

1993

**THE LEGISLATIVE ASSEMBLY FOR THE
AUSTRALIAN CAPITAL TERRITORY**

**GAMING MACHINE (AMENDMENT) BILL 1993
TAXATION (ADMINISTRATION) (AMENDMENT) BILL 1993**

EXPLANATORY MEMORANDUM

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GAMING MACHINE (AMENDMENT) BILL 1993

TAXATION (ADMINISTRATION) (AMENDMENT) BILL 1993

Summary

The Gaming Machine Act 1987 (the Act) provides for the regulation and taxing of legal gaming machine operations in the Territory by the Commissioner for ACT Revenue. Clubs and other bodies licensed under the Act may operate approved gaming machines in the ACT at premises licensed under the ACT.

The regulatory powers of the Commissioner are, however, restricted to approved machines, premises licensed under the Act, and licensees of those premises. The Bill proposes extending the operation of the Act to unlawful machines.

Licensed clubs in the Territory may presently only operate linked jackpot systems within their own club. The Bill proposes to allow clubs the opportunity to operate linked jackpot systems with other clubs and give players access to a larger pool of "jackpot" funds. To ensure fair and equitable arrangements for players in each club involved, linked jackpots would only be approved by the Commissioner where all machines in the linkage are of the same denomination, class and type, return the same percentage rate to players and provide the same chance to all players of winning the major prize.

Under current arrangements gaming machines can only be purchased by the Commissioner on behalf of licensees or by licensees from each other, with the Commissioner's approval. The Bill proposes to allow licensees to negotiate the purchase of gaming machines directly with suppliers in accordance with arrangements approved by the Commissioner. More flexible financing arrangements for the purchase or lease of the machines will be permitted, allowing the Commissioner to approve arrangements with registered credit providers and finance brokers.

The Bill proposes to remove the restriction on the number of coins accepted on lower denomination machines by introducing the concept of multi-stake machines designed to allow single or multiple stakes to a maximum value prescribed by the regulations of \$10 for each game. The requirement that machines of the same class and denomination must be set at the same percentage will also be removed.

In 1992 legislation came into effect limiting life members of a club to not more than 5% of the overall club membership. This provision is intended to prevent "stacking" of member influence. This requirement has however proved onerous for a number of ethnic and sporting clubs which exceeded the limit at the time the provision was introduced. The Bill therefore proposes to introduce a 'grandfather clause' to allow clubs with more than 5% life membership, as at 1 January 1992, to retain such excess life members, but that they not be allowed to approve more life members until natural attrition or increased overall membership reduces the life membership ratio below the 5% limit.

Details of the Bill are included in attachment A.

Taxation (Administration) (Amendment) Bill 1993

This Bill will complement the Gaming Machine Bill 1993 by amending the Taxation (Administration) Act 1987 so as to ensure powers under that Act apply in relation to the taxing of the earnings of illegal machines and their seizure.

Details of the Bill are included in attachment B.

Financial Implications

The effect of the introduction of the amendments will largely be met within existing programs although an additional one off outlay will be required to enhance the jackpot monitoring system. As it is anticipated that the Bill will increase the attractiveness of gaming machines, the ACT may experience a slight increase in revenue.

Details of the Bill are attached.

DETAILS OF THE GAMING MACHINE (AMENDMENT) BILL 1993

Short Title

Clause 1 - provides for the short title for this Act to be the Gaming Machine (Amendment) Act 1993 (the Act).

Commencement

Clause 2 - provides that the Act shall commence from the date of gazettal.

Principal Act

Clause 3 - refers to the Principal Act being amended, being the Gaming Machine Act 1987.

Interpretation

Clause 4 - provides for and amends definitions of the terms used in the Principal Act. In particular:

- . "gaming machine" is now defined to include machines designed to be played by the use of tokens, coins and credit devices;
- . "gross revenue" for the purpose of determining tax payable has been redefined to allow licensees to deduct all winnings paid and amounts set aside for linked jackpot;
- . "percentage pay-out" is now defined in detail in section 16A of the Principal Act;
- . the definitions of the three classes of gaming machines, Class A, Class B and Class C, have been expanded to facilitate and refer to the introduction of single stake and multi-stake gaming machines.

