

South Australia

**Gaming Machines (Miscellaneous) Amendment
Bill 2004**

A BILL FOR

An Act to amend the *Gaming Machines Act 1992*.

Contents

Part 1—Preliminary

- 1 Short title
- 2 Commencement
- 3 Amendment provisions

Part 2—Amendment of *Gaming Machines Act 1992* (extension of gaming machines moratorium)

- 4 Amendment of section 14A—Freeze on gaming machines

Part 3—Amendment of *Gaming Machines Act 1992* (gaming machine entitlements)

- 5 Amendment of section 3—Interpretation
- 6 Amendment of section 14—Licence classes
- 7 Substitution of section 14A
 - 14A Term of gaming machine licence
- 8 Amendment of section 15—Eligibility criteria
- 9 Substitution of section 16
 - 16 Number of gaming machines to be operated under licence
- 10 Amendment of section 24—Discretion to refuse application
- 11 Insertion of section 24A
 - 24A The special club licence
- 12 Insertion of Divisions 3A and 3B
 - Division 3A—Renewal of gaming machine licences
 - 27A Application for renewal
 - 27B Basis on which licensee is entitled to renewal
 - Division 3B—Gaming Machine Entitlements
 - 27C Gaming machine entitlements
 - 27D Transferability of gaming machine entitlements
 - 27E Premises to which gaming machine entitlements relate
- 13 Amendment of section 29—Certain applications require advertisement
- 14 Amendment of section 37—Commissioner may approve managers and employees
- 15 Amendment of section 70—Operation of decisions pending appeal
- 16 Insertion of section 71A
 - 71A Moratorium on increases in rates of gaming tax
- 17 Insertion of section 88
 - 88 Exclusion of compensation
- 18 Amendment of Schedule 1—Gaming machine licence conditions

Part 4—Amendment of *Gaming Machines Act 1992* (miscellaneous amendments)

- 19 Amendment of section 3—Interpretation
- 20 Insertion of section 7A
 - 7A Powers to make interim or conditional decisions and accept undertakings from parties
- 21 Amendment of section 14—Licence classes
- 22 Amendment of section 14A—Freeze on gaming machines
- 23 Amendment of section 15—Eligibility criteria
- 24 Amendment of section 26—State Supply Board to hold supplier's licence
- 25 Insertion of Part 3 Division 4A

	Division 4A—Devolution of licensee's rights
	28B Devolution of licensee's rights
	28C Bankruptcy or winding up of licensee
	28D Notice to be given of exercise of powers under Division
26	Amendment of section 30—Objections
27	Amendment of section 36—Cause for disciplinary action against licensees
28	Insertion of sections 36A and 36B
	36A Inquiry
	36B Taking of disciplinary action against licensees
29	Insertion of section 38B
	38B Commissioner may approve gaming machine technicians
30	Amendment of section 42—Discretion to grant or refuse approval
31	Insertion of section 42A
	42A Advertisement of certain applications and objections
32	Amendment of section 43—Intervention by Commissioner of Police
33	Amendment of section 45—Offence of being unlicensed
34	Substitution of sections 48, 49 and 50
	48 Offences relating to management of business or positions of authority
	49 Offence related to employment in gaming areas
	50 Offence related to personal performance of work on gaming machines
	50A Approved gaming machine managers and employees must carry identification
35	Amendment of section 51—Persons who may not operate gaming machines
36	Amendment of section 52—Prohibition of lending or extension of credit
37	Insertion of section 53B
	53B Commissioner's directions to ensure security of gaming machines
38	Amendment of section 59—Licensee may bar excessive gamblers
39	Amendment of section 69—Right of appeal
40	Amendment of section 72B—Recovery of tax
41	Amendment of section 74—Annual reports
42	Amendment of section 82—Service
43	Amendment of section 85—Vicarious liability
44	Amendment of Schedule 1
45	Amendment of Schedule 3
	1 Gaming machine licence purportedly granted to Roosters Club Incorporated

The Parliament of South Australia enacts as follows:

Part 1—Preliminary

1—Short title

This Act may be cited as the *Gaming Machines (Miscellaneous) Amendment Act 2004*.

2—Commencement

- 5 (1) Subject to subsection (2), this Act will come into operation on a day to be fixed by proclamation.
- (2) Part 2 and section 45 come into force on the date of assent.
- 10 (3) A special commencement date is to be fixed for sections 9 and 18 of this Act (and that date must fall at least 4 months after the commencement of Division 3B of Part 3 of the *Gaming Machines Act 1992*).

3—Amendment provisions

In this Act, a provision under a heading referring to the amendment of a specified Act amends the Act so specified.

