

South Australia

Gaming Machines (Miscellaneous) Amendment Act 2010

An Act to amend the *Gaming Machines Act 1992*; and to make related amendments to the *Casino Act 1997*, the *Independent Gambling Authority Act 1995* and the *State Lotteries Act 1966*.

Contents

Part 1—Preliminary

- 1 Short title
- 2 Commencement
- 3 Amendment provisions

Part 2—Amendment of *Gaming Machines Act 1992*

- 4 Amendment of section 3—Interpretation
- 5 Amendment of section 4—Application of Act
- 6 Amendment of section 7—Conduct of proceedings
- 7 Amendment of section 7A—Powers to make interim or conditional decisions and accept undertakings from parties
- 8 Insertion of section 8A
 - 8A Power of Commissioner to refer questions to Court
- 9 Amendment of section 9—Power to disclose information to certain authorities
- 10 Insertion of sections 10A and 10B
 - 10A Principles, codes of practice, etc
 - 10B Recognitions
- 11 Amendment of section 12—Criminal intelligence
- 12 Amendment of section 14—Licence classes
- 13 Amendment of section 15—Eligibility criteria
- 14 Insertion of sections 17A and 17B
 - 17A Proposed premises certificate
 - 17B Social effect certificate
- 15 Substitution of heading to Part 3 Division 3
- 16 Amendment of section 18—Form of application
- 17 Insertion of section 23A
 - 23A Discretion to treat application for gaming machine licence as application for proposed premises certificate
- 18 Repeal of section 26
- 19 Amendment of section 27—Conditions
- 20 Insertion of section 27AA
 - 27AA Variation of licence
- 21 Amendment of section 27A—Gaming machine entitlements
- 22 Amendment of section 27B—Transferability of gaming machine entitlements
- 23 Amendment of section 29—Certain applications require advertisement

- 24 Amendment of heading to Part 3 Division 6
- 25 Insertion of section 32A
 - 32A Surrender or revocation of social effect certificate
- 26 Amendment of section 36—Cause for disciplinary action against licensees
- 27 Amendment of section 36B—Taking of disciplinary action against licensees
- 28 Substitution of section 39
 - 39 Approval of form of supply contract
- 29 Amendment of section 40—Approval of gaming machines and games
- 30 Amendment of section 41A—Applications to be given to Commissioner of Police
- 31 Amendment of section 42—Discretion to grant or refuse approval
- 32 Amendment of section 43—Intervention by Commissioner of Police
- 33 Amendment of section 44A—Prohibition of links between dealers and other licensees
- 34 Amendment of section 45—Offence of being unlicensed
- 35 Amendment of section 46—Offence of breach of licence conditions
- 36 Substitution of section 47
 - 47 Offence of breach of mandatory provisions of codes
 - 47A Offence of selling or supplying gaming machines, components or equipment without approved contract or with inducement
- 37 Amendment of section 50A—Approved gaming machine managers and employees must carry identification
- 38 Amendment of section 51—Persons who may not operate gaming machines
- 39 Amendment of section 54—Licences to be displayed
- 40 Amendment of section 57—Licensee must erect warning notices
- 41 Amendment of section 58—Powers in relation to minors in gaming areas
- 42 Amendment of section 62—Interference with machines, equipment or games
- 43 Amendment of section 63—Interference devices
- 44 Substitution of section 64
 - 64 Sealing of gaming equipment and gaming machines
- 45 Amendment of section 69—Right of appeal
- 46 Amendment of section 71—Powers of authorised officers
- 47 Amendment of section 73A—Sport and Recreation Fund
- 48 Amendment of section 73B—Charitable and Social Welfare Fund
- 49 Amendment of section 73BA—Gamblers Rehabilitation Fund
- 50 Amendment of section 74—Annual reports
- 51 Repeal of sections 74A and 74B
- 52 Insertion of section 76A
 - 76A Financing of licensee's business
- 53 Amendment of section 77—Certain agreements and arrangements are unlawful
- 54 Amendment of section 79—Bribery
- 55 Repeal of section 86A
- 56 Amendment of section 87—Regulations
- 57 Amendment of Schedule 1—Gaming machine licence conditions

Schedule 1—Related amendments and transitional provisions

Part 1—Amendment of *Casino Act 1997*

- 1 Amendment of section 41C—Review and alteration of codes

Part 2—Amendment of *Independent Gambling Authority Act 1995*

- 2 Amendment of section 15B—Voluntary barring of excessive gamblers

Part 3—Amendment of *State Lotteries Act 1966*

- 3 Amendment of section 13D—Review and alteration of codes

Part 4—Transitional provisions

- 4 Principles
 - 5 Application for gaming machine licence
 - 6 Exemptions
-

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 2010*.

2—Commencement

- (1) This Act will come into operation on a day to be fixed by proclamation.
- (2) Section 7(5) of the *Acts Interpretation Act 1915* does not apply to this Act.