Insertion

Maximum stake values

Clause 5 - amends the Principal Act by inserting new section 4A. The section provides for the prescription of maximum stake values permitted for each game for the purposes of the definitions of single-stake and multi-stake gaming machines in section 4 of the Principal Act.

Relationship with other laws

Clause 6 - amends section 5 of the Principal Act to ensure the effectiveness of prosecutions of General or On-Licences for offences against the Principal Act. It is designed to ensure that the lawful operation of gaming machines under the Principal Act does not constitute an offence under the Unlawful Games Act 1984, the Gaming and Betting Act 1906 of NSW in its application to the ACT or the Games Wagers and Betting Houses Act 1901 of NSW in its application to the ACT.

Insertion

Division 1A - "Authority conferred by licensees"

Clause 7 - inserts in Part IV of the Principal Act section 13A which details that licensees are authorised to acquire, install, dispose and permit the operation of gaming machines on licensed premises.

Grant or refusal of licences: General licensees and On-licensees

Clause 8 - amends section 15 of the Principal Act by providing that failure to comply with a request for information from the Commissioner is grounds for the refusal of a licence.

Insertion

Percentage pay-out - calculation

Clause 9 - inserts new section 16A which provides for the calculation of the percentage pay-out on Class A, B or C machines returned to players.

New subsection 16A(1) provides the pay-out rate for single Class A and C machines to be the percentage of a defined number of stakes which is returned to players.

New subsection 16A(2) provides that the calculation for the percentage pay-out for Class B machines is to be the percentage of turnover if a player exercises reasonable strategies and average skills.

New subsection 16A(3) provides the percentage pay-out for gaming machines in linked jackpot arrangements is calculated by the adding together of the percentage pay-out for the relevant class of machine and the percentage of the turnover of that machine which is set aside for the payment of linked jackpots.

New subsection 16A(4) defines the term "defined number" used in the section as a number calculated in relation to the number of times each reel of a machine is programmed to stop.

Percentage pay-out - determination

Clause 10 - amends section 17 of the Principal Act by omitting subsection (4). This removes the requirement that all machines of the same class and denomination must give the same percentage pay-out to players allowing licensees to install gaming machines of various percentage pay-outs at or above the 85% minimum. The requirement that the percentage pay-out can be within a tolerance of plus or minus 1% has been removed. The exact percentage return must now be returned to players.

Conditions for issue of licences - gaming machines

Clause 11 - section 18 of the Principal Act is amended by omitting the reference to a specific denomination of 20 cents in respect of licences issued to general and on-licences. The section now provides for the prescription of this maximum basic stake denomination in the regulations.

Substitution

Conditions for issue of licences - ballots

Clause 12 - repeals section 19 of the Principal Act and substitutes new section 19 to provide that an applicant club is now responsible for conducting ballots of members in relation to the installation of gaming machines in the club. The ballot must be conducted in a manner prescribed by regulation and supervised by the Commissioner.

Repeal

Clause 13 - repeals section 21 of the Principal Act. The authority conferred by a licence is now authorised in new Division 1A of the Bill.

Substitution

Variation of licence

Clause 14 - repeals sections 22 and 22A of the Principal Act and substitutes new provisions in relation to variations of licences. New subsection 22(1) provides for the Commissioner to approve variations as specified in the subsection.

New subsection 22(2) requires the Commissioner, in considering applications to increase the number of machines, to have regard to the size and layout of the premises and, if the applicant is a club, the number of members.

New subsection 22(3) provides that the Commissioner shall not approve a variation of a licence where the licensee owes any money to the Territory under a tax law, if the variation is not of a type approved by the Liquor Administration Board, if the variation would cause the number of machines to exceed the allowed level or, in the case of a club, if the variation is not in the best interests of the members.

New subsection 22(4) provides in relation to the variation of a licence that the Commissioner shall give a notice specifying the details of the variation and the implementation period for such changes.

New subsection 22(5) provides that the effective date of the variation is the date the changes are implemented.

