

Future of Gaming in Tasmania

Paper I - proposed Future Gaming Market legislative provisions - general amendments

June 2021



Tasmanian
Government



Paper 1 - proposed Future Gaming Market legislative provisions - general amendments

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Proposed Future Gaming Market legislative provisions - general amendments

The following information, relating to the regulatory arrangements that will apply under the Future Gaming Market policy, provides a summary of relevant draft legislative provisions proposed to be included in the *Gaming Control Act 1993*.

This Paper contains legislative amendments that generally apply to more than one sector. The Paper also includes simulated racing event provisions, as well as a number of miscellaneous amendments.

The amendments outlined in this Paper should be read in conjunction with the other consultation papers, the Bill and the existing legislation (the *Gaming Control Act 1993*). All amendments are intended to commence on 1 July 2023 unless otherwise noted. Some of the changes proposed to the legislation may not have been included in the information below, such as where they apply generally, are administrative in nature, or relate to a change in terminology. The full section may not be replicated, only relevant changes are included in this paper, however where the full Act includes further wording, “...” has been used to indicate this.

A number of requirements and processes are being provided for in regulations to allow for greater flexibility and responsiveness to changes within the gaming environment.

The current version of the *Gaming Control Act 1993* can be found at the following address:

<https://www.legislation.tas.gov.au/view/html/inforce/current/act-1993-094>

When calculating penalty amounts, it should be noted that the current value of a penalty unit is \$172.

Legislation section numbers referred to in this paper relate to the proposed amended Act.



New definitions

Following are new draft interpretations, which may not be outlined in the sector specific papers:

“ancillary gaming services” means such gaming services as are prescribed for the purposes of this definition;

“computer server” means a computer that is capable of one or more of the following:

- (a) communicating with another computer;
- (b) generating a simulated game or a simulated racing event;
- (c) providing to that other computer –
 - (i) access to a database; or
 - (ii) transaction-based services; or
 - (iii) software applications;

“FATG game” means a game designed to be played on a fully-automated table game machine;

“FATG machine” means a fully-automated table game machine;

“fully-automated table game machine” means an electronic gaming system or equipment that allows more than one person to play a game that –

- (a) imitates a type of game played at a gaming table; and
- (b) can be played –
 - (i) from different terminals; and
 - (ii) without being conducted by a casino employee;

“gaming activity” means –

- (a) the wagering in a contingency relating to a sports event, race wagering event, simulated game, simulated racing event, major lottery or pools (where the event, simulated game, simulated racing event, major lottery or pools is not a prohibited gaming activity);

...

“gaming endorsement” means –

- (a) a sports betting endorsement; and
- (b) a race wagering endorsement; and
- (c) a simulated gaming endorsement; and
- (ca) a simulated racing event endorsement; and
- (d) a major lottery endorsement; and
- (da) a betting exchange endorsement; and
- (db) a totalizator endorsement; and
- (dc) an agent endorsement;

“gaming machine” means any device (other than an FATG machine) that is designed –

- (a) for the playing of a game of chance or a game that is partly a game of chance and partly a game requiring skill; and
- (b) to –
 - (i) pay out money or tokens as a result of the making of a wager; or
 - (ii) register a right to an amount of money or money’s worth to be paid as the result of the making of a wager;

“jackpot prize pool” means a prize pool established for the payment of jackpots;

“linked jackpot arrangement” means an arrangement whereby 2 or more machine games, gaming machines, FATG machines or other prescribed machines are linked to a device that –

- (a) records from time to time an amount which may be payable, or part of which may be payable, as a jackpot; and

(b) for the purpose of recording the amount referred to in paragraph (a), receives data from each machine to which the device is linked; and

(c) is not capable of affecting the outcome of a game on a machine to which the device is linked;

“machine game” means the following:

(a) a gaming machine game;

(b) an FATG game;

“machine type” means the following:

(a) a gaming machine type;

(b) a type of FATG machine;

“owner” in relation to licensed premises, means every person who jointly or severally, whether at law or in equity, is entitled to the licensed premises for any estate of freehold in possession;

“simulated game” means a computer-generated simulated game, other than keno, a simulated racing event or a lottery, where –

(a) a prize consisting of money or something else of value is offered or can be won under the rules of the game; and

(b) a player –

(i) enters the game or takes any step in the game by means of a telecommunications device; and

(ii) pays a monetary payment or other valuable consideration to participate in the game; and

(c) the winner of a prize is decided wholly or partly by chance;

“simulated racing event” means an event generated by a game –

(a) that consists of animated images of a thoroughbred race, harness race or greyhound race; and

(b) the outcome of which is only determined by a random number generator that draws a set of numbers from a larger set of numbers; and

(c) in respect of which the betting competition is a competition with fixed odds;

“simulated racing event endorsement” means an endorsement on a Tasmanian gaming licence that authorises the activities specified in section 76UA;

“venue owner” means a person who is the owner of licensed premises in respect of which there is a venue licence;

Part I - legislative amendments that are relevant to all sectors

Object of the Act

Following is a new section to include the high level regulatory objectives of the Act.

Proposed amendment (section 2A):

The object of this Act is to provide for the licensing, supervision and control of gambling in Tasmania and, in particular, to –

- (a) ensure that gambling is conducted in a fair, honest and transparent way and is free from criminal influence; and*
- (b) protect consumers who are vulnerable from being –*
 - (i) harmed by gambling; or*
 - (ii) exploited by gaming operators; and*
- (c) ensure that the returns from gambling are shared appropriately amongst the gaming industry, consumers and the State.*

2003 Deed

The 2003 Deed of Agreement between the State and Federal Group is to end on 30 June 2023, removing Federal Group's exclusive right to conduct casino operations, operate electronic gaming machines (EGMs) and conduct games of keno in Tasmania from that date.