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*

4—Amendment of section 3—Interpretation

- (1) Section 3(1)—before the definition of *approved* insert:
 - advanced problem gambling intervention training* means a course of training recognised under section 10B(1)(b) as advanced problem gambling intervention training;
 - advertising code of practice*—see section 10A(1)(d);
- (2) Section 3(1)—after the definition of *approved gaming machine manager* insert:
 - approved gaming machine technician* means a person approved under Part 4 as a gaming machine technician for the holder of a gaming machine service licence;
- (3) Section 3(1), definition of *Board*—delete the definition
- (4) Section 3(1)—after the definition of *cash facility* insert:
 - category A, B, C or D offence*—see section 10A(3);
 - certificate* means a proposed premises certificate or a social effect certificate;
- (5) Section 3(1), definition of *gaming equipment*—after "means" insert:
 - any of the following for use in connection with a gaming machine
- (6) Section 3(1), after the definition of *liquor licence* insert:
 - mandatory provision*—see section 10A(3);

- (7) Section 3(1)—after the definition of *prescribed gaming machine component* insert:
proposed premises certificate—see section 17A;
responsible gambling agreement means an agreement in the form prescribed by the Authority under section 10A between a licensee and an industry body recognised by the Authority under section 10B;
responsible gambling code of practice—see section 10A(1)(e);
- (8) Section 3(1)—after the definition of *responsible person* insert:
social effect certificate—see section 17B;
social effect inquiry—see section 10A(1)(a);
social effect principles—see section 10A(1)(b);
- (9) Section 3(1)—after the definition of *trust or corporate entity* insert:
variation of licence means variation or revocation of conditions of licence or imposition of further conditions of licence.

5—Amendment of section 4—Application of Act

Section 4—after subsection (1) insert:

- (1a) The Governor may, by regulation, apply provisions of this Act, with or without modification, to a person who is not required to hold a gaming machine licence because of a Commonwealth law as if the person holds a gaming machine licence.

6—Amendment of section 7—Conduct of proceedings

Section 7—after subsection (2) insert:

- (3) The Commissioner must, subject to subsection (4), make a reasonable attempt to achieve, by conciliation, agreement between an applicant under this Act and any objectors in relation to the application and, if agreement is achieved between the parties, have regard to the agreement in determining the matter.
- (4) The requirement to conciliate does not arise—
- (a) in relation to the Commissioner of Police if the Commissioner of Police lodges an objection; or
 - (b) in other circumstances that the Commissioner considers makes conciliation inappropriate.

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

- (1) Section 7A(1)(b)—after "licence" insert:
, certificate
- (2) Section 7A(3)—after "licence" wherever occurring insert:
, certificate

8—Insertion of section 8A

After section 8 insert:

8A—Power of Commissioner to refer questions to Court

The Commissioner may refer for hearing and determination by the Court—

- (a) proceedings that involve questions of substantial public importance; or
- (b) a question of law that arises in proceedings before the Commissioner; or
- (c) any other matter that should, in the public interest or in the interests of a party to the proceedings, be heard and determined by the Court.

9—Amendment of section 9—Power to disclose information to certain authorities

Section 9—after paragraph (b) insert:

and

- (c) if the information is disclosed in a form that does not identify the person to whom it relates—any other person, or in any other way, the Commissioner (in the exercise of an unqualified discretion) considers appropriate in the public interest.

10—Insertion of sections 10A and 10B

Before section 11 insert:

10A—Principles, codes of practice, etc

- (1) For the purposes of this Act, the Authority may, by notice in the Gazette, prescribe—
 - (a) an inquiry process that must precede an application for a social effect certificate or, if required by the Commissioner, a variation of a gaming machine licence (a *social effect inquiry*); and
 - (b) principles for assessing the social effect of the grant or variation of a gaming machine licence (*social effect principles*); and
 - (c) principles for assessing whether a game is likely to lead to an exacerbation of problem gambling; and
 - (d) an advertising code of practice; and
 - (e) a responsible gambling code of practice; and
 - (f) the form of a responsible gambling agreement.