New subsection 22(6) provides that the Commissioner may revoke a variation if he or she is satisfied on reasonable grounds that the licensee has not implemented the changes within the period specified.

Suspension and cancellation of licences - general

Clause 15 - section 24 of the Principal Act is amended by omitting paragraph (1)(b) and substituting provisions for a licence to be cancelled or suspended if gaming machines have been acquired used or disposed of, or if the licensee has entered into financing arrangements, other than as approved by the Commissioner.

Substitution

Cancellation of club licences on members' ballot

Clause 16 - repeals section 26 of the Principal Act and substitutes new provisions in respect of the cancellation of a licence of a club if, at a ballot held by a club, a majority of members of the club voted in favour of cancelling the licence. Under new subsection 26(2) the ballot is to be conducted in accordance with the regulations.

Eligible Clubs

Clause 17 - amends section 30C of the Principal Act to provide that a person acting for or on behalf of a club in his or her dealings with gaming machines suppliers may receive a benefit if it is in the form of reasonable food or beverage, out of pocket expenses and he or she would normally be entitled to receive that profit, advantage or benefit.

Insertion

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

Clause 18 - inserts new section 30CA after section 30C of the Principal Act to allow clubs which exceeded the 5% life membership restriction as at 1 January 1992 to retain such excess life members. However no further life members can be approved after the commencement of this Act until natural attrition or increased overall membership reduces the life membership below the 5% limit.

Rules to control operation of gaming machines

Clause 19 - is a technical amendment to section 31 of the Principal Act and substitutes the word "operation" for "use" in paragraph (1)(a).

Substitution

Clause 20 - repeals Division 2 of Part V of the Principal Act and substitutes:

Division 2 - Gaming machine dealings

Acquisition of gaming machines - general

New section 35 - provides that a person cannot acquire a gaming machine except in accordance with an approval under section 36 or from the Territory.

Acquisition of gaming machines - approval

New subsection 36(1) provides that an application is to be in writing and accompanied by the proposed contract and any details of the arrangements for financing the acquisition.

New subsection 36(2) provides that the Commissioner can refuse to approve the purchase of the machines if they are not approved by the Liquor Administration Board, if the financing arrangements are not approved, if the seller is approved for the purposes of the Act or (in the case of a club) if the Commissioner considers the acquisition is not in the best interests of the club.

Financial arrangements - approval

New subsection 37(1) provides that a licensee cannot enter into a financial arrangement for the acquisition of gaming machines without the approval of the Commissioner.

New subsection 37(2) provides that application for approval is to be in writing and accompanied by all documents associated with the arrangement.

New subsection 37(3) provides that an application for approval of arrangements for financing the acquisition of gaming machines shall be approved if it is under written contract and the credit provider or finance broker is appropriately licensed under the credit laws of the ACT or corresponding laws of the States or another Territory. In addition to these requirements the application must be approved by the Commissioner under section 36 of the Act and, in the case of a club, the Commissioner must be satisfied that it is in the best interests of the members of the club.

New subsection 37(4) provides that it is a condition of 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

New subsection 38(1) provides that it is an offence for a person to offer or provide a profit, benefit or advantage (whether directly or indirectly) to a licensee, an employee or agent of a licensee or a relevant influential person in relation to a licensee as an inducement for the acquisition of gaming machines.

New subsection 38(2) provides that it is an offence for a licensee, an employee or agent of a licensee or a relevant influential person in relation to a licensee to accept (whether directly or indirectly) a profit, benefit or advantage as an inducement for the acquisition of gaming machines.

New subsection 38(3) provides that this section does not apply in relation to food, beverages or out-of-pocket expenses reasonably incurred in the course of negotiations for the acquisition of machines.

Possession and control of gaming machines

New section 39 provides that a person shall not possess or control a gaming machine except in accordance with a licence or an approval from the Commissioner to repossess the machine under section 39C.

Operation of gaming machines except in accordance with licence

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

New subsection 39A(2) provides that a person is not guilty of an offence under subsection 39A(1) if evidence is adduced, and not rebutted, of a reasonable mistake (other than a mistake based on information supplied by a third person) or, the act, default or some other cause was beyond the control of the person, and the person has taken reasonable steps and exercised due diligence to avoid committing the offence.