Proposed amendment (section 6):

Revocation of 2003 Deed

- (1) The 2003 Deed is revoked.*
- (2) Compensation is not payable to a party to the 2003 Deed or to any other person for any loss or damage suffered by the party or person because of the application of subsection (1).*

Authority conferred by a special employee's licence

Employees working in the gaming industry will continue to be required to hold a special employee's licence (including undertaking a Responsible Conduct of Gambling Course). Changes to this section reflect the new employer names (ie venue operator, keno operator and monitoring operator)

Proposed amendment (section 34):

A special employee's licence authorizes the holder of the licence, subject to this Act and any conditions to which the licence is subject, to be employed or work for a casino operator, venue operator, keno operator, monitoring operator, licensed provider or minor gaming operator and to carry out prescribed duties.

Training of special employees

Employees working in the gaming industry will continue to be required to hold a special employee's licence (including undertaking a Responsible Conduct of Gambling Course) and the relevant operator will continue to be responsible for ensuring staff are trained and licensed prior to working in gaming areas.

Under the future gaming market model, the monitoring operator/keno operator (as the only third parties with access to gaming equipment on which to train) and the relevant operator will be permitted to conduct the training in the operation of gaming equipment.

Competency certificates will no longer be required for special employees trained in the operation of gaming equipment. However, the relevant operator will be responsible for ensuring that special employees are able to demonstrate that they are competent in using gaming equipment before they are permitted to carry out duties in relation to such equipment.

Proposed amendment (section 50):

(3) *A casino operator, venue operator, keno operator, monitoring operator, minor gaming operator, licensed provider or minor gaming operator must not allow a special employee employed by the operator to carry out any duties in relation to gaming equipment unless that employee has demonstrated to the relevant operator or provider that the employee is competent in the use of that equipment.*

Penalty: Fine not exceeding 50 penalty units.

Authority conferred by listing on the Roll

Provisions have been added to this section, which enable a person on the Roll to enter into arrangements with prescribed licence holders to provide ancillary gaming services.

Proposed amendment (section 69B):

- (1) *A person whose name is listed on the Roll is authorised, subject to this Act, to carry out such of the following activities as are specified in the Roll in respect of that listing:*
- (a) *to manufacture, sell, supply or test gaming machines, FATG machines and machine games, of a type approved by the Commission under section 80;*
 - (b) *to manufacture, sell, supply or test other gaming equipment –*
 - (i) *of a class or description approved by the Commission under section 81; and*
 - (ii) *of a type that is required by a minor gaming permit to be supplied to the minor gaming operator by a person listed on the Roll;*
 - (c) *to manufacture, sell, supply or test electronic monitoring systems of a type or class approved by the Commission under section 48Y;*
 - (d) *to enter into arrangements with licensed operators, monitoring operators and licensed providers to service, repair or maintain gaming equipment through the services of licensed technicians; and*
 - (e) *to enter into arrangements with licensed providers to manufacture, sell, supply or test gaming equipment for those licensed providers;*
 - (f) *to enter into arrangements with prescribed licence holders to provide ancillary gaming services.*
- (2) *However, a person whose name is listed on the Roll is not authorised under this section to sell or supply gaming equipment unless –*
- (a) *the gaming equipment has been approved by the Commission under section 48Y, 76ZZG, 80 or 81; or*
 - (b) *the person has the written authority of the Commission to do so.*

Requirement to be listed on the Roll

Provisions have been added to this section which require someone to be listed on the Roll if they provide ancillary gaming services, or enter into arrangements to service, repair or maintain gaming equipment.

Proposed amendment (section 71):

- (1) A person is to apply to the Commission to be listed on the Roll if the person –
- (a) manufactures, sells or supplies, or intends to manufacture, sell or supply, gaming equipment for or to a holder of a Tasmanian gaming licence, a venue operator, keno operator, monitoring operator, casino operator or minor gaming operator; or
 - (b) supplies or intends to supply testing services to a holder of a Tasmanian gaming licence, a venue operator, keno operator, monitoring operator, casino operator or minor gaming operator; or
 - (c) provides or intends to provide ancillary gaming services; or
 - (d) enters or intends to enter arrangements with licensed operators, monitoring operators, or licensed providers to service, repair or maintain gaming equipment through the services of licensed technicians.

Payments to operator unlawful

The provisions of this section make it unlawful for any payment or benefit to be given to an operator from a manufacturer, supplier or tester of gaming equipment, or their employees or associates unless authorised under the Act. Likewise, the provisions also make it unlawful for an operator to receive any such payment or benefit.

Proposed amendment (section 76):

- (1) A manufacturer, supplier or tester of gaming equipment, or an employee or associate of such a manufacturer, supplier or tester, must not make, either directly or indirectly, payment to or confer a benefit on a venue operator, casino operator, keno operator, monitoring operator, ancillary gaming services provider or licensed provider unless authorised under this Act.
- Penalty: Fine not exceeding 1 000 penalty units or imprisonment for a term of 4 years, or both.*
- (2) A venue operator, casino operator, keno operator, monitoring operator, ancillary gaming services provider or licensed provider must not receive any benefit whatsoever from a manufacturer, supplier or tester of gaming equipment or an employee or associate of such a manufacturer, supplier or tester unless authorised under this Act.
- Penalty: Fine not exceeding 1 000 penalty units or imprisonment for a term of 4 years or both.*

Approval of certain contracts by the Commission

Amendments to this section will capture contracts between the venue operator and the monitoring operator, as well as any other contract prescribed as a ‘relevant contract’.

The test to be applied by the Commission in determining not to approve a contract will be amended from one that is “harsh and unconscionable” to one that is “not fair and reasonable”.