- (2) Without limiting the generality of subsection (1)(e), the responsible gambling code of practice may—
 - (a) require the display of signs, and the provision of information at licensed premises relating to responsible gambling and the availability of services to address problems associated with gambling; and
 - (b) require gaming machine licensees to have a program for early intervention in problem gambling designed to promote—
 - (i) early identification of persons engaging in problem gambling, including through observation of the attendance patterns, behaviour and statements of gamblers; and
 - (ii) the provision of information relating to responsible gambling and the availability of services to address problems associated with gambling to persons so identified; and
 - (iii) the use of the barring procedures under this Act in relation to persons so identified; and
 - (iv) the referral of persons so identified to the Department within the meaning of the *Problem Gambling Family Protection Orders Act 2004*; and
 - (c) deal with the provision of training to staff relating to the early intervention program and generally to responsible gambling on gaming machines and the services available to address problems associated with gambling; and
 - (d) include other matters designed to reduce the incidence of problem gambling.
- (3) The Authority may include provisions in the advertising code of practice or the responsible gambling code of practice that—
 - (a) designate a provision of the code as a mandatory provision for the purposes of section 47; and
 - (b) declare whether contravention or failure to comply with the mandatory provision is a category A, B, C or D offence for the purposes of that section; and
 - (c) if the offence is to be expiable—declare whether the offence is a category A, B, C or D expiable offence for the purposes of that section.
- (4) The Authority may, by subsequent notice in the Gazette, vary or revoke a notice under this section.
- (5) Before the Authority publishes a notice in the Gazette under this section, the Authority must—
 - (a) give notice in writing of the proposed notice to a body representative of licensees; and

- (b) consider any representations made by the body about the proposed notice within 28 days after the notice is given or a longer period allowed in the notice.
- (6) A notice published in the Gazette under this section may come into operation on the day on which it is published or on a later day or days specified in the notice.
- (7) Sections 10 and 10A of the *Subordinate Legislation Act 1978* apply to a notice published in the Gazette under this section as if it were a regulation within the meaning of that Act.
- (8) The Authority must review the process, principles, codes and form prescribed under this section at least every 5 years.
- (9) The Authority must seek and consider written submissions from a body representative of gaming machine licensees and from the public when conducting a review.

10B—Recognitions

- (1) For the purposes of this Act, the Authority may, by notice in the Gazette, recognise—
 - (a) a person as an industry body with whom a licensee may enter into a responsible gambling agreement; and
 - (b) a course of training as advanced problem gambling intervention training.
- (2) The Authority may, by subsequent notice in the Gazette, withdraw a recognition under this section.
- (3) Before the Authority publishes a notice in the Gazette under this section, the Authority must—
 - (a) give notice in writing of the proposed notice to a body representative of licensees; and
 - (b) consider any representations made by the body about the proposed notice within 28 days after the notice is given or a longer period allowed in the notice.
- (4) If the Authority—
 - (a) refuses to recognise a person or a course under this section; or
 - (b) withdraws a recognition of a person or a course under this section,

the person or the provider of the course may apply to the Minister for a review of that decision.
- (5) The Minister may determine the application as the Minister thinks fit and, if the Minister finds in favour of the applicant, grant or preserve the recognition (as appropriate) and require the Authority to publish a notice in the Gazette accordingly.

11—Amendment of section 12—Criminal intelligence

Section 12(2)(a)—after "licence" insert:

, certificate

12—Amendment of section 14—Licence classes

(1) Section 14(1)(b)—delete "to sell or supply to the Board" and substitute:

, under a contract in a form approved by the Commissioner, to sell or supply to the holder of a gaming machine licence or a gaming machine service licence

(2) Section 14(1)(c)—delete paragraph (c)

(3) Section 14(2)(b)—delete paragraph (b)

13—Amendment of section 15—Eligibility criteria

Section 15(4) and (5)—delete subsections (4) and (5) and substitute:

(4) A gaming machine licence will not be granted unless the applicant for the licence held a social effect certificate for the site of the premises in respect of which the licence is sought at the time of making the application for the licence.

(5) A gaming machine licence will not be granted unless—

(a) the applicant for the licence satisfies the Commissioner, by such evidence as the Commissioner may require—

(i) that the proposed gaming area, or gaming areas, within the premises in respect of which the licence is sought is or are suitable for the purpose; and

(ii) that the proposed layout of gaming machines in a gaming area is suitable for the proper conduct of gaming operations within the area; and

(iii) that the arrangements proposed for the security of the premises, each gaming area and the gaming machines, and of the gaming operations generally, are adequate; and

(iv) that the conduct of the proposed gaming operations on the premises would be unlikely to result in undue offence, annoyance, disturbance or inconvenience to those who reside, work or worship in the vicinity of the premises; and

(v) that the size of the proposed gaming operations on the premises would not be such that they would predominate over the undertaking ordinarily carried out on the premises; and

- (vi) that the conduct of the proposed gaming operations on the premises would not detract unduly from the character of the premises, the nature of the undertaking carried out on the premises or the enjoyment of persons ordinarily using the premises (apart for the purpose of gaming); and
 - (vii) that no proposed gaming area is so designed or situated that it would be likely to be a special attraction to minors; and
 - (viii) that the proposed gaming area is within a place or area that is enclosed as defined by the *Tobacco Products Regulation Act 1997* (see section 4(3) and (4)); or
- (b) the applicant holds a proposed premises certificate for the premises and satisfies the Commissioner, by such evidence as the Commissioner may require—
- (i) that the conditions (if any) on which the certificate was granted have been complied with; and
 - (ii) that the premises have been completed in accordance with the plans approved in the certificate or a variation of those plans later approved by the Commissioner.