Part 2—Amendment of *Gaming Machines Act 1992* (extension of gaming machines moratorium)

4—Amendment of section 14A—Freeze on gaming machines

Section 14A(6)—delete subsection (6) and substitute:

- (6) This section remains in force until it is superseded.

Part 3—Amendment of *Gaming Machines Act 1992* (gaming machine entitlements)

5—Amendment of section 3—Interpretation

- (1) Section 3(1)—after the definition of *club licence* insert:

Club One means the body holding the special club licence (See section 24A);

- (2) Section 3(1)—after the definition of *gaming machine* insert:

gaming machine entitlement means an entitlement to operate one gaming machine under a gaming machine licence;

- (3) Section 3(1)—after the definition of *liquor licence* insert:

non-profit association means incorporated association or some other kind of body corporate as to which the Commissioner is satisfied that profits cannot be returned to members or shareholders;

6—Amendment of section 14—Licence classes

- (1) Section 14(1)—after paragraph (a) insert:

- (ab) special club licence: subject to the Act and the conditions of the licence, the special club licence authorises the licensee to possess approved gaming machines and to operate them on premises in respect of which someone else holds a gaming machine licence as agent of the holder of the gaming machine licence;

- (2) Section 14(2)—delete subsection (2) and substitute:

- (2) There will be only—

- (a) one special club licence; and
(b) one gaming machine supplier's licence; and
(c) one gaming machine monitor licence; and
(d) one gaming machine service licence.

7—Substitution of section 14A

Section 14A—delete the section and substitute:

14A—Term of gaming machine licence

- 5
- (1) A gaming machine licence is granted for a term of 5 years but the term may be renewed from time to time in accordance with this Act.
- (2) However, if a gaming machine licence was granted before the commencement of this section its first renewal will fall due on a date (which must fall at least 4 years but not more than 9 years after the commencement of this section) allocated to the licence by the Commissioner on the basis of a system of random allocation determined by the Commissioner.
- 10

8—Amendment of section 15—Eligibility criteria

(1) Section 15—After subsection (1) insert:

- 15
- (1a) Club One is eligible to hold a gaming machine licence for particular premises if it holds a licence under the *Liquor Licensing Act 1997* in respect of the premises as required by subsection (1).

(2) Section 15(5)—delete subsection (5) and substitute:

- (5) In determining an application for a gaming machine licence, the Commissioner must—
- 20
- (a) have regard to the likely social effect of the grant of the licence on the local community and, in particular, the likely effect on problem gambling within the local community; and
- (b) in that regard, take into consideration any guidelines or criteria established by the Authority;

25

but must not have regard to the economic effect that the granting of the licence might have on the business of other licensed premises in the relevant locality (except insofar as that economic effect may be relevant to an assessment of the likely social effect of the grant of the licence on the local community).

9—Substitution of section 16

Section 16—delete the section and substitute:

16—Number of gaming machines to be operated under licence

- 35
- (1) A gaming machine licence authorises the licensee to possess and operate in the licensed premises a number of gaming machines equivalent to the number of gaming machine entitlements held in respect of the licensed premises (or a lesser number).
- (2) The number of gaming machine entitlements held in respect of particular licensed premises cannot exceed the maximum number approved by the Commissioner for operation under the gaming machine licence for the premises.
- 40

- 5
- (3) The Commissioner cannot approve more than 40 gaming machines for operation under a gaming machine licence.
- (4) If two or more gaming machine licences are in force in relation to the same licensed premises, the aggregate number of gaming machines approved for operation under the licences cannot exceed 40.
- 10
- (5) The Commissioner may grant to the holder or former holder of a gaming machine licence a temporary authorisation to possess (but not to operate) gaming machines if the authorisation is necessary or desirable to enable the orderly disposal of gaming machines the holder or former holder is no longer authorised to operate.

10—Amendment of section 24—Discretion to refuse application

Section 24(1)—delete "grant or"

11—Insertion of section 24A

After section 24 insert:

24A—The special club licence

- 15
- (1) The special club licence is to be granted to a body (referred to in this Act as *Club One*) that, on making due application for the licence, satisfies the Commissioner—
- 20
- (a) that it is representative of a substantial number of clubs in the State; and
- (b) that it has available to it the appropriate skills and expertise to operate gaming machines, and conduct gaming machine business.
- 25
- (2) The directors, or members of the board of management, of Club One must include the following—
- 30
- (a) at least one person who is a lawyer of at least 3 years standing with experience in the club and gaming industry;
- (b) at least one person who is a qualified accountant of at least 3 years standing with experience in the club and gaming industry;
- (c) at least one person with experience in dealing with the issues of problem gambling and gambling addiction.
- 35
- (3) When Club One, in the exercise of its powers as the holder of the special club licence, has or operates gaming machines on the premises of some other person holding a gaming machine licence—
- 40
- (a) Club One is to be regarded as an agent of the holder of the gaming machine licence; and
- (b) Club One and the holder of the gaming machine licence are jointly and severally responsible to ensure compliance with the conditions of the gaming machine licence; and