In addition, provisions are being included to allow for conditions to be prescribed that apply to all, or a specified group, of relevant contracts. Where there is an inconsistency between a relevant contract and a prescribed condition, the relevant contract condition would be void and unenforceable to the extent of the inconsistency.

Amendments to this section will commence upon Royal Assent.

Proposed amendments (section 77V):

(1) In this section –

"contract" includes any kind of agreement or arrangement;

"relevant contract" means –

- (a) a contract between a venue operator and a monitoring operator; and
- (b) a contract between a licensed operator and a manufacturer or supplier listed on the Roll; and
- (c) a contract between a totalizator operator and another person under section 76ZZ;
- (d) a contract between a licensed operator or licensed provider and a person who provides services relating to gaming or a gaming activity;
- (e) a contract of a type prescribed for the purposes of this definition;

"standard form contract" means –

- (a) a relevant contract that is in a form which has been approved by the Commission as a standard form for a relevant contract; or
- (b) a relevant contract that is substantially the same as a relevant contract that is in a form which has been determined by the Commission as a standard form for a relevant contract.

- (2) A relevant contract that is not a standard form contract is of no effect unless it has been approved by the Commission.
- (3) The Commission may exempt from the operation of subsection (2) any particular relevant contract and any relevant contract of a particular class of relevant contracts.
- (4) In approving a standard form for a relevant contract or determining whether to grant an approval for the purposes of subsection (2), the Commission must not approve that standard form or give that approval if, in its opinion, to do so would result in a relevant contract that –
 - (a) is not fair and reasonable; or
 - (b) is not in the public interest; or
 - (c) jeopardises the integrity and conduct of gaming or gaming activities; or
 - (d) is in breach of this Act.
- (4A) An approval granted for the purposes of subsection (2) may be subject to such conditions as the Commission considers appropriate.
- (5) Subsection (2) in its application to relevant contracts of the kind referred to in paragraph (c) of the definition of "relevant contract" in subsection (1), applies only to contracts entered into after the commencement of the Gaming Control Amendment Act 2009.
- (6) The regulations may prescribe conditions to which all or specified relevant contracts, or specified classes of relevant contracts, are subject.
- (7) If the regulations prescribe conditions under subsection (6) that apply in respect of a relevant contract –
 - (a) the relevant contract, whether entered into before or after the prescribing of the conditions, is taken to contain the conditions; and
 - (b) if one of the conditions prescribed is inconsistent with another condition of the relevant contract, the latter condition is, to the extent of the inconsistency, void and unenforceable.

Approval of other gaming equipment

This section provides for, among other things, gaming equipment (other than EGMs and FATGs) to be approved by the Commission. The provisions enable the Commission to require rules under which the gaming equipment is to be operated and also include a requirement that operators must not allow gaming equipment to be operated in a venue unless the equipment is operated in accordance with such rules.

Proposed amendment (section 81):

(1) In this section,

"gaming equipment" does not include –

- (a) machine types; and
- (b) machine games; and

...

(2) A person may apply to the Commission for the approval of particular gaming equipment or gaming equipment of a specified class or description.

(2A) An application under subsection (2) must be in a form approved by the Commission and must be *accompanied by the prescribed fee.

(2B) On receipt of an application under subsection (2), the Commission is to conduct an evaluation of the gaming equipment or the gaming equipment of a specified class or description.

(2C) The Commission may require rules under which gaming equipment is to be operated.

(2D) If the Commission requires rules under which gaming equipment is to be operated, the Commission may –

- (a) approve the rules; or
- (b) refuse to approve the rules.

(2E) A casino operator, venue operator, keno operator, minor gaming operator or monitoring operator must not permit gaming equipment that requires rules under this section to be operated in the venue unless the gaming equipment is operated in accordance with those rules as approved by the Commission.

Penalty: Fine not exceeding 100 penalty units.

(3) The Commission may require a person who applies under subsection (2) to provide any additional information or material that the Commission considers necessary for the evaluation and to pay the costs incurred by the Commission in undertaking the evaluation.

(4) If particular gaming equipment or gaming equipment of a specified class or description that is the subject of an application under subsection (2) is considered by the Commission to be suitable for use in gaming, the Commission must approve the particular gaming equipment or class or description of gaming equipment subject to such conditions (if any) as it determines.

(5) The Commission must reject all gaming equipment that is the subject of an application under subsection (2) which it considers is not suitable for gaming.

(6) If gaming equipment differs in any material particular from the gaming equipment approved by the Commission, the gaming equipment ceases to be approved under this section.

(7) A casino operator, venue operator, keno operator, minor gaming operator or monitoring operator must not permit gaming equipment to be installed in a venue unless –

- (a) the gaming equipment has been approved by the Commission under subsection (4); or
- (b) the gaming equipment is of a specified class or description of gaming equipment that has been approved by the Commission under subsection (4).

Penalty: Fine not exceeding 100 penalty units.

Approval of jackpots and linked jackpot arrangements

This amendment sets out the approval process and arrangements for jackpots and linked jackpots. The Commission is responsible for approving jackpot / linked jackpot arrangements and rules and a licensed operator must not permit jackpots / linked jackpots to operate in a venue unless this approval from the Commission is in place.