14—Insertion of sections 17A and 17B

After section 17 insert:

17A—Proposed premises certificate

- (1) A proposed premises certificate approving plans submitted by the applicant for the certificate will not be granted unless—
 - (a) the applicant holds a social effect certificate for the site of the proposed premises; and
 - (b) 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 if completed in accordance with the plans; 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.
- (2) A proposed premises certificate must state the maximum number of gaming machines to be operated under the licence and may state conditions to which the licence should be subject.
- (3) A certificate granted under this section may, on notification to the Commissioner, be transferred to another person.

- (4) The Commissioner may, on application by the holder of a proposed premises certificate, approve a variation of the plans approved in the certificate.

17B—Social effect certificate

- (1) A social effect certificate—
 - (a) may only be granted in relation to a specific site in which the applicant has a proprietary interest; and
 - (b) may not be granted if an application for a gaming machine licence in respect of licensed premises at the site could not be granted under section 15A; and
 - (c) subject to subsection (2), ceases to be in force 18 months after the date on which it is granted.
- (2) The Commissioner may, on application by the holder of a social effect certificate, extend the period for which the certificate remains in force if, in the Commissioner's opinion, it is appropriate to do so to enable—
 - (a) approvals, consents or exemptions for development on the site that are required under the law relating to development to be obtained; or
 - (b) development on the site that has been commenced to be completed.
- (3) A social effect certificate will only be granted if the applicant satisfies the Commissioner, by such evidence as the Commissioner may require, that the grant of a gaming machine licence in respect of premises on the site would not be contrary to the public interest on the ground of the likely social effect on the local community and, in particular, the likely effect on problem gambling within the local community.
- (4) In assessing the social effect of the grant of a gaming machine licence, the Commissioner—
 - (a) must apply the social effect principles; and
 - (b) must not have regard to the economic effect that the granting of a gaming machine 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); and
 - (c) must take each site in respect of which a social effect certificate is then in force into account as if a gaming machine licence were held for licensed premises on the site.
- (5) A certificate granted under this section may, on notification to the Commissioner, be transferred to another person with a proprietary interest in the site to which the certificate relates.

- (6) The Commissioner must—
 - (a) keep a register of social effect certificates; and
 - (b) cause the register to be published on a website to which the public has access free of charge.
- (7) The Commissioner must—
 - (a) record on the register for each social effect certificate—
 - (i) the name of the holder of the certificate; and
 - (ii) the date on which it was granted; and
 - (iii) the site to which it relates; and
 - (b) remove from the register any social effect certificate that has ceased to be in force.

15—Substitution of heading to Part 3 Division 3

Heading to Part 3 Division 3—delete the heading to Division 3 and substitute:

Division 3—Applications, criteria and licence conditions

16—Amendment of section 18—Form of application

- (1) Section 18(1)—after "licence" first occurring insert:
or a certificate
- (2) Section 18(1)(a)—after "form" insert:
(which may include requirements relating to consultation and reports)
- (3) Section 18(1)—after paragraph (b) insert:
 - (ba) may, in the case of an application for a social effect certificate, be made only if a social effect inquiry has been completed;
- (4) Section 18(1)—after paragraph (c) insert:
 - (d) may, in the case of an application for a proposed premises certificate or a social effect certificate, be made by a person who does not yet hold the requisite liquor licence.
- (5) Section 18(4)—after "gaming machine licence" insert:
or a proposed premises certificate

17—Insertion of section 23A

After section 23 insert:

23A—Discretion to treat application for gaming machine licence as application for proposed premises certificate

The Commissioner may treat an application for a gaming machine licence for proposed premises as if it were an application for a proposed premises certificate having regard to the extent to which the proposed premises are uncompleted.

18—Repeal of section 26

Section 26—delete the section

19—Amendment of section 27—Conditions

- (1) Section 27(4), (5) and (6)—delete subsections (4), (5) and (6)
- (2) Section 27(7)(b)(ii)—delete subparagraph (ii) and substitute:
 - (ii) that at other times—
 - (A) if the licensee has entered into a responsible gambling agreement and has provided a copy of the agreement to the Commissioner—there are at least 6 hours in each 24 hour period (which may be a continuous period of 6 hours, or 2 separate periods of 3 hours or 3 separate periods of 2 hours) during which gaming operations cannot be conducted on the premises; and
 - (B) in any other case—gaming operations cannot be conducted on the premises before 10 am on Monday to Friday and between 2 am and 10 am on Saturday and Sunday.