Repossession of gaming machines - general

New subsection 39B(1) requires that a gaming machine must only be repossessed in accordance with the approval of the Commissioner under section 39C.

New subsection 39B(2) provides that a person who has repossessed a gaming machine shall not permit it to be played prior to its disposal, unless the machine is operated in accordance with a licence.

New subsection 39B(3) provides that a person is not guilty of an offence under subsection 39B(2) if evidence is adduced, and not rebutted, of a reasonable mistake (other than a mistake based on information supplied by a third person) or, the act, default or some other cause was beyond the control of the person, and the person has taken reasonable steps and exercised due diligence to avoid committing the offence.

Repossession of a gaming machine - approval

New subsection 39C(1) provides that an application to repossess a gaming machine must be in writing and accompanied by information to enable the identification of the person from whom the machine is to be repossessed, the location of the premises and the type of the machine.

New subsection 39C(2) provides that the Commissioner shall approve the application for 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 39C(3).

New subsection 39C(3) provides for the Commissioner to impose conditions on his or her approval to repossess gaming machines. These conditions include the requirements for the person to take all reasonable precautions to prevent the gaming machine being played prior to its disposal, allow access to machines by an authorised tax officer and such other conditions for storage of the machine as the Commissioner thinks fit.

New subsection 39C(4) provides that where an approval to repossess has been given by the Commissioner, after a machine is repossessed, and before it is disposed of, an authorised tax officer shall take meter readings from the machine, seal the recording device and render it inoperable.

New subsection 39C(5) provides that a person is not authorised to repossess a gaming machine by reason only that an approval is authorised by the Commissioner under this section. Therefore, the Commissioner's approval does not authorise repossession if to do so interferes with other contractual rights and obligations between a licensee and a third party or is otherwise not in accordance with the law.

Repossession of gaming machines - contravention of approval conditions

New subsection 39D(1) provides that a person shall not contravene a condition of the approval granted under subsection 39C(3) to repossess a gaming machine.

New subsection 39D(2) provides that a person is not guilty of an offence under subsection 39D(1) if evidence is adduced, and not rebutted, of a reasonable mistake (other than a mistake based on information supplied by a third person) or, the act, default or some other cause was beyond the control of the person, and the person has taken reasonable steps and exercised due diligence to avoid committing the offence.

Disposal of gaming machines - general

New section 39E - provides that a person cannot dispose of a gaming machine except in accordance with an approval under section 39F.

Disposal of gaming machines - approval

New subsection 39F(1) provides that an application to dispose of a gaming machine should be in writing and accompanied by information to enable the identification of the person who is to acquire the machine, the location of the premises where the machine is currently held and the type of the machine.

New subsection 39F(2) provides that the Commissioner shall approve of the disposal of a gaming machine if the person acquiring the machine is authorised to operate the machine under a licence or to sell or to operate the machine under a law of a State or another Territory and an applicant who has repossessed a machine has done so in accordance with an approval of the Commissioner under section 39C and the applicant has not contravened that approval.

New subsection 39F(3) provides that a person is not authorised to dispose of a gaming machine by reason only that an approval is authorised by the Commissioner under this section. Therefore the Commissioner's approval does not authorise disposal of a gaming machine if to do so interferes with the contractual rights and obligations between a licensee and a third party or is otherwise not in accordance with the law.

Division heading

Clause 21 - amends the heading of Division 3 of Part V of the Principal Act to be "Installation and operation of gaming machines".

Insertion

Clause 22 - inserts new section 42A and 42B after section 42 of the Principal Act.

Meter data records at time of installation

New section 42A provides that the installer of a gaming machine, as soon as is practicable after the machine is installed, must give to the Commissioner a certificate setting out the meter readings of the machine immediately after installation.

Operation after installation

New section 42B provides that after installation of a gaming machine the licensee must not allow the machine to be played until after an authorised tax officer has taken meter readings from the machine, sealed the recording device on the machine and has performed any other functions in relation to the machine as are required by the Commissioner.