Proposed amendment (section 84):

- (1) *The Commission may –*
 - (a) *approve a jackpot or a linked jackpot arrangement; and*
 - (b) *approve the rules under which a jackpot or linked jackpot arrangement is to operate.*
- (2) *The Commission must not approve a jackpot or linked jackpot arrangement unless it has approved the rules under which it is to operate.*
- (3) *If the Commission approves a jackpot or linked jackpot arrangement, it must –*
 - (a) *notify the relevant prescribed licence holder of its approval; and*
 - (b) *publish a copy of the rules relating to the jackpot or linked jackpot arrangement on a website maintained by or on behalf of the Commission.*
- (4) *A licensed operator, venue operator or monitoring operator must not permit a jackpot or linked jackpot arrangement to operate in an approved venue unless –*
 - (a) *the Commission has approved the jackpot or linked jackpot arrangement; and*
 - (b) *the jackpot or linked jackpot arrangement is operated in accordance with the rules approved by the Commission.*

Penalty: Fine not exceeding 100 penalty units.
- (4A) *Subsection (4) does not apply in respect of a linked jackpot arrangement if that arrangement has been included in machine game rules that have been approved by the Commission under section 80.*
- (5) *A licensed operator, venue operator and monitoring operator must accumulate contributions to a jackpot prize pool established under a jackpot or linked jackpot arrangement in accordance with this Act.*
- (6) *At the request of the relevant prescribed licence holder or on its own volition, the Commission may repeal, revoke, rescind, amend, alter or vary a rule approved under subsection (1).*
- (7) *The Commission must not take action of its own volition under subsection (6) unless the action is in the public interest or for the proper conduct of gaming.*
- (8) *The Commission must notify in writing the relevant prescribed licence holder of any repeal, revocation, rescission, amendment, alteration or variation of the rules approved under subsection (1).*
- (10) *A repeal, revocation, rescission, amendment, alteration or variation takes effect on the date that the Commission gives notice under subsection (8).*

Removal of jackpot prize pool from venue

To provide for instances where the jackpot balance on an EGM is required to be removed, new provisions have been included that will allow the Commission to approve the transfer of the jackpot balance to other EGMs within the venue, or alternative arrangements where such transfer cannot be undertaken.

Proposed amendment (section 84A):

- (1) The Commission may approve alternative arrangements for the return to players of the prize pool for a jackpot if the jackpot prize pool is removed from an approved venue and the casino operator, venue operator or monitoring operator is not able to add the jackpot prize pool to a new or existing jackpot prize pool at the venue.*
- (2) A casino operator, venue operator or monitoring operator who removes a jackpot prize pool from an approved venue must comply with any alternative arrangements approved by the Commission under subsection (1) for the return of that jackpot prize pool.
Penalty: Fine not exceeding 1 000 penalty units.*
- (3) If, for any reason, it is not practicable to return a jackpot prize pool to players under alternative arrangements approved under subsection (1), the casino operator, venue operator or monitoring operator who removed the jackpot prize pool from the venue must deal with that jackpot prize pool in the manner prescribed by the regulations.
Penalty: Fine not exceeding 1 000 penalty units.*

Installation and storage of gaming equipment

This section provides the requirements for the installation and storage of gaming equipment and now imposes a requirement that operators must not allow a person to use the gaming equipment unless it has been installed as required by the Commission.

Proposed amendment (section 90):

- (1) A venue owner, venue operator, casino operator, monitoring operator or keno operator who obtains gaming equipment must cause the equipment to be installed, or stored and secured, in accordance with any written requirements of the Commission.*
- (2) A casino operator or venue operator must not allow any person to use gaming equipment for the conduct of gaming at the casino or venue if the gaming equipment has not been installed in accordance with any written requirements of the Commission.
Penalty: Fine not exceeding 1 000 penalty units.*

Complaints regarding gaming and gaming equipment

This section has been amended to allow for a person to make a complaint in relation to the operation of gaming equipment and includes requirements for operators to follow in investigating and responding to the complaint. The Commission is also provided with the ability to investigate and determine the outcome of any complaint.

Proposed amendment (section 97A):

- (1) If a person has a reasonable belief that gaming equipment or the conduct of gaming at a casino, hotel or licensed club is not operating or being undertaken correctly, that person may –
 - (a) in the case of gaming equipment or the conduct of gaming at a casino, make a written complaint to the casino operator; or*
 - (b) in the case of the conduct of gaming at a hotel or a licensed club, make a written complaint to the venue operator; or*
 - (c) in any case make a written complaint to the Commission.**

- (2) If a casino operator or a venue operator receives a complaint under subsection (1), that operator may refer the complaint as follows:
- (a) in the case of a complaint to a casino operator or a venue operator in relation to the game of keno, from the relevant operator to the keno operator;
 - (b) in the case of a complaint to a venue operator in relation to the operation of gaming machines, from the venue operator to the monitoring operator.
- (3) A complaint under subsection (1) must –
- (a) state the complainant's name and address; and
 - (b) give details of the complaint and the matters giving rise to the complaint.
- (4) As soon as practicable after receiving a complaint under subsection (1), the casino operator or venue operator must investigate the complaint or refer the complaint under subsection (2).
Penalty: Fine not exceeding 60 penalty units.
- (5) As soon as practicable after receiving a complaint under subsection (1), the Commission must –
- (a) investigate the complaint in accordance with section 132; or
 - (b) if the Commission considers it appropriate, refer the complaint to the relevant casino operator, venue operator, monitoring operator or keno operator.
- (6) As soon as practicable after receiving a referral under subsection (2) or (5), the relevant casino operator, venue operator, monitoring operator or keno operator must investigate the complaint.
Penalty: Fine not exceeding 60 penalty units.
- (7) A casino operator, venue operator, monitoring operator or keno operator who is responsible under subsection (4) or (6) for investigating a complaint must, within 21 days of receiving that complaint, give written notice of the result of the investigation to –
- (a) the complainant; and
 - (b) in the case of a referral under subsection (2)(a) or (b), the relevant casino operator or venue operator; and
 - (c) the Commission.
- Penalty: Fine not exceeding 60 penalty units.
- (8) If a complainant or a venue operator is aggrieved by the result of an investigation conducted by a casino operator, venue operator, monitoring operator or keno operator under this section, the complainant or venue operator may, by written notice, request the Commission to investigate the complaint.
- (9) As soon as practicable after receiving a request to investigate a complaint under subsection (8), the Commission must investigate the complaint.
- (10) The Commission must give written notice of the result of the Commission's investigation under subsection (9) to the complainant, any relevant venue operator and the relevant casino operator, monitoring operator or keno operator.
- (11) A decision of the Commission under subsection (10) is binding on the following:
- (a) the complainant;
 - (b) any relevant venue operator, casino operator, monitoring operator and keno operator.
- (12) In conducting an investigation for the purposes of this section, the Commission has the powers of an inspector specified in section 133.
- (13) In this section –
- "complainant"** means a person who makes a complaint in relation to the operation of gaming equipment or the conduct of gaming under subsection (1).