20—Insertion of section 27AA

After section 27 insert:

27AA—Variation of licence

- (1) Subject to this section, the Commissioner may, by notice in writing addressed to the licensee, vary or revoke any condition of a licence or impose further conditions on the licence.
- (2) The Commissioner may exercise his or her powers under subsection (1) on his or her own initiative or on application by the licensee or the Commissioner of Police.
- (3) The Commissioner cannot revoke the statutory conditions of a licence and cannot vary them except in relation to those matters that are determinable by the Commissioner for the purposes of those conditions.
- (4) The Commissioner may require an applicant for variation of a gaming machine licence to complete a social effect inquiry if of the opinion that the variation of the licence in respect of the premises may significantly alter the likely social effect on the local community and, in particular, the likely effect on problem gambling within the local community.
- (5) If an applicant is required to complete a social effect inquiry, the licence may not be varied unless the applicant satisfies the Commissioner, by such evidence as the Commissioner may require, that the variation of the licence in respect of the premises would not be contrary to the public interest on the ground of the likely social effect on the local community and, in particular, the likely effect on problem gambling within the local community.

- (6) In assessing the social effect of the variation of a gaming machine licence, the Commissioner—
- (a) must apply the social effect principles; and
 - (b) must not have regard to the economic effect that the variation of a gaming machine 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 variation of the licence on the local community); and
 - (c) must take each site in respect of which a social effect certificate is then in force into account as if a gaming machine licence were held for licensed premises on the site.

21—Amendment of section 27A—Gaming machine entitlements

Section 27A—after subsection (2) insert:

- (3) The Commissioner must—
 - (a) keep a register of licensees holding gaming machine entitlements; and
 - (b) cause the register to be published on a website to which the public has access free of charge.
- (4) The Commissioner must record on the register—
 - (a) the number of gaming machine entitlements held by each licensee; and
 - (b) the premises to which the gaming machine entitlements relate.

22—Amendment of section 27B—Transferability of gaming machine entitlements

- (1) Section 27B(1)(b)—after "may transfer" insert:

, absolutely or for a limited period,
- (2) Section 27B(1)(c)—after "may transfer" insert:

, absolutely or for a limited period,
- (3) Section 27B(2)—delete subsection (2) and substitute:
 - (2) The approved trading system is a system established by the regulations.
- (4) Section 27B—after subsection (7) insert:
 - (8) No liability to stamp duty arises in relation to a transfer of gaming machine entitlements under subsection (1)(b), (c) or (f) executed after the commencement of this subsection.

23—Amendment of section 29—Certain applications require advertisement

- (1) Section 29(1)—after paragraph (a) insert:
 - (ab) an application for the grant of a proposed premises certificate;
 - (ac) an application for the grant of a social effect certificate;
 - (ad) an application for the variation of a gaming machine licence if the applicant is required to conduct a social effect inquiry;
- (2) Section 29(2)(a)(ii)—after "licence" insert:

, a proposed premises certificate or a social effect certificate
- (3) Section 29(2)(b)—after "licence" insert:

, a proposed premises certificate or a social effect certificate

24—Amendment of heading to Part 3 Division 6

Heading to Part 3 Division 6—after "licences" insert:

and certificates

25—Insertion of section 32A

After section 32 insert:

32A—Surrender or revocation of social effect certificate

- (1) The holder of a social effect certificate may, by notice in writing to the Commissioner, surrender the social effect certificate and the certificate will cease to be in force on acceptance by the Commissioner of the surrender.
- (2) The Commissioner cannot accept a surrender of a social effect certificate while there is an application before the Commissioner for a gaming machine licence in respect of premises on the site to which the certificate relates.
- (3) The Commissioner may, by notice in writing to the holder of a social effect certificate, revoke the certificate if satisfied that the holder has ceased to have a proprietary interest in the site to which the certificate relates.
- (4) The Commissioner must, before revoking a social effect certificate—
 - (a) give notice in writing to the holder of the certificate of the proposed revocation; and
 - (b) allow the holder a period of 21 days (or such longer period as the Commissioner may in any particular case allow) to show cause why the certificate should not be revoked.

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

Section 36(1)—after paragraph (d) insert:

- (da) the licensee has contravened or failed to comply with the advertising code of practice or the responsible gambling code of practice; or

27—Amendment of section 36B—Taking of disciplinary action against licensees

Section 36B(1)(e)—delete "\$15 000" and substitute:

\$20 000

28—Substitution of section 39

Section 39—delete the section and substitute:

39—Approval of form of supply contract

- (1) The Commissioner may, on application by the holder of a gaming machine dealer's licence, approve the form of a contract to be entered into by the holder of the licence and—
 - (a) the holder of a gaming machine licence; or
 - (b) the holder of a gaming machine service licence; or
 - (c) the holder of another gaming machine dealer's licence,for the sale or supply of approved gaming machines, prescribed gaming machine components or gaming equipment.
- (2) The Commissioner has an unqualified discretion to approve or refuse to approve the form of a contract except that the Commissioner must refuse to approve a form if, in the Commissioner's opinion, it would result in a contract that—
 - (a) is harsh and unconscionable; or
 - (b) provides for a payment by reference to the proceeds or profits of the business of a licensee; or
 - (c) provides for an inducement to enter the contract other than a discount based on the number of machines, components or items of equipment to be supplied; or
 - (d) may otherwise jeopardise the proper conduct of gaming operations.