Omission of Division heading

Clause 23 - omits the heading to Division 4 of Part V of the Principal Act.

Repeal

Clause 24 - repeals section 43 of the Principal Act as this provision is now given effect within new subsection 39A(1).

Substitution

Clause 25 - repeals section 45 of the Principal Act and substitutes the following Division:

Division 4 - Linked jackpot arrangements

New section 45 provides that a person shall not operate a linked jackpot arrangement between gaming machines without the approval of the Commissioner under new section 45A or under the approval of an inter-club permit.

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

New subsection 45A(1) provides that a club holding a licence may apply in writing for approval to operate a linked jackpot arrangement between gaming machines operated under that licence.

New subsection 45A(2) provides that on application under subsection 45A(1) the Commissioner shall approve a linked jackpot arrangement or arrangements if, in relation to each proposed arrangement each gaming machine proposed to be linked is operated under a single licence held by the applicant, is of the same class and denomination, offers the same chance of winning linked jackpots as all other machines in the arrangement, the financial and operational aspects of the arrangement are in accordance with the regulations and the Commissioner considers, on reasonable grounds, that the proposed arrangement is satisfactory having regard to the interests of the persons playing the machines in the proposed linked jackpot arrangement and the members of the club.

New subsection 45A(3) provides that it is a condition of approval that each gaming machine in each approved linked jackpot arrangement displays at all times a sign stating that the machine is part of a linked jackpot arrangement with other machines in the club and the percentage of the turnover of the machine which is set aside for the payment of linked jackpots.

Inter-club permits - issue

New subsection 45B(1) provides that upon receipt of a written application and 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, the Commissioner is satisfied that the applicant is a fit and proper person, each gaming machine proposed to be linked is of the same class and basic stake denomination and offers the same chance of winning the linked jackpot as each other machine in the arrangement, the financial and operational aspects of the arrangement are in accordance with the regulations and the Commissioner considers, on reasonable grounds, that the proposed arrangement is satisfactory having regard to the interests of the persons playing the machines in each proposed arrangement, the clubs operating the machines in each proposed arrangement and the members of the clubs.

New subsection 45B(2) provides that the circumstances relevant to whether an applicant is a fit and proper person to hold a permit include, if the applicant is a natural person, whether he or she is an undischarged bankrupt, if it is a body corporate, whether it is in liquidation, whether the applicant has any amounts outstanding under a tax law, whether the applicant has contravened a tax law and whether the applicant has been convicted of an offence punishable by imprisonment for 1 year or more or by a fine of not less than \$10,000.

New subsection 45B(3) provides that in subsection (2) any reference to an applicant as a body corporate includes a reference to each relevant influential person being a director or secretary, a person substantially involved in the management of a body or able to control or influence the body's activities.

New subsection 45B(4) requires that a permit specify the full name and address of the permit holder, the gaming machines in each linked jackpot arrangement in relation to which the permit is issued, and the clubs where they are situated and the conditions to which the permit is subject.

Inter-club permits - conditions

New subsection 45C(1) provides that the Commissioner shall issue an inter-club permit subject to the conditions that each gaming machine in each approved linked jackpot arrangement displays at all times a sign stating that the machine is part of a linked jackpot arrangement with other machines in the club and the percentage of the turnover of the machine which is set aside for the payment of linked jackpots; that any variation to the originally approved financial and operational arrangements must not be made without the prior approval of the Commissioner under section 45H; and if the permit holder is a body corporate, then any change to the body, such as, a person becoming or ceasing to be a relevant influential person in relation to the body or there is a substantial change in the relationship of relevant influential person to the body, must be notified to the Commissioner within 7 days.

New subsection 45C(2) provides that the Commissioner may issue an inter-club permit if he or she considers the arrangement is

satisfactory having regard to the interests of the persons playing the machines in each linked jackpot arrangement under the permit, the clubs operating the machines in each arrangement and the members of the clubs.

Inter-club permits - duration

New section 45D provides that an inter-club permit remains in force for 1 year from the date of issue of the permit, subject to the provisions of the Act, and may be renewed in accordance with section 45E.

