days after the date of the notice, or on a later date specified in the notice.”.

Opening recording devices

26. Section 48 of the Principal Act is amended by omitting “sealed device referred to in section 38” and substituting “recording device”.

25 Rendering gaming machines inoperable on licence ceasing to be in force

27. Section 50 of the Principal Act is amended—

- (a) by omitting all the words from and including “seal” to and including “machines:” and substituting “render each gaming machine on the licensed premises inoperable—”; and
- 30 (b) by omitting from paragraph (c) “and” and substituting “or”.

Notice of reviewable decisions

28. Section 52 of the Principal Act is amended—

- (a) by inserting in paragraph (1) (ba) “or (2)” after “22 (1)”;
- 35 (b) by omitting paragraph (1) (bb) and substituting the following paragraphs:

- “(bb) revoking the variation of a licence under subsection 22 (6);
- (bc) refusing to approve the transfer of a licence under subsection 23 (1) or (1A);”;
- 5 (c) by inserting after paragraph (1) (ea) the following paragraph:
- “(eb) refusing to approve rules under subsection 31 (2);”;
- (d) by omitting paragraphs (1) (i) and (j) and substituting the following paragraphs:
- 10 “(i) refusing to approve the acquisition of a gaming machine under subsection 36 (2);
- (j) refusing to approve a financial arrangement for the acquisition of a gaming machine under subsection 37 (3);
- (k) refusing to approve the variation of a financial arrangement for the acquisition of a gaming machine under subsection 37 (4);
- 15 (m) refusing to approve the repossession of a gaming machine under subsection 39C (2);
- (n) approving the repossession of a gaming machine subject to a condition under paragraph 39C (3) (c);
- 20 (o) refusing to approve the disposal of a gaming machine under subsection 39F (2);
- (p) refusing to approve the installation of a gaming machine for the purposes of section 41;
- (q) refusing to approve a linked jackpot arrangement under subsection 45A (2);
- 25 (r) refusing to issue an inter-club permit under subsection 45B (1);
- (s) issuing an inter-club permit subject to conditions under subsection 45C (2);
- 30 (t) varying an inter-club permit under subsection 45F (1);
- (u) refusing to vary an inter-club permit under subsection 45G (1);
- 35 (v) refusing to approve the variation of the financial and operational aspects of a linked jackpot arrangement under section 45H;

- (w) refusing to transfer an inter-club permit under subsection 45J (1);
- (x) cancelling an inter-club permit under subsection 45K (5);
- 5 (y) refusing to give an approval for an extension of time for the purposes of section 51; or
- (z) refusing to approve an auditor for the purposes of paragraph 56 (1) (a).”; and
- (e) by omitting subsection (4).

Insertion

- 10 29. After section 52 of the Principal Act the following section is inserted:

Review of decisions

“52A. Application may be made to the Tribunal for review of a decision of the Commissioner referred to in subsection 52 (1).”.

15 **Substitution**

30. Sections 57 and 58 of the Principal Act are repealed and the following sections substituted:

Gaming machine tax—imposition

- 20 “57. (1) Subject to this Act, tax is imposed on gross revenue in relation to the operation of gaming machines, whether that operation is lawful or unlawful.

“(2) Tax is payable—

- (a) in relation to the operation of gaming machines by a licensee—at the rate of the applicable prescribed percentage; and
- 25 (b) in relation to the unlawful operation of gaming machines by a person other than a licensee—at the rate of 100%.

Gaming machine tax—liability

“58. (1) Tax imposed under section 57 in relation to the operation of a gaming machine shall be paid by—

- 30 (a) in relation to a machine operated by a licensee—the licensee; or
- (b) in relation to a machine operated unlawfully by a person other than a licensee—
 - (i) the person receiving the gross revenue; or

(ii) the occupier of the premises where the machine is operated.

5 “(2) Where paragraph (1) (b) applies, the person receiving the gross revenue from the operation of the relevant gaming machine and the occupier of the premises where the machine is operated are jointly and severally liable to pay tax under subsection (1).”.

Returns

31. Section 59 of the Principal Act is amended by omitting subsection (1) and substituting the following subsection:

10 “(1) Within 7 days after the end of a month, a person liable to pay tax under section 58 shall give the Commissioner a return relating to the gross revenue in relation to the operation of gaming machines during that month by that person, or on premises occupied by that person, as the case requires.”.

Amendment of *Unlawful Games Act 1984*

15 32. Section 8 of the *Unlawful Games Act 1984* is repealed.

NOTE

1. Reprinted as at 31 August 1992.