29—Amendment of section 40—Approval of gaming machines and games

- (1) Section 40(2)—delete subsection (2)
- (2) Section 40—after subsection (3) insert:
 - (4) In determining whether a game is likely to lead to an exacerbation of problem gambling, the Commissioner must apply the principles prescribed by the Authority under section 10A(1)(c).

30—Amendment of section 41A—Applications to be given to Commissioner of Police

Section 41A(1)—after "section" insert:

39,

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

- (1) Section 42(5)—delete subsection (5)
- (2) Section 42(6)—delete ", (4) or (5)" and substitute:
or (4)

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

Section 43(1)—after "section" insert:
39,

33—Amendment of section 44A—Prohibition of links between dealers and other licensees

Section 44A(4)(c)—after subparagraph (iv) insert:

- (iva) the person and the licensee are parties to an agreement or arrangement under which one participates in, or is remunerated or paid for something by reference to, the proceeds or profits of the business of the other; or

34—Amendment of section 45—Offence of being unlicensed

Section 45(c)—delete "to the holder of the gaming machine supplier's licence or the holder of a gaming machine dealer's licence"

35—Amendment of section 46—Offence of breach of licence conditions

Section 46, penalty provision—delete the penalty provision and substitute:

Maximum penalty:

- (a) in the case of an offence committed by the holder of the gaming machine monitor licence—\$50 000 or imprisonment for 4 years;
- (b) in the case of an offence committed by the holder of a gaming machine licence—
 - (i) except in the case referred to in subparagraph (ii)—\$35 000 or imprisonment for 2 years;
 - (ii) if the offence is constituted of the contravention of or failure to comply with a condition imposed under Schedule 1(o)—\$10 000;
- (c) in any other case—\$35 000 or imprisonment for 2 years

Expiation fee: in the case of an offence allegedly committed by the holder of a gaming machine licence and constituted of the alleged contravention of or failure to comply with a condition imposed under Schedule 1(o)—\$1 200.

36—Substitution of section 47

Section 47—delete the section and substitute:

47—Offence of breach of mandatory provisions of codes

The holder of a gaming machine licence must not contravene or fail to comply with a mandatory provision of the advertising code of practice or the responsible gambling code of practice.

Maximum penalty:

- (a) for a category A offence—\$10 000;
- (b) for a category B offence—\$5 000;
- (c) for a category C offence—\$2 500;
- (d) for a category D offence—\$1 250.

Expiation fee:

- (a) for a category A expiable offence—\$1 200;
- (b) for a category B expiable offence—\$315;
- (c) for a category C expiable offence—\$210;
- (d) for a category D expiable offence—\$160.

47A—Offence of selling or supplying gaming machines, components or equipment without approved contract or with inducement

- (1) The holder of a gaming machine dealer's licence must not enter into a contract to sell or supply a gaming machine, a prescribed gaming machine component or gaming equipment unless the contract is in a form that has been approved by the Commissioner under section 39.

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

- (2) The holder of a gaming machine dealer's licence must not provide or offer to provide any form of inducement to a person to enter into a contract for the sale or supply of a gaming machine, a prescribed gaming machine component or gaming equipment other than a discount that is calculated on a basis that has been fully disclosed in the contract and depends on the number of machines, components or items of equipment to be supplied under the contract.

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

37—Amendment of section 50A—Approved gaming machine managers and employees must carry identification

Section 50A, penalty provision—delete the penalty provision and substitute:

Maximum penalty:

- (a) in the case of an offence committed by a licensee—\$2 500;
- (b) in any other case—\$1 250.

Expiation fee:

- (a) in the case of an offence allegedly committed by a licensee—\$210;
- (b) in any other case—\$160.

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

- (1) Section 51(1), penalty provision—delete the penalty provision and substitute:

Maximum penalty:

- (a) in the case of an offence committed by the holder of a gaming machine licence or a person who occupies a position of authority in a trust or corporate entity that holds such a licence—\$10 000 or imprisonment for 6 months;
- (b) in the case of an offence committed by an approved gaming machine manager or gaming machine employee—\$5 000.

Expiation fee: in the case of an offence allegedly committed by an approved gaming machine manager or gaming machine employee—\$315.

- (2) Section 51(2), penalty provision—delete the penalty provision and substitute:

Maximum penalty:

- (a) in the case of an offence committed by the holder of a gaming machine licence or a person who occupies a position of authority in a trust or corporate entity that holds such a licence—\$10 000 or imprisonment for 6 months;
- (b) in the case of an offence committed by an approved gaming machine manager or gaming machine employee—\$5 000.

Expiation fee: in the case of an offence allegedly committed by an approved gaming machine manager or gaming machine employee—\$315.

