

**House of Assembly—No 191**

As laid on the table and read a first time, 26 September 2013

South Australia

**Statutes Amendment (Cheltenham Park and  
Related Amendments) Bill 2013**

A BILL FOR

An Act to amend the *Gaming Machines Act 1992* and the *Liquor Licensing Act 1997*.

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## The Parliament of South Australia enacts as follows:

### Part 1—Preliminary

#### 1—Short title

This Act may be cited as the *Statutes Amendment (Cheltenham Park and Related Amendments) Act 2013*.

#### 5 2—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*

### 3—Insertion of section 17C

After section 17B insert:

#### 17C—Commissioner may waive requirement to hold social effect certificate

The Commissioner may, in relation to an application for a proposed premises certificate or a gaming machine licence, waive a requirement that the applicant hold a social effect certificate in relation to particular premises if the Commissioner considers it appropriate to do so in the circumstances of the application.

#### Note—

Examples of the requirement to hold a social effect certificate include sections 15(4) and 17A(1).

### 4—Insertion of Division 3AA

After section 27AA insert:

#### Division 3AA—Removal of gaming machine licence

##### 27AB—Removal of licence

- (1) The holder of a gaming machine licence may apply to the Commissioner for approval to remove the gaming machine licence to specified premises (the *proposed premises*).
- (2) An application—
  - (a) must be made in the manner and form determined by the Commissioner; and
  - (b) must be accompanied by the information or documents required by the Commissioner; and
  - (c) must be accompanied by the prescribed fee.
- (3) The Commissioner may require an applicant to produce to the Commissioner specified documents that are, in the Commissioner's opinion, relevant to the application.
- (4) The Commissioner may only approve an application under this section if—
  - (a) —
    - (i) an approval to remove the liquor licence held by the holder of the gaming machine licence to the proposed premises has been granted under the *Liquor Licensing Act 1997*; or

(ii) a certificate of approval relating to the proposed removal of the liquor licence held by the holder of the gaming machine licence to the proposed premises has been granted under section 62 of the *Liquor Licensing Act 1997*; or

(iii) a new liquor licence of a class contemplated by section 15(1) has been granted in respect of the proposed premises to the holder of the gaming machine licence; or

(iv) a certificate of approval in respect of the proposed premises has been granted to the holder of the gaming machine licence under section 59 of the *Liquor Licensing Act 1997*; and

(b) the land on which the proposed premises are, or are to be, located—

(i) is contiguous to the land on which the current licensed premises are located; and

(ii) is owned by the same person as the land on which the current licensed premises are located; and

(c) the applicant satisfies the Commissioner, by such evidence as the Commissioner may require—

(i) that the requirements of section 15(5)(a) will be met in relation to the proposed premises; and

(ii) that any approvals, consents or exemptions that are required under the law relating to development to permit the use of the proposed premises for the conduct of gaming operations have been obtained.

(5) An approval under this section may be conditional or unconditional.

(6) The Commissioner may, by notice in writing given to the applicant, vary or revoke a condition of an approval.

(7) For the purposes of this section, pieces of land will be taken to be contiguous if they abut one another at any point or if they are separated only by a road, footpath, railway or other thoroughfare.

## 5—Substitution of section 34

Section 34—delete the section and substitute:

### 34—Effect of surrender, suspension or revocation of liquor licence

(1) Subject to this section, if a liquor licence held by a licensee under the *Liquor Licensing Act 1997* in respect of any premises is surrendered, revoked or suspended, any gaming machine licence held by that licensee in respect of those premises will be taken—

(a) to have been surrendered or revoked; or

(b) to be suspended until the liquor licence comes back into operation,

(as the case may require).

(2) Subsection (1) does not apply to a gaming machine licence held by a licensee in respect of particular premises in the following circumstances:

(a) where the liquor licence held by the licensee in respect of the premises is only surrendered, revoked or suspended because the licensee has been granted a liquor licence of another class in respect of the same premises (being a liquor licence of a class contemplated by section 15(1));

(b) where—

(i) the liquor licence held by the licensee in respect of the premises is only surrendered, revoked or suspended because—

(A) a new liquor licence of a class contemplated by section 15(1); or

(B) a certificate of approval under section 59 of the *Liquor Licensing Act 1997*,

has been granted to the licensee in respect of premises that are, or are to be, located on land that—

(C) is contiguous to the land on which the current licensed premises are located; and

(D) is owned by the same person as the land on which the current licensed premises are located; and

(ii) the licensee has been granted, or has made an application for, approval to remove the gaming machine licence to the prescribed premises under section 27AB;

(c) any other circumstances prescribed by the regulations.