Investigation of prescribed licence holder

The changes to the Act will allow the Commission to investigate licence holders at any time to determine their continued suitability to hold a licence.

Proposed amendment (section 112N):

- (1) At any time, the Commission may investigate the holder of a prescribed licence to determine whether the licence holder continues to be a suitable person to hold the prescribed licence.*
- (1A) For the purposes of making a determination in relation to the holder of a prescribed licence under subsection (1), the Commission may have regard to the same matters to which it may have regard in deciding whether an applicant for a prescribed licence is a suitable person to hold such a licence.*

Investigation into associate or other person

The changes to the Act will allow the Commission to investigate associates of licence holders at any time to determine the licence holders continued suitability to hold a licence.

Proposed amendment (section 112O):

- (1) At any time, the Commission may investigate an associate of a prescribed licence holder to determine whether that person continues to be a suitable person to be an associate of the prescribed licence holder.*
- (2) Section 112N(1A), (2), (3), (4), (5), (6), (7), (8) and (9) applied to an investigation under this section as if the person being investigated were the prescribed licence holder.*

...

Costs of investigation

The changes to the Act will include provisions that will allow the Commission to recover costs associated with conducting an investigation if required.

Proposed amendment (section 112OA):

- (1) The Commission may require a prescribed licence holder or an associate of a prescribed licence holder to pay to the Commission such reasonable costs as may be incurred by or on behalf of the Commission in conducting any inquiry or investigation in relation to that person for the purposes of a determination under sections 112N or 112O.*
- (2) It is a condition of a prescribed licence that the licence holder must pay the costs that the Commission requires the licence holder to pay under this section in connection with any inquiry or investigation conducted for the purposes of making a determination under section 112N.*
- (3) The Commission may recover from the holder of a prescribed licence, or the associate of a prescribed licence holder, as a debt due to the Crown, any costs that the Commission has required that person to pay under this section.*
- (4) The Commission may give a certificate as to the amount of the reasonable costs incurred by or on behalf of the Commission in conducting any inquiry or investigation for the purposes of a determination under section 112N or 112O, and such a certificate is, in any proceedings, evidence of the matter certified.*

Temporary transfer of prescribed licence to liquidator

This change consolidates a number of existing provisions and extends the period for which an administrator can be endorsed on a licence from six months to 12 months.

Proposed amendment (section 112OB):

- (1) *Despite section 43(1), if the Commission considers it appropriate, the Commission may endorse on a prescribed licence the name of a receiver and manager, an administrator, an official liquidator or a provisional liquidator who is appointed in respect of the holder of the prescribed licence.*
 - (2) *If the Commission endorses a prescribed licence under subsection (1), for a period of 12 months from the date of that endorsement –*
 - (a) *the person whose name is endorsed on the prescribed licence is taken to be the holder of the licence; and*
 - (b) *the original holder of the prescribed licence ceases to be the holder of the licence.*
 - (3) *The Commission may extend the period referred to in subsection (2).*
 - (4) *If the Commission endorses a person's name on a prescribed licence under subsection (1), it may at the same time amend the licence and give directions in respect of the conduct of gaming under, and the administration of the business relating to, that licence.*
 - (5) *A person whose name is endorsed on a prescribed licence under subsection (1) must comply with a direction given to that person under subsection (4).*
- Penalty: Fine not exceeding 1 000 penalty units.*

General gaming standards

This change consolidates a number of existing provisions that provide for the setting of gaming-related standards by the Commission. This includes provisions in relation to the setting of standards and the requirement for licence holders to comply with any applicable standards.

Proposed amendment (section 112PA):

- (1) *The Commission may set the following general standards:*
 - (a) *general electronic monitoring system standards;*
 - (b) *general control system standards;*
 - (c) *general gaming equipment standards;*
 - (d) *general gaming machine standards;*
 - (e) *general FATG machine standards;*
 - (f) *general machine game standards;*
 - (g) *general installation and storage of gaming equipment standards.*
 - (2) *General standards set under subsection (1) may apply to a prescribed licence holder or to a class or classes of prescribed licence holders.*
 - (3) *Any general standards set under subsection (1) may provide for any matter by adopting or incorporating, either specifically or by reference, and either wholly or in part and with or without modification, any code, standard, guideline or specification relevant to gaming equipment or its operation –*
 - (a) *whether as in force at a particular time or as from time to time amended; and*
 - (b) *whether published before, on or after the day on which subsection (1) commences.*
 - (4) *A prescribed licence holder must comply with any requirement imposed on that licence holder by a provision of a general standard set under this section.*
- Penalty: Fine not exceeding 1 000 penalty units.*

- (5) *The following provisions apply to the setting of general standards:*
- (a) *the Commission is to give notice of the setting of the standards to any prescribed licence holder to which the standards apply;*
 - (b) *the Commission is to publish the standards on a website maintained by or on behalf of the Commission and in such other ways as it thinks necessary;*
 - (c) *the notice is to specify when the standards take effect and how they have been published;*
 - (d) *the Commission is to ensure that any licensed provider who wishes to do so can obtain a free printed copy of the standards.*
- (6) *The Commission may revoke or from time to time amend any general standards, in which case subsection (5) applies, with any necessary modification, to the revocation or amendment.*

Suspension of licence without opportunity to be heard

This section will be amended to also include provisions for the suspension of a licence where the licence holder fails to pay a fee, tax, levy or other amount payable under the Act.