(c) breach of a condition of the gaming machine licence is to be regarded as a breach by each licensee of a condition of their respective licences; and

(d) Club One and the holder of the gaming machine licence are jointly and severally responsible to ensure compliance with—

(i) the provisions of this Act regarding payment of gaming tax; and

(ii) the keeping of accounts and the furnishing of monthly returns.

(4) A special club licence is subject to further conditions determined by the Commissioner and specified in the licence.

12—Insertion of Divisions 3A and 3B

After section 27 insert:

Division 3A—Renewal of gaming machine licences

27A—Application for renewal

(1) An application for the renewal of a gaming machine licence—

(a) must be made in the prescribed manner and form; and

(b) must be accompanied by the prescribed fee.

(2) The Commissioner may, on such conditions (if any) as he or she thinks fit, waive compliance with formal requirements relating to an application.

27B—Basis on which licensee is entitled to renewal

(1) An applicant for renewal of a gaming machine licence is entitled to renewal of the licence if the Commissioner is satisfied—

(a) that the applicant has demonstrated a commitment of the principles of responsible gambling; and

(b) the conduct of the business is not having an unduly adverse social impact on the local community.

(2) In assessing an application under subsection (1), the Commissioner is to have regard to guidelines and criteria established by the Authority.

(3) The Commissioner may grant a temporary renewal for a specified period if it is necessary to do so in order to enable the Commissioner to complete an assessment for the purposes of this section.

(4) If the Commissioner refuses an application for the renewal of a gaming machine licence, the licence lapses at the end of the term.

Division 3B—Gaming Machine Entitlements

27C—Gaming machine entitlements

- 5 (1) On the commencement of this Division, the Commissioner is to assign to each licensee who holds a gaming machine licence gaming machine entitlements as follows:
- 10 (a) if the Commissioner has approved the operation of 20 gaming machines or less under the licence, the Commissioner is to issue to the licensee a number of gaming machine entitlements equivalent to the number approved by the Commissioner; and
- 15 (b) if the Commissioner has approved the operation of more than 20 but not more than 28 gaming machines under the licence—the Commissioner is to issue 20 gaming machine entitlements to the licensee; and
- 20 (c) if the Commissioner has approved the operation of more than 28 gaming machines under the licence—the Commissioner is to issue to the licensee a number of gaming machine entitlements calculated by subtracting 8 from the approved number.
- 25 (2) A gaming machine entitlement may be held only by—
- 30 (a) a licensee holding a gaming machine licence who has an approval from the Commissioner to operate on the licensed premises a number of gaming machines equal to or exceeding the number of gaming machine entitlements held by the licensee; or
- 35 (b) Club One.
- 40 (3) If the holder of a gaming machine licence surrenders a gaming machine licence, or a gaming machine licence lapses without renewal, the former licensee may offer the gaming machine entitlements for sale under the approved tender system but, if the entitlements have not been sold within 12 months after the date on which the licence ceased to be in force (or a longer period fixed by the Commissioner), the entitlements lapse.
- (4) If gaming machine entitlements lapse, the Commissioner may offer a number of new gaming machine entitlements equivalent to the number of lapsed entitlements for sale by the Crown under the approved tender system.
- (5) If a gaming machine licence is revoked on disciplinary grounds, the gaming machine entitlements held by the former licensee are cancelled and the Commissioner may offer a number of new gaming machine entitlements equivalent to the number of cancelled entitlements for sale by the Crown under the approved tender system.