- (3) Section 51(5)(c)—delete paragraph (c)

39—Amendment of section 54—Licences to be displayed

Section 54, penalty provision—delete the penalty provision and substitute:

Maximum penalty: \$10 000.

Expiation fee: \$1 200.

40—Amendment of section 57—Licensee must erect warning notices

Section 57(3), penalty provision—delete the penalty provision and substitute:

Maximum penalty: \$10 000.

Expiation fee: \$1 200.

41—Amendment of section 58—Powers in relation to minors in gaming areas

- (1) Section 58(5)—delete "section 116(3a) of"
- (2) Section 58(5)—after "licensed premises" insert:
or a part of licensed premises

42—Amendment of section 62—Interference with machines, equipment or games

Section 62, penalty provision—delete "\$20 000" and substitute:
\$50 000

43—Amendment of section 63—Interference devices

Section 63, penalty provision—delete "\$20 000" and substitute:
\$50 000

44—Substitution of section 64

Section 64—delete the section and substitute:

64—Sealing of gaming equipment and gaming machines

- (1) A person other than an authorised officer must not seal any gaming equipment or break or in any way interfere with any such seal.
Maximum penalty: \$5 000 or imprisonment for 3 months.
- (2) A person other than an authorised officer or an approved gaming machine technician must not seal any part of a gaming machine or break or in any way interfere with any such seal.
Maximum penalty: \$5 000 or imprisonment for 3 months.

45—Amendment of section 69—Right of appeal

Section 69—after subsection (6) insert:

- (6a) For the purposes of this section, a person who has objected to an application under this Act is entitled to be joined as a party to any proceedings relating to the application.

46—Amendment of section 71—Powers of authorised officers

Section 71—after subsection (6) insert:

- (6a) An authorised officer may—
 - (a) require a person who has custody or control of books, papers or documents relevant to a business conducted under a licence to produce them at a specified place for inspection at a specified time or within a specified period; and
 - (b) inspect books, papers or documents so produced and retain them for as long as is reasonably necessary for the purposes of copying or taking extracts from any of them.

47—Amendment of section 73A—Sport and Recreation Fund

- (1) Section 73A—delete "Minister for Industry and Trade" wherever occurring and substitute in each case:
prescribed Minister

(2) Section 73A(5)—delete "Department of Industry and Trade" and substitute:
administrative unit of the Public Service responsible to the prescribed
Minister

(3) Section 73A—after subsection (6) insert:

(7) In this section—

prescribed Minister means the Minister responsible for the
administration of the *Recreational Greenways Act 2000*.

48—Amendment of section 73B—Charitable and Social Welfare Fund

Section 73B—delete "Minister for Human Services" wherever occurring and
substitute in each case:

Minister responsible for the administration of the *Family and Community
Services Act 1972*

49—Amendment of section 73BA—Gamblers Rehabilitation Fund

Section 73BA—delete "Minister for Families and Communities" wherever occurring
and substitute in each case:

Minister responsible for the administration of the *Family and Community
Services Act 1972*

50—Amendment of section 74—Annual reports

Section 74(3)—delete subsection (3) and substitute:

- (3) The annual report of the Commissioner must include the following
information in relation to the financial year to which the report
relates:
- (a) the number of expiation notices issued for offences against
this Act;
 - (b) the number of prosecutions commenced for offences against
this Act;
 - (c) the number of persons barred by order under section 59 and
the number of orders made under that section against each
such person.

51—Repeal of sections 74A and 74B

Sections 74A and 74B—delete the sections

52—Insertion of section 76A

After section 76 insert:

76A—Financing of licensee's business

- (1) The Minister may, by notice in the Gazette, grant an exemption from such provisions of this Act as may be necessary for the purpose of enabling—
 - (a) the holder of a gaming machine licence, the special club licence or a gaming machine dealer's licence and a credit provider to enter into any arrangements (including leasing arrangements) for the financing of the licensee's acquisition of gaming machines or gaming machine entitlements or otherwise financing the business conducted on the licensed premises; and
 - (b) a credit provider to exercise rights of repossession and sale over gaming machines, and gaming machine entitlements, subject to any credit arrangement.
- (2) An exemption is subject to any conditions specified in the notice.
- (3) The Minister may, by subsequent notice in the Gazette, vary an exemption.
- (4) If a credit provider repossesses or acquires a gaming machine or gaming machine entitlement under an arrangement to which an exemption relates, the credit provider—
 - (a) must, within 7 days after the repossession or acquisition, give written notice to the Commissioner of the repossession or acquisition; and
 - (b) must ensure the gaming machine is not operated while in the ownership of the credit provider; and
 - (c) must ensure the gaming machine is, while in the ownership of the credit provider, stored by the holder of a gaming machine dealer's licence or gaming machine service licence in a secure storage location; and
 - (d) must not sell the gaming machine except to the holder of a gaming machine dealer's licence; and
 - (e) must, within 7 days after selling or otherwise disposing of the gaming machine or gaming machine entitlement, give written notice to the Commissioner of the details of the sale or other disposition.