Proposed amendment (section 112U):

- (1) *The Commission may suspend a prescribed licence by notice in writing given to the prescribed licence holder if it is satisfied that –*
- (a) *the holder or an associate of the holder has been charged with –*
 - (i) *an offence against this Act; or*
 - (ii) *an offence involving fraud or dishonesty, whether that offence or a conviction occurred in Tasmania or elsewhere; and*
 - (b) *it is in the best interests of the community to suspend the licence.*
- (1A) *The Commission may also suspend a prescribed licence by notice in writing if the prescribed licence holder fails to pay any fee, taxation, levy or other amount payable under this Act for that licence –*
- (a) *within one month of it becoming payable; or*
 - (b) *by any later date to which the Commissioner of State Revenue may agree.*
- (2) *The suspension of a prescribed licence takes effect –*
- (a) *on and from the date specified in the notice; and*
 - (b) *for the period specified in the notice.*
- (3) *The Commission may at any time terminate or reduce a period of suspension.*

Sale or supply of gaming equipment

This section will be amended to prohibit the sale or supply of gaming equipment to a person that is not authorised under the Act to be in possession of that equipment.

Proposed amendments (section 154):

- (2) *A casino operator, venue operator, venue owner, monitoring operator and keno operator must not sell or supply gaming equipment to a person who is not authorised under this Act to be in possession of that equipment except in accordance with this Act.*
- Penalty: Fine not exceeding 1 000 penalty units or imprisonment for a term not exceeding 4 years, or both.*

Grounds for disciplinary action

This section will be amended so that grounds for disciplinary action will apply to a person on the Roll where a gaming machine or FATG machine, game or gaming equipment is manufactured or supplied and (in the opinion of the Commission) the equipment is unauthorised, non-compliant with approved standards, unreliable or the testing of such equipment is unsatisfactory.

Proposed amendments (section 112S):

(1A) Each of the following is a ground for disciplinary action against an accredited testing facility, manufacturer or supplier:

- (a) any gaming machine, FATG machine, game or gaming equipment manufactured or supplied is, in the opinion of the Commission, unauthorised, non-compliant with approved standards, unreliable or otherwise unsatisfactory;*
- (b) any testing of gaming machines, FATG machines, games or gaming equipment is, in the opinion of the Commission, unsatisfactory.*

Unclaimed winnings

Unclaimed winnings will be payable on the 14th day of each month, rather than by the seventh day of the month as is currently required. These funds are payable to the Treasurer in accordance with the *Unclaimed Monies Act 2015*.

Proposed amendment (section 149):

- (1) Licensed operators and venue operators must pay to the Treasurer, on or before the 14th day of each month, an amount equal to unclaimed winnings arising from the conduct of gaming by the operator during the preceding month.*
- (2) The amount of unclaimed winnings for a month in respect of the game of keno is to be calculated in accordance with the formula prescribed for the purposes of this section.*

Waiver of fees

Provisions will be added to allow the Commission to waive all or part of any fee or amount payable under this Act that it considers appropriate.

Proposed amendment (section 173A):

The Commission may waive, reduce, or remit payment of all or part of any fee or other amount payable under this Act to the Commission in any circumstances that the Commission considers appropriate.

Regulations

It is proposed that a number of additional matters be prescribed in regulations, as listed below and the maximum fine for a contravention of, or failure to comply with, the regulations be increased to 200 penalty units.

Proposed amendment (Section 174):

- (1) The Governor may make regulations for the purposes of this Act.*
- (2) Without limiting the generality of subsection (1), the Governor may make regulations for, or with respect to, the following:*
 - (a) the activities of persons licensed under this Act;*
 - (b) the activities of manufacturers, suppliers and testers listed on the Roll;*
 - (ba) the installation, handling, possession, use, operation, control, management, appearance and identification of gaming equipment;*
 - (bb) requirements for the maintenance, security, testing, service, repair and storage of gaming equipment;*
 - (bc) the labelling and sealing of gaming equipment;*

- (bd) tampering or interfering with gaming equipment;
 - (be) the storage of information in, and the retrieval of information from, gaming equipment;
 - (c) the periods within which, and the manner in which, appeals may be made to the Supreme Court under section 173;
 - (d) classes of approved venue and the restrictions and entitlements applying to each class;
 - (e) facilities and amenities in approved venues, approved locations or classes of approved venues or approved locations;
 - (f) security arrangements to be taken by persons licensed under this Act or by manufacturers, suppliers and testers listed on the Roll;
 - (g) technical standards to which the electronic monitoring systems of monitoring operators must conform;
 - (h) production, registration, security and confidentiality of chips and gaming tokens;
 - (i) access to gaming machines and other gaming equipment;
 - (j) internal controls, administration and accounting procedures to be put in place by prescribed licence holders;
 - (ja) signage and advertising at casinos and approved venues;
 - (jb) requirements in relation to the offering of keno and casino gaming facilities by licence holders;
 - (jc) requirements as to the operating hours for casinos;
 - (jd) the approval by the Commission of plans, diagrams and specifications relating to the conduct of monitoring or operations in casinos, including the amendment of such approvals;
 - (je) the minimum wager that may be accepted on a specified game, or class of games, played at a high-roller casino;
 - (k) the collection and security of money in approved venues and approved locations and between approved venues or approved locations and financial institutions;
 - (l) procedures for the counting of revenue in approved venues;
 - (m) procedures and standards for the maintenance, security and storage of gaming equipment;
 - (ma) the establishment and maintenance of a register of gaming machine authorities;
 - (n) the manufacture, sale, supply, acquisition, ownership, possession, use, operation, transport, management, disposal and destruction of gaming equipment;
 - (na) the restrictions on the approval of and operation of FATG machines and FATG games;
 - (nb) the terms and conditions of acquisition (including tendering and the calling of expressions of interest), ownership, disposal and destruction of gaming equipment;
 - (nc) any matter relating to the operation of an electronic monitoring system;
 - (nd) any other matter relating to monitoring operator licences;
 - (o) conditions under which linked jackpot arrangements are permitted;
 - (p) conditions for the accumulation or contribution of money to special prize pools;
 - (q) fees for the purposes of this Act;
 - (qa) the distribution of the community support levy;
 - (s) any matter relevant to the conduct of gaming, a gaming activity or a gaming business.
- (3) The regulations -
- (a) may impose a fine not exceeding 200 penalty units for a contravention of or failure to comply with the regulations; and
- ...
- (4) The regulations may prescribe a fee by -
- (a) specifying a set amount; or
 - (b) specifying a method of calculating the fee; or