27D—Transferability of gaming machine entitlements

- (1) A gaming machine entitlement is transferable as follows—
- (a) if a gaming machine licence is transferred, the transferor may transfer together with the licence all gaming machine entitlements held by the transferor immediately before the transfer;
 - (b) a non-profit association that holds a gaming machine licence may transfer a gaming machine entitlement to Club One under an arrangement approved by the Commissioner;
 - (c) a non-profit association that holds a gaming machine licence may transfer a gaming machine entitlement to another licensed non-profit association, under an arrangement approved by the Commissioner, for the purpose of facilitating merger or amalgamation of gaming machine operations for the benefit of both non-profit associations;
 - (d) a licensee (or former licensee) may sell one or more gaming machine entitlements under the approved tender system.
- (2) The approved tender system is a system established by the regulations under which—
- (a) the holder of gaming machine entitlements may offer them for sale; and
 - (b) intending purchasers may tender for the purchase of gaming machine entitlements.
- (3) The regulations establishing the approved tender system may include provisions—
- (a) dealing with the eligibility of intending sellers and purchasers to participate in the approved tender system;
 - (b) imposing conditions and restrictions on the sale of gaming machine entitlements under the approved tender system (such as, for example, a condition providing that a gaming machine entitlement formerly held by the holder of a particular type of liquor licence may only be purchased by the holder of a similar type of liquor licence);
 - (c) providing that the purchaser of a gaming machine entitlement must acquire and operate a gaming machine under the entitlement within a specified period and that, if the purchaser fails to do so, the entitlement is to lapse;
 - (d) requiring an intending seller of gaming machine entitlements to surrender a proportion of its entitlements to the Crown and prescribing how the Crown is to deal with entitlements so surrendered;

(e) providing for the payment of a commission (not exceeding one-third of the purchase price) to be paid to the Crown on sale of a gaming machine entitlement under the approved tender system;

5 (f) providing for the payment of fees by participants in the approved tender system;

(g) dealing with any other aspect of the approved tender system.

27E—Premises to which gaming machine entitlements relate

10 (1) A gaming machine entitlement is to be issued for the licensed premises in respect of which the licensee to whom it is issued holds a gaming machine licence.

(2) The following provisions apply on the transfer of a gaming machine entitlement—

15 (a) if the entitlement is transferred together with a gaming machine licence, it will upon transfer relate to the same licensed premises;

20 (b) if the entitlement is transferred by a non-profit association under an arrangement approved by the Commissioner, it will upon transfer relate to premises nominated in the arrangement;

(c) if the entitlement is sold under the approved tender system, it will relate to premises nominated by the person who submits the successful tender and approved by the Commissioner as part of the tender process.

25 (3) However, the Commissioner may approve the acquisition of gaming machine entitlements by Club One on the basis that the entitlements will be subsequently allocated to licensed premises with the Commissioner's approval.

30 (4) The Commissioner may approve the re-allocation by Club One of gaming machine entitlements from one set of licensed premises to another (but gaming machine entitlements allocated to premises in respect of which Club One itself holds a gaming machine licence cannot be re-allocated under this subsection).

35 (5) The Commissioner may approve the re-allocation by a licensee of gaming machine entitlements from one set of licensed premises (*premises A*) to another (*premises B*) if—

(a) the licensee has surrendered the gaming machine licence held in respect of premises A; and

40 (b) the licensee's liquor licence has been removed from premises A to premises B.

(6) The regulations may establish principles to be applied by the Commissioner in approving, or refusing to approve the allocation of gaming machine entitlements to premises.

- (7) The principles may—
- (a) restrict or prohibit the introduction of gaming machines, or more gaming machines, into a particular region or locality or into licensed premises of a particular class; or
 - (b) restrict or prohibit the allocation of gaming machine entitlements formerly relating to licensed premises of a particular class to licensed premises of a different class; or
 - (c) impose any other restriction or prohibition relating to the class of licensed premises to which the entitlements formerly related or for which the allocation is sought; or
 - (d) provide for exceptions to restrictions or prohibitions.
- (8) For the purposes of subsection (7) a class of licensed premises may be defined by reference to—
- (a) the region or locality within which the premises are situated; or
 - (b) the regions or locality within which the premises are situated and some other factor (such as the class of liquor licence applying to the premises); or
 - (c) any other factor or combination of factors.

13—Amendment of section 29—Certain applications require advertisement

Section 29(1)—after paragraph (a) insert:

- (ab) an application for the renewal of a gaming machine licence;

14—Amendment of section 37—Commissioner may approve managers and employees

Section 37(1)—after "the holder of a gaming machine licence" insert:

or the special club licence

15—Amendment of section 70—Operation of decisions pending appeal

Section 70(2)—delete subsection (2) and substitute:

- (2) The Commissioner or the appropriate appellate authority may—
- (a) suspend the operation of a decision, order or direction against which an appeal has been commenced or is proposed; or
 - (b) make any other order or direction that may be appropriate in the circumstances.

Example—

In a case where the Commissioner has refused the renewal of a gaming machine licence, the Court (or the Commissioner) might order the grant of a temporary licence to operate until determination of the appeal.

(3) In subsection (2)—

appropriate appellate authority means—

- (a) if the appeal lies to the Court—the Court;
- (b) if the appeal lies to the Authority—the Authority.