Maximum penalty: \$35 000.

53—Amendment of section 77—Certain agreements and arrangements are unlawful

- (1) Section 77(1)—delete "the gaming machine supplier's licence" and substitute:
a gaming machine dealer's licence

- (2) Section 77(2)—delete subsection (2)
- (3) Section 77(3)—delete ", an inspector or an approved agent or a member of the holder of the gaming machine supplier's licence" and substitute:
or an inspector

54—Amendment of section 79—Bribery

- (1) Section 79—delete "indictable" wherever occurring
- (2) Section 79(1), penalty provision—delete "\$20 000" and substitute:
\$50 000
- (3) Section 79(2), penalty provision—delete "\$20 000" and substitute:
\$50 000

55—Repeal of section 86A

Section 86A—delete the section

56—Amendment of section 87—Regulations

- (1) Section 87(2)(b)—after "fees" insert:
in respect of any matter under this Act
- (2) Section 87(2)(e)—delete "\$2 500" and substitute:
\$10 000
- (3) Section 87(2)—after paragraph (e) insert:
 - (f) fix expiation fees not exceeding \$1 200 for alleged breaches of the regulations.
- (4) Section 87—after subsection (3) insert:
 - (4) A regulation under this Act may provide that a matter or thing in respect of which regulations may be made is to be determined according to the discretion of the Minister, the Authority or the Commissioner.

57—Amendment of Schedule 1—Gaming machine licence conditions

- (1) Schedule 1, (k)(ii)—delete "inspector" and substitute:
authorised officer or approved gaming machine technician
- (2) Schedule 1, (k)(iii)—delete "inspector" and substitute:
authorised officer
- (3) Schedule 1, (na), (nb) and (nc)—delete paragraphs (na), (nb) and (nc)
- (4) Schedule 1—before paragraph (o) insert:
 - (nd) that the licensee will not conduct the gaming operations on the licensed premises between the hours of 2 am and 8 am unless—

- (i) a gaming machine manager or gaming machine employee who has completed advanced problem gambling intervention training is present in the gaming area at all times; and
- (ii) arrangements are in place under which the gaming machine manager or gaming machine employee may immediately refer a person identified as engaging in problem gambling to a service to address the problem; and
- (iii) measures are in place that prevent machines designed to change a monetary note into coins and located on the licensed premises from being operated between the hours of 2 am and 8 am; and

Schedule 1—Related amendments and transitional provisions

Part 1—Amendment of *Casino Act 1997*

1—Amendment of section 41C—Review and alteration of codes

- (1) Section 41C(1)—delete "2 years" and substitute:
5 years
- (2) Section 41C(4)(b)—delete "14 days" and substitute:
28 days

Part 2—Amendment of *Independent Gambling Authority Act 1995*

2—Amendment of section 15B—Voluntary barring of excessive gamblers

Section 15B(1)—after paragraph (b) insert:

or

- (c) an area within which gaming machines may be operated under a Commonwealth law.

Part 3—Amendment of *State Lotteries Act 1966*

3—Amendment of section 13D—Review and alteration of codes

- (1) Section 13D(1)—delete "2 years" and substitute:
5 years
- (2) Section 13D(4)(b)—delete "14 days" and substitute:
28 days

Part 4—Transitional provisions

4—Principles

- (1) Section 10A(5) and (7) of the *Gaming Machines Act 1992* as inserted by this Act do not apply to the first notice published in the Gazette under that section prescribing the principles for assessing whether a game is likely to lead to an exacerbation of problem gambling (and, consequently, consultation is not required and the notice need not be laid before both Houses of Parliament and is not subject to disallowance).
- (2) The Authority must ensure that the principles for assessing whether a game is likely to lead to an exacerbation of problem gambling first prescribed by the Authority are substantially in the form of the guidelines in force for the purposes of section 40 of the *Gaming Machines Act 1992* immediately before the commencement of this subsection.
- (3) Failure to comply with subclause (2) does not affect the validity of the principles.

5—Application for gaming machine licence

If an application for a gaming machine licence has been made but not determined before the commencement of section 13 of this Act—

- (a) section 15(4) of the *Gaming Machines Act 1992* as inserted by section 13 of this Act does not apply to the application; and
- (b) section 15(5) of the *Gaming Machines Act 1992* as in force immediately before its deletion by section 13 of this Act continues to apply to the application as if it had not been so deleted and had been redesignated as section 15(4).

6—Exemptions

An exemption granted by notice in the Gazette under regulation 10(2) of the *Gaming Machines Regulations 1993* and in force immediately before the commencement of section 76A of the *Gaming Machines Act 1992* as inserted by this Act continues in force as if it had been granted under section 76A of the *Gaming Machines Act 1992*.