(c) *setting a maximum fee; or*

(d) *setting a minimum fee.*

(4A) *The regulations may provide for -*

(a) *the rounding of fees; and*

(b) *fees that vary according to class of premises or venue; and*

(c) *the manner of payment of fees; and*

(d) *the time or times at which fees are to be paid; and*

(e) *any fee to be paid by instalments.*

Part 2 - Simulated racing event provisions

It is proposed to amend the Act to allow for simulated racing events (eg Trackside Racing Game) to be conducted by a totalizator operator in hotels, clubs and totalizator outlets. While the game is currently approved as a casino game, under the proposed changes the game will only be conducted by a Tasmanian gaming licence holder (with a totalizator endorsement). Changes to enable this to occur are detailed below.

While these amendments currently sit in Part 3 of the Bill to commence on a date to be proclaimed, this will be amended so that these provisions commence on Royal Assent. An amendment to section 11 to omit subsections (2) and (3), effectively removing simulated racing as a casino game under the existing casino licences, will also be included from Royal Assent.

Application for a new gaming endorsement

To apply for a simulated racing event endorsement, the licence holder must hold, or concurrently apply for, a totalizator endorsement.

Proposed amendment (section 76O):

- (3) A licensed provider may only apply for a simulated racing event endorsement if –
- (a) the provider's Tasmanian gaming licence is endorsed with a totalizator endorsement; or
 - (b) the licensed provider is also applying for a totalizator endorsement.

Determination of application

In determination of an application for a Tasmanian gaming licence, the Commission must not endorse a simulated racing event endorsement on a licence unless a totalizator endorsement is also endorsed on the licence.

Proposed amendment (section 76I):

- (3A) The Commission must not determine that a simulated racing event endorsement is to be endorsed on a Tasmanian gaming licence unless the Commission also determines that a totalizator endorsement is to be endorsed on the licence.

Investigation, processing and determination of application for new gaming endorsement

The Commission must not grant an application for a simulated racing event endorsement to be endorsed on a Tasmanian gaming licence unless a totalizator endorsement is already endorsed, or is concurrently applied for, on the licence.

Proposed amendment (section 76P):

- (1) Sections 76D, 76G, 76H, 76I, 76J and 76K apply, with necessary modification and adaptation, in respect of the investigation, processing and determination of an application for a new gaming endorsement made under section 76O.
- (2) The Commission must not grant an application for a simulated racing event endorsement to be endorsed on a Tasmanian gaming licence unless –
- (a) the license is endorsed with a totalizator endorsement; or
 - (b) the Commission also grants an application for a totalizator endorsement to be endorsed on the licence.

Authority of Tasmanian gaming licence with simulated racing event endorsement

A holder of a Tasmanian gaming licence endorsed with a simulated racing event endorsement authorises the licence holder to conduct simulated racing events, accept wagers and do all things necessary to carry out simulated racing events. The simulated racing events can only be offered terrestrially and not online.

Proposed amendment (section 76UA):

A Tasmanian gaming licence endorsed with a simulated racing event endorsement authorises the licensed provider, subject to this Act and any conditions to which the Tasmanian gaming licence is subject –

- (a) to conduct simulated racing events from an approved location; and*
- (b) to accept wagers in respect of the simulated racing events from persons who are physically present at an approved outlet; and*
- (c) to do all things necessarily incidental to carrying on the activities referred to in paragraphs (a) and (b).*

Annual Tasmanian gaming licence fee

Amendments to this section provide that the Tasmanian gaming licence fee is to be paid to the Commissioner of State Revenue (rather than the Treasurer) and includes the licence fee for a Tasmanian gaming licence that is endorsed with a simulated racing event endorsement. Note: a fee unit is currently \$1.66.

Proposed amendment (section 148A):

- (1) A licensed provider must pay a Tasmanian gaming licence fee to the Commissioner of State Revenue in the following manner:
 - (a) if the licence takes effect on a day other than 1 July in any financial year, that proportion of the whole licence fee specified in subsection (2) that relates to the proportion of the financial year during which the licence has effect is to be paid within 3 days after the Tasmanian gaming licence takes effect;*
 - (b) the whole licence fee specified in subsection (2) in respect of a complete financial year during which the licence is to have effect under the term of the licence is to be paid on the first day of that financial year;*
 - (c) if the term of the licence will end on a day other than 30 June in any financial year, that proportion of the whole licence fee specified in subsection (2) that relates to the proportion of that financial year during which the licence has effect is to be paid on the first day of that financial year.**
- (2) The amount of a Tasmanian gaming licence fee payable each year the licence is in force is, subject to subsection (1) –
 - ...
 - (c) if the Tasmanian gaming licence is endorsed with a simulated gaming endorsement – 300 000 fee units; or*
 - (ca) if the Tasmanian gaming licence is endorsed with a simulated racing event endorsement – 300 000 fee units; or*
 - ...*
- (5) Notwithstanding subsections (1), (2), (3) and (4), the holder of a Tasmanian gaming licence endorsed with the initial totalizator endorsement or second totalizator endorsement is not (while that totalizator endorsement is in effect) required to make any payments to the Commissioner of State Revenue under this section in respect of that totalizator endorsement or any of the following endorsements on the licence:*

- (a) agent endorsement;
 - (b) race wagering endorsement;
 - (c) sports betting endorsement;
 - (d) simulated racing event endorsement.
- ...