5 **16—Insertion of section 71A**

After the heading to Part 8 and before section 72 insert:

71A—Moratorium on increases in rates of gaming tax

10 It is the intention of Parliament that the rates of gaming tax, as in force at the time of the enactment of this section, should not be increased before 30 June 2014.

17—Insertion of section 88

After section 87 insert:

88—Exclusion of compensation

(1) No right to compensation arises—

- 15
- (a) as a result of the expropriation or diminution of rights of a licensee by the 2004 amendments; or
 - (b) as a result of the cancellation or lapse of a gaming machine entitlement under this Act.

(2) In this section—

20 *2004 amendments* means the amendments to this Act made by the Gaming Machines (Miscellaneous) Amendment Act 2004.

18—Amendment of Schedule 1—Gaming machine licence conditions

Schedule 1—after paragraph (c) insert:

- 25
- (ca) that the licensee will not have in the licensee's possession more gaming machines than the number of gaming machine entitlements held in respect of the licensed premises; and

**Part 4—Amendment of *Gaming Machines Act 1992*
(miscellaneous amendments)**

19—Amendment of section 3—Interpretation

30 Section 3(1), definition of *approved gaming machine manager*, (b)—delete paragraph (b) and substitute:

- (b) a natural person who is a licensee, or a director or member of the governing body of a licensee, in respect of the premises;

20—Insertion of section 7A

After section 7 insert:

7A—Powers to make interim or conditional decisions and accept undertakings from parties

- 5 (1) The Commissioner may—
- (a) grant an application on an interim basis;
 - (b) specify that a condition of a licence or approval is to be effective for a specified period,
- 10 and, in consequence, may give any necessary procedural directions in the matter.
- (2) If the Commissioner considers that an applicant should satisfy the Commissioner as to a certain matter for the purposes of determining the application, the Commissioner may, if he or she thinks fit, nevertheless grant the application on the condition that the applicant
- 15 satisfies the Commissioner as to the matter within a period determined by the Commissioner.
- (3) If a licence or approval is granted on a condition under subsection (2), the Commissioner may, on failure by the applicant to comply with the condition, revoke the licence or approval, or
- 20 suspend the licence or approval until further order.
- (4) The Commissioner may in proceedings accept an undertaking from a party in relation to the conduct of the proceedings and, on failure by the party to fulfil the undertaking, refuse to hear the party further in the proceedings subject to any further order of the Commissioner.

21—Amendment of section 14—Licence classes

- 25 (1) Section 14(1)(c)—after "gaming machine licences" insert:
or gaming machine service licences
- (2) Section 14(1)(e)—after "equipment" insert:
in the course of a business carried on by the licensee
- 30 (3) Section 14(2)—delete subsection (2) and substitute:
- (2) There will be only—
- (a) one special club licence; and
 - (b) one gaming machine supplier's licence; and
 - (c) one gaming machine monitor licence

22—Amendment of section 14A—Freeze on gaming machines

Section 14A(2)(a)—delete paragraph (a) and substitute:

- (a) an application made by a person referred to in section 28B(4);

23—Amendment of section 15—Eligibility criteria

Section 15(1)(d)—delete paragraph (d)

24—Amendment of section 26—State Supply Board to hold supplier's licence

(1) Section 26(1)—delete subsection (1) and substitute:

(1) The Board will be granted the gaming machine supplier's licence.

(2) Section 26(2)—delete "a licence" and substitute:

the licence

25—Insertion of Part 3 Division 4A

After section 28A insert:

Division 4A—Devolution of licensee's rights

28B—Devolution of licensee's rights

(1) If a licensee or one of two or more joint licensees dies—

(a) the executor of the will or the administrator of the estate; or

(b) a relative of the deceased acting with the permission of the Commissioner,

may, for 1 month after the date of death or a longer period approved by the Commissioner, carry on business as the licensee or one of the licensees (as the case requires) under the licence.

(2) If a licensee or one of two or more joint licensees becomes physically or mentally incapable of carrying on business under the licence—

(a) a person authorised or appointed by law to administer the licensee's affairs; or

(b) a relative of the licensee acting with the permission of the Commissioner,

may, for 1 month after the commencement of the incapacity or a longer period approved by the Commissioner, carry on business as the licensee or one of the licensees (as the case requires) under the licence.

(3) If a licensee ceases to occupy the licensed premises to which the licence relates, a landlord, mortgagee or other person acting with the permission of the Commissioner may, for a period of 1 month or a longer period approved by the Commissioner, carry on business as the licensee under the licence.