Inter-club permits - renewal

New section 45E provides that on receipt of a written application and 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 the permit would have expired.

Inter-club permits - variations of conditions at discretion of the Commissioner

New subsection 45F(1) provides that the Commissioner may vary an inter-club permit after considering the interests of the persons playing the machines in each linked jackpot arrangement under the permit, the clubs operating the machines in each such arrangement and the members of the clubs.

New subsection 45F(2) provides that a variation under subsection (1) takes effect from 28 days after the date specified in the notice of variation given pursuant to section 52.

Inter-club permits - variation on request by permit holder

New subsection 45G(1) provides that on written request of a permit holder the Commissioner may vary an inter-club permit for the purpose of reducing or increasing the number of gaming machines in the linked jackpot arrangement, terminating the linked jackpot arrangement, including a new club in a linked jackpot arrangement under the permit or to vary a condition imposed under subsection 45C(2).

New subsection 45G(2) provides that the Commissioner shall not approve the variation of an inter-club permit unless he or she is satisfied that, if an additional machine is to be included in the arrangement, that machine is of the same class and basic stake denomination as the other machines in the arrangement and offers the same chance of winning linked jackpots as the other machines in the arrangement, if a new linked jackpot arrangement is to be

included under a permit, that each gaming machine to be linked is of the same class and basic stake denomination and offers the same chance of winning linked jackpots as the other machines in the arrangement. If an additional club is to be included in a linked jackpot arrangement, the financial and operational arrangements of the additional club are in accordance with the regulations and that the proposed variation is satisfactory, on reasonable grounds, having regard to the interests of the persons playing the machines in each proposed linked jackpot arrangement, the clubs operating the machines in each proposed arrangement and the members of the clubs.

New subsection 45G(3) provides that if the Commissioner varies a permit, he or she shall give notice to the permit holder specifying the variation and the date of effect of the variation.

New subsection 45G(4) provides that a variation under subsection (1) will take effect from the date specified in the notice under subsection (3).

Approval of variation of financial and operational aspects

New section 45H provides that on application in writing, the Commissioner shall approve a variation of the financial and operational aspects of a linked jackpot arrangement under an inter-club permit, if the financial and operational aspects proposed to be varied are in accordance with the regulations and the Commissioner considers, on reasonable grounds, that the proposed variation is satisfactory, having regard to the interests of the players and operators of the machines in the arrangement and the members of the clubs.

Inter-club permits - transfer

New subsection 45J(1) provides that on joint application in writing by the permit holder and the 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 in consideration of circumstances including if the proposed transferee is a natural person, whether he or she is an undischarged bankrupt, if it is a body corporate, whether it is in liquidation, whether the proposed transferee has any amounts outstanding under a tax law, whether the proposed transferee has contravened a tax law and whether the proposed transferee has been convicted of an offence punishable by imprisonment for 1 year or more or by a fine of not less than \$10,000.

New subsection 45J(2) provides that in subsection (1) any reference to a proposed transferee as a body corporate includes a reference to each relevant influential person, as defined, in relation to the body.

Inter-club permits - cancellation

New subsection 45K(1) provides that the Commissioner may cancel an inter-club permit if satisfied on reasonable grounds that the permit was granted in error or in consequence of a false or misleading statement furnished by the applicant, the permit holder has contravened a condition of the permit, has contravened a tax law, has been convicted of an offence against a tax law, which was punishable by imprisonment for not less than 1 year or by a fine of not less than \$10,000, in the case of a natural person, is an undischarged bankrupt, in the case of a body corporate, is in liquidation or the permit holder is otherwise not a fit and proper person to hold a permit.

New subsection 45K(2) provides that in subsection (1) any reference to a permit holder as a body corporate includes a reference to each relevant influential person, as defined, in relation to the body.

New subsection 45K(3) provides that the Commissioner shall, before cancelling an inter-club permit, invite the permit holder by notice in writing, to show cause why the permit should not be cancelled.

New subsection 45K(4) provides that a notice under subsection (3) shall contain the particulars of the facts and circumstances relied upon by the Commissioner as grounds for cancellation and a statement to the effect that the permit holder may within 14 days give to the Commissioner written particulars of the facts and circumstances relied on to show why the inter-club permit should not be cancelled.