(3) However, if an approval to remove a gaming machine licence contemplated by subsection (2)(b) is refused under section 27AB, then subsection (1) will be taken to apply to the gaming machine licence.

(4) To avoid doubt, the conversion of a special circumstances licence held in respect of particular premises to a club licence under section 59B of the *Liquor Licensing Act 1997* does not, of itself, affect a gaming machine licence held by that licensee in respect of those premises.

(5) For the purposes of this section, pieces of land will be taken to be contiguous if they abut one another at any point or if they are separated only by a road, footpath, railway or other thoroughfare.

## 6—Insertion of Schedule 3A

After Schedule 3 insert:

### **Schedule 3A—Special provisions—Cheltenham Park**

#### **1—Gaming machine licence granted to SAJC in respect of Cheltenham Park continued etc**

- (1) Despite section 15(1), the South Australian Jockey Club Incorporated will be taken to be eligible, and to always have been eligible, to hold a gaming machine licence in respect of Cheltenham Park, corner Cheltenham Parade and Torrens Road, Cheltenham.
- (2) Despite section 15, the gaming machine licence granted to the South Australian Jockey Club Incorporated in respect of Cheltenham Park, corner Cheltenham Parade and Torrens Road, Cheltenham, will be taken to be validly held, and always to have been validly held, by the South Australian Jockey Club Incorporated.
- (3) The South Australian Jockey Club Incorporated and the Commissioner will be taken to have complied with any applicable requirement under this Act in relation to the continuation of the gaming machine licence under this clause.
- (4) To avoid doubt, the gaming machine licence continued by this clause is otherwise subject to this Act.

## **Part 3—Amendment of *Liquor Licensing Act 1997***

### **7—Amendment of section 49—Special provision for club licences**

Section 49(1)—delete subsection (1) and substitute:

- (1) A club licence may only be held by a club that is—
  - (a) a non-profit association incorporated under the *Associations Incorporation Act 1985*; or
  - (b) a company limited by guarantee under the *Corporations Act 2001* of the Commonwealth.

### **8—Insertion of Part 4 Division 3A**

After section 59A insert:

#### **Division 3A—Conversion of special circumstances licence to club licence**

##### **59B—Holder of special circumstances licence may apply for conversion to club licence**

- (1) The holder of a special circumstance licence may apply to the Commissioner for conversion of the licence to a club licence.

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- (2) An application—
- (a) must be made in the manner and form determined by the Commissioner; and
  - (b) must be accompanied by the information or documents required by the Commissioner; and
  - (c) must be accompanied by the prescribed fee.
- (3) The Commissioner may require an applicant to produce to the Commissioner specified documents that are, in the Commissioner's opinion, relevant to the application.
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- (4) The Commissioner must grant an application under this section if—
- (a) the applicant is a club that may, pursuant to section 49(1), hold a club licence; and
  - (b) the applicant satisfies the Commissioner that the conversion—
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- (i) is not inconsistent with the objects of this Act; and
  - (ii) would not substantially alter the effect of the licensee's business on the people who reside, work or worship in the vicinity.
- (5) Despite section 43(2), the Commissioner may impose such conditions on the club licence at the time of the conversion as the Commissioner thinks fit.
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- (6) An approval under this section may be conditional or unconditional.
- (7) The Commissioner may, by notice in writing given to the applicant, vary or revoke a condition of an approval.
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- (8) Sections 51, 51A and 52 do not apply in relation to an application under this section.

## 9—Insertion of Schedule 1

After section 138 insert:

### **Schedule 1—Special provisions—Cheltenham Park**

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#### **1—Special circumstances licence held by SAJC in respect of Cheltenham Park continued etc**

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- (1) Despite section 40 or any other provision of this Act, the special circumstances licence granted to the South Australian Jockey Club Incorporated in respect of Cheltenham Park, corner Cheltenham Parade and Torrens Road, Cheltenham, will be taken to be validly held, and always to have been validly held, by the South Australian Jockey Club Incorporated, despite the fact that horse racing is no longer conducted at the Cheltenham Racecourse, or that the circumstances to which the special circumstances licence relate have otherwise changed.

**Note—**

The SAJC was granted a general facility licence in respect of Cheltenham Park on 17 June 1991, which, pursuant to the transitional provisions of the Schedule of the *Liquor Licensing Act 1997*, became a special circumstances licence on 23 March 1999.

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(2) The South Australian Jockey Club Incorporated and the Commissioner will be taken to have complied with any applicable requirement under this Act in relation to the continuation of the special circumstances licence under this clause.

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(3) To avoid doubt, the special circumstances licence continued by this clause is otherwise subject to this Act.