- 5
- (4) If a licence is surrendered or revoked, the Commissioner may, on application by a landlord, mortgagee or other person who satisfies the Commissioner that it stands to suffer loss in consequence of the surrender or revocation, grant a temporary licence—
- (a) of the same class, and subject to the same conditions, as the licence that was surrendered or revoked; but
- (b) subject to a condition that the licence will expire at the end of a term fixed by the Commissioner not exceeding 6 months.
- 10
- (5) An approval, permission or temporary licence may be granted under this section by the Commissioner—
- (a) on the application of the person seeking it without hearing or inviting representations from any other person; and
- (b) on conditions the Commissioner thinks fit.
- 15
- (6) A temporary licence under this section may be converted into an ordinary licence by revocation of the condition referred to in subsection (4)(b), but an application for revocation of such a condition must not be granted unless the Commissioner is satisfied—
- 20
- (a) that the person who is to hold the licence on revocation of the condition is a fit and proper person to hold a licence of the relevant class; and
- (b) if that person is a trust or corporate entity—that each person who occupies a position of authority in the entity is a fit and proper person to occupy such a position in an entity holding
- 25
- a licence of that class.

28C—Bankruptcy or winding up of licensee

- (1) If a licensee becomes bankrupt or insolvent, the official receiver may carry on business as the licensee under the licence.
- 30
- (2) If a corporate licensee is being wound up or is under administration, receivership or official management, a person vested by law with power to administer the affairs of the body corporate may carry on business as the licensee under the licence.

28D—Notice to be given of exercise of powers under Division

35

A person who exercises rights under this Division (except by prior permission of the Commissioner) must, within 7 days after starting to do so, give notice in writing of that fact to the Commissioner.

26—Amendment of section 30—Objections

- (1) Section 30—after subsection (2) insert:
- 40
- (2a) However, the Commissioner may (in the Commissioner's absolute discretion) accept an objection even though it is lodged, or served on the applicant, out of time.

(2) Section 30—after subsection (6) insert:

- (7) An objector to an application is a party to proceedings on the application.

27—Amendment of section 36—Cause for disciplinary action against licensees

(1) Section 36(1)—delete "The Commissioner may—" and paragraphs (a), (b), (c) and (d) and substitute:

There is proper cause for disciplinary action against a licensee

(2) Section 36(2), (3) and (4)—delete subsections (2), (3) and (4)

28—Insertion of sections 36A and 36B

After section 36 insert:

36A—Inquiry

- (1) The Commissioner may, of his or her own motion or on the complaint of the Commissioner of Police, hold an inquiry to determine whether there is proper cause for disciplinary action against a licensee.
- (2) The Commissioner must give the licensee and the Commissioner of Police at least 21 days' written notice of an inquiry under this section, and afford the licensee and the Commissioner of Police a reasonable opportunity to call and give evidence, to examine and cross-examine witnesses, and to make submissions to the Commissioner.
- (3) If a party does not attend at the time and place fixed by the Commissioner for the commencement or resumption of proceedings under this section, the Commissioner may proceed to hear and determine the matter in the absence of the party.
- (4) On giving notice to a licensee under this section, the Commissioner may, in the same or a subsequent notice, suspend the licence pending determination of the disciplinary proceedings.

36B—Taking of disciplinary action against licensees

- (1) If, on an inquiry, the Commissioner is satisfied there is proper cause for disciplinary action against a licensee, the Commissioner may take disciplinary action against the licensee by doing one or more of the following:
- (a) adding to, or altering, the conditions of the licence;
 - (b) suspending or revoking the licence;
 - (c) reprimanding the person;
 - (d) imposing a fine not exceeding \$15 000 on the person;
 - (e) disqualifying the person from being licensed or approved under this Act.
- (2) The Commissioner may—
- (a) direct that a disqualification is to apply permanently;

- (b) direct that a suspension or disqualification is to apply—
 - (i) for a specified period; or
 - (ii) until the fulfilment of stipulated conditions; or
 - (iii) until further order;

5 (c) direct that disciplinary action is to have effect at a specified future time or is to have effect at a specified future time unless stipulated conditions are fulfilled.

(3) If—

- (a) a person has been found guilty of an offence; and
- 10 (b) the circumstances of the offence form, in whole or in part, the grounds for disciplinary action,

the person is not liable to a fine under this section for conduct giving rise to the offence.

(4) A fine imposed under this section may be recovered summarily.

15 **29—Insertion of section 38B**

After section 38A insert:

38B—Commissioner may approve gaming machine technicians

20 The Commissioner may, on application by the holder of a gaming machine service licence, approve a natural person as a gaming machine technician for the holder of the licence.

30—Amendment of section 42—Discretion to grant or refuse approval

(1) Section 42—after subsection (3) insert:

25 (3a) The Commissioner cannot approve a person as a gaming machine technician unless satisfied, by such evidence as he or she may require, that the person is a fit and proper person to personally perform the work of installing, servicing and repairing gaming machines.