New subsection 45K(5) provides that the Commissioner shall cancel a permit if he or she considers on reasonable grounds that the permit holder has not within the time specified in the notice, showed cause why the inter-club permit should not be cancelled.

New subsection 45K(6) provides that the cancellation of an inter-club permit will take effect on the expiration of the day on which notice of the cancellation is given to the permit holder.

New subsection 45K(7) requires that a former permit holder shall return the inter-club permit to the Commissioner within 7 days after receiving the notice of cancellation.

Inter-club permits - surrender

New subsection 45L(1) provides that a permit holder may surrender an inter-club permit by notice to the Commissioner in writing, accompanied by the permit.

New subsection 45L(2) provides that the surrender will take effect 28 days after the date of the notice or from another later date specified in the notice.

Opening recording devices

Clause 26 - amends section 48 of the Principal Act by omitting "sealed device referred to in section 38" and substituting "recording device", as this is now the term defined in section 4.

Rendering gaming machines inoperable on licence ceasing to be in force

Clause 27 - amends section 50 of the Principal Act by providing, that where a licence ceases to be in force for any reason, for example suspension or cancellation, than an authorised tax officer shall make all gaming machines located on those licensed premises inoperable.

Notice of reviewable decisions

Clause 28 - amends section 52 of the Principal Act to incorporate the various amendments to the Principal Act which involve decisions by the Commissioner appealable to the Administrative Appeals Tribunal.

Insertion

Review of decisions

Clause 29 - inserts new section 52A after section 52 of the Principal Act to provide that a decision by the Commissioner referred to in subsection 52(1) may, on application, be reviewed by the Administrative Appeals Tribunal.

Substitution

Clause 30 - repeals sections 57 and 58 of the Principal Act and substitutes the following sections:

Gaming machine tax - imposition

New section 57 imposes tax on gross revenue, as defined, from the operation of gaming machines - whether the operation of the gaming machines has been legal or illegal. Tax on the operation of machines by a licensee is imposed at the rate of the applicable prescribed percentage. The rate of tax imposed in relation to the unlawful operation of gaming machines is set at 100%. This reflects the serious nature of the consequences of the operation of unlawful gaming machines and ensures that a

person does not profit from the unlawful operation of gaming machines.

Gaming machine tax - liability

New section 58 determines who will be liable to pay the tax imposed on the operation of gaming machines. In relation to a machine operated by a licensee, the licensee has the responsibility to pay the tax imposed. Because the operators of unlawful machines may not always be known to the Commissioner the Act provides that either the occupier of the premises on which the machine is located or the recipient of the gross revenue from the gaming machine is liable. New subsection 58(2) provides that both the occupier of the premises and the recipient of the gross revenue are jointly and severally liable for payment of tax due.

Returns

New subsection 59(1) requires that a person liable to pay tax, whether a licensee or an unlicensed person, must lodge a return to the Commissioner within 7 days after the end of a month. This subsection complements the requirement for illegal operators to pay tax.

Amendment of Unlawful Games Act 1984

Clause 31 - repeals section 8 of the Unlawful Games Act 1984 as the Principal Act now contains all necessary provisions relating to the unlawful operation of gaming machines.

ATTACHMENT B

**DETAILS OF THE TAXATION (ADMINISTRATION)
(AMENDMENT) BILL 1993**

Short title

Clause 1 - cites the short title of the Bill, once enacted, as the Taxation (Administration) (Amendment) Act 1993 (the Act).

Commencement

Clause 2 - provides that the Act shall commence from the date of notification in the Gazette.

Principal Act

Clause 3 - provides that the Principal Act is the Taxation (Administration) Act 1987.

Powers of inspection

Clause 4 - amends section 12 of the Principal Act by allowing for the seizure of any gaming machine which has been found to be operated in contravention to a tax law.

Seizure

Clause 5 - amends section 12A of the Principal Act by providing the necessary technical amendments to allow for the inclusion of gaming machines in relation to items seized for contravening a tax law.