(2) Section 42(6)—after "subsection (2), (3)," insert:

(3a),

30 **31—Insertion of section 42A**

After section 42 insert:

42A—Advertisement of certain applications and objections

35 (1) An application for approval must, if the Commissioner so directs, be advertised by publication by the applicant of notice, in a form approved by the Commissioner, in a newspaper circulating generally throughout the State and in the Gazette at least 28 days before the date fixed for the hearing of the application.

- 5
- (2) If an application has been advertised under this section, any person may, by notice in the prescribed form lodged with the Commissioner at least 7 days before the day appointed for the hearing of the application, object to the application.
- (3) A copy of the notice of objection must be served by the objector on the applicant at least 7 days before the day appointed for the hearing of the application.
- 10
- (4) However, the Commissioner may (in the Commissioner's absolute discretion) accept an objection even though it is lodged, or served on the applicant, out of time.
- (5) An objection may be made on behalf of an unincorporated association under this section by an agent duly appointed for the purpose.
- 15
- (6) An objection may be made on the ground that the grant of the application would be contrary to this Act.
- (7) The Commissioner may allow a person who has made an objection to vary the objection at any time before the determination of the proceedings.
- 20
- (8) If the Commissioner allows an objection to be varied pursuant to subsection (7), the Commissioner must cause the parties to the proceedings to be given notice of the variation a reasonable time before the hearing of the proceedings.
- (9) An objector to an application is a party to proceedings on the application.

25 **32—Amendment of section 43—Intervention by Commissioner of Police**

Section 43(1)—delete subsection (1) and substitute:

- 30
- (1) The Commissioner must furnish the Commissioner of Police with a copy of all applications for approval made under this Part other than under section 40 or 41 and the Commissioner of Police may intervene in proceedings before the Commissioner on such an application.

33—Amendment of section 45—Offence of being unlicensed

Section 45(d)—before "install" insert:

in the course of a business carried on by the person,

34—Substitution of sections 48, 49 and 50

Sections 48, 49 and 50—delete the sections and substitute:

48—Offences relating to management of business or positions of authority

- 5 (1) If the gaming operations conducted on any premises pursuant to a gaming machine licence are supervised or managed by a person who is not an approved gaming machine manager in respect of those gaming operations, the licensee and the person are each guilty of an offence.

10 Maximum penalty: \$35 000 or imprisonment for 2 years.

- (2) If a person assumes a position of authority in a trust or corporate entity that holds a licence without the approval of the Commissioner, the licensee and the person are each guilty of an offence.

 Maximum penalty: \$35 000 or imprisonment for 2 years.

15 **49—Offence related to employment in gaming areas**

 If prescribed duties are carried out in connection with the gaming operations conducted on licensed premises by a person who is not—

- (a) an approved gaming machine manager in respect of those premises; or
20 (b) an approved gaming machine employee in respect of those premises,

 the licensee and the person are each guilty of an offence.

 Maximum penalty: \$10 000 or imprisonment for 6 months.

25 **50—Offence related to personal performance of work on gaming machines**

 If the work of installing, servicing or repairing a gaming machine is personally performed on licensed premises by a person who is not—

- (a) the holder of a gaming machine service licence; or
30 (b) approved as a gaming machine technician for the holder of a gaming machine service licence,

 the licensee and the person are each guilty of an offence.

 Maximum penalty: \$10 000 or imprisonment for 6 months.

50A—Approved gaming machine managers and employees must carry identification

35 If an approved gaming machine manager or approved gaming machine employee does not, while carrying out his or her duties on the licensed premises, wear an identification card—

- (a) that is in the form approved by the Commissioner; and
 (b) that is clearly visible to other persons,

the licensee and the person are each guilty of an offence.

Maximum penalty: \$2 500.

35—Amendment of section 51—Persons who may not operate gaming machines

5 Section 51—after subsection (4) insert:

- (4a) The holder of a gaming machine service licence or a person in a position of authority in a trust or corporate entity that holds such a licence, or an approved gaming machine technician for the holder of such a licence, must not, except as is necessary for the purpose of carrying out his or her duties, operate a gaming machine on any licensed premises.

10

Maximum penalty: \$10 000 or imprisonment for 6 months.

36—Amendment of section 52—Prohibition of lending or extension of credit

(1) Section 52—delete ", a gaming machine manager or a gaming machine employee"

15

(2) Section 52—delete ", manager or employee" wherever occurring

(3) Section 52—after its present contents as amended (now to be designated as subsection (1)) insert:

(2) If an approved gaming machine manager or an approved gaming machine employee—

20

(a) lends or offers to lend money to a person who is in or who is about to enter the licensed premises; or

25

(b) allows a person to use a credit card or charge card for the purpose of paying for playing the gaming machines on the licensed premises or in circumstances where the manager or employee could reasonably be expected to know that the use of the card is for that purpose; or

30

(c) otherwise extends or offers to extend credit to any person for the purpose of enabling the person to play the gaming machines on the licensed premises or in circumstances where the manager or employee could reasonably be expected to know that the credit is to be used for that purpose,

the licensee and the manager or employee are each guilty of an offence.

35

Maximum penalty: \$35 000 or imprisonment for 2 years.

37—Insertion of section 53B

After section 53A insert:

53B—Commissioner's directions to ensure security of gaming machines

- 5 (1) If—
- (a) gaming machines are left on licensed premises after the premises have been vacated by the licensee; or
 - (b) the Commissioner has any reason to believe that gaming machines on licensed premises are not adequately secured against unauthorised use or interference,
- 10

the Commissioner may give any directions, in writing, that the Commissioner considers are reasonably required to secure the machines against unauthorised use or interference.

- 15 (2) The Commissioner may, for example, do either or both of the following:
- (a) direct the licensee to remove the machines to a secure storage location;
 - (b) direct the holder of the gaming machine monitor licence to electronically disable the machines (and maintain its monitoring of the machines).
- 20 (3) A person given a direction by the Commissioner under this section must not fail to comply with the direction.

Maximum penalty: \$35 000.

38—Amendment of section 59—Licensee may bar excessive gamblers

- 25 (1) Section 59(4)—delete ", an approved gaming machine manager or an approved gaming machine employee"
- (2) Section 59—after subsection (4) insert:
- (5) If an approved gaming machine manager or an approved gaming machine employee suffers or permits a person to enter or remain in a gaming area from which the person has been barred, the licensee and the manager or employee are each guilty of an offence.
- 30

Maximum penalty: \$10 000.

39—Amendment of section 69—Right of appeal

Section 69(1)—delete subsection (1) and substitute:

- 35 (1) A party to proceedings before the Commissioner who is dissatisfied with a decision or order made or given in the proceedings may appeal to the Court against the decision or order.

40—Amendment of section 72B—Recovery of tax

(1) Section 72B—after subsection (2) insert:

(2a) If default is made by a licensee for more than 10 days in paying an amount due and payable under this Part, the Commissioner may, by written notice to the licensee, suspend the licence (and the licence will remain suspended until the amount, and any fine, is paid or the Commissioner terminates the suspension of the licence).

(2) Section 72B(5)—delete subsection (5)

41—Amendment of section 74—Annual reports

Section 74(3)—delete "licences it holds under this Act" and substitute:

gaming machine supplier's licence

42—Amendment of section 82—Service

(1) Section 82—after subsection (1) insert:

(1a) A notice or other document may be served on any other person—

- (a) personally; or
- (b) if the person has nominated an address for service—by leaving it at or posting it to that address in an envelope addressed to the person; or
- (c) by posting it to the person's usual place of business or residence in an envelope addressed to the person; or
- (d) by leaving it at or posting it to the address of the person's solicitor in an envelope addressed to the solicitor.

(2) Section 82 (2)—delete "licensee under subsection (1c) will be conclusively presumed to have served on the licensee" and substitute:

person under this section will be conclusively presumed to have served on the person

43—Amendment of section 85—Vicarious liability

Section 85—after subsection (2) insert:

(3) If there is proper cause for disciplinary action against a trust or corporate entity under Part 3, there is proper cause for disciplinary action under that Part against each person occupying a position of authority in the entity unless it is proved that the person could not, by the exercise of reasonable care, have prevented the misconduct.

44—Amendment of Schedule 1

(1) Schedule 1(h) and (i)—delete paragraphs (h) and (i)

(2) Schedule 1(j)—delete "the gaming machine service licence" and substitute:

a gaming machine service licence

45—Amendment of Schedule 3

Schedule 3, section 1—delete section 1 and insert:

1—Gaming machine licence purportedly granted to Roosters Club Incorporated

- 5
- (1) Despite section 15A, the gaming machine licence purportedly granted by the Commissioner to The Roosters Club Incorporated in respect of premises at 255 Main North Road, Sefton Park, is to be taken to have been validly granted.
- 10
- (2) The licence will, if still in force on the relevant date, be taken to be suspended as from that date (but may be surrendered for the purposes of this Act by the licensee after that date despite its suspension).
- (3) The *relevant date* is the date on which section 16 of this Act, as enacted by the Gaming Machines (Miscellaneous) Amendment Act 2004, comes into operation.