Taxation in respect of Tasmanian gaming licence

Amendments to this section provide that the tax for simulated racing event gaming is to be 15 per cent of the monthly gross profits of the licence holder for that activity.

Proposed amendment (section 150A):

(1) In this section –

...

"gaming revenue", in relation to a month, means the total amount wagered with a licensed provider on simulated games or simulated racing events during that month less –

- (a) the total of all prizes paid out to the winning players or under section 149 during that month in respect of simulated games or simulated racing events (other than prizes paid from a jackpot prize pool); and
- (b) the total of amounts determined under the rules of the simulated games or simulated racing events for payment in respect of that total amount wagered into a jackpot prize pool;

...

(6B) The tax payable in relation to a month and the gaming business conducted in respect of a simulated racing event endorsement is 15% of the monthly gross profits.

...

(10) A Tasmanian gaming licence holder who is liable to pay tax in respect of that licence under Division 1A of Part 9 is only liable to pay that tax in relation to gaming business conducted in respect of any of the following endorsements:

- (a) sports betting endorsement;
- (b) race wagering endorsement;
- (c) betting exchange endorsement;
- (d) totalizator endorsement.

Set off for goods and services tax in respect of Tasmanian gaming licence

Tasmanian gaming licence holders with simulated racing event endorsements are not eligible to set off any goods and services tax paid in that relevant month against any tax payable under section 150A.

Proposed amendment (section 150AB):

(1) This section applies to all gaming endorsements except –

- (a) a simulated gaming endorsement; and
- (ab) a betting exchange endorsement; and
- (ac) a simulated racing event endorsement; and
- (b) if an amount has been prescribed under section 150A(7), a major lottery endorsement.

...

Part 3 - Miscellaneous amendments

There are a range of miscellaneous amendments to the Act, including those below.

Community Interest Test objection period

Sections 36(6) and 36(6A) of the Act are being amended to extend the period of time a person has to object to an application for a venue licence that is subject to a community interest test from 14 to 28 days. This amendment will commence upon Royal Assent.

Provision of information relating to special employees

Current section 65(2) is to be removed as it is overly onerous for business operations of licensed operators. Removing this requirement will reduce unnecessary red tape, but will not impact on the requirement for special employees to be licensed. This amendment will commence upon Royal Assent.

Approval of games

Amendments to this section allow the Commission to make approvals to games conducted under the authority of a Tasmanian gaming licence subject to conditions. The amendments also allow for approvals to be amended by the Commission at any time and provide that the amendment, or revocation of an approval will take effect when written notice is given or at later date specified in the notice. These amendments will commence upon Royal Assent.

Proposed amendment (section 76ZZF):

- (1) *In this section –*
- "game"** includes a major lottery, pools and a game that is prescribed for the purposes of the definition of "game" in section 3(1).
- (2) *The Commission may approve the games that may be conducted under the authority of a Tasmanian gaming licence.*
- (2A) *An approval under subsection (2) may be subject to such conditions as the Commission considers appropriate.*
- (3) *The Commission must keep an up-to-date list of all approved games.*
- (4) *On the issue of a Tasmanian gaming licence, the Commission must provide the licensed provider with written notice of the approved games the provider may conduct under the licence.*
- (5) *On the request of any person, the Commission must at any reasonable time –*
- (a) *let the person peruse the list of approved games; and*
 - (b) *provide the person with a copy of the whole or part of that list.*
- (5A) *An approval under subsection (2) may be amended at any time as the Commission thinks fit.*
- (6) *The Commission may at any time revoke its approval of a game.*
- (7) *The amendment or revocation of an approval under this section takes effect when notice of it is given in writing to the licensed provider concerned or on a later date specified in the notice.*

Access to gaming machines

Current section 89 will be removed as it is considered too prescriptive. Provisions relating to the ability to access gaming machines will be included in regulations as required. This amendment will commence upon Royal Assent.

Independent review of the social and economic impact of gambling in Tasmania

The timing for the independent review of the social and economic impact of gambling will be amended from every three years to every five years.

Currently, section 151(5)(a) requires that an independent social and economic impact study (SEIS) into gambling be undertaken every three years. However, this is considered to be onerous as:

- there is a trade-off between the level of rigour of the study and how frequently it is done. Three years is too frequent to allow meaningful consideration of findings and implement potential changes;
- the review requires considerable input in the study process (through consultation, survey participation and the provision of data collection) for varying stakeholders (members of the public, venue operators and the Department). Extending the requirement to five years will lessen the burden for stakeholders; and
- the cost of the study is approximately \$1 million and thus savings would be achieved with the review being extended to five years.

The Joint Select Committee Inquiry into Future Gaming Markets and Tasmanian Liquor and Gaming Commission supported extension of the time period for the SEIS. This amendment will commence upon Royal Assent.

Proposed amendment (section 151):

...
(5) *The Minister must –*
 (a) *cause an independent review of the social and economic impact of gambling in Tasmania to be carried out every 5 years; and*
...

Infringement notices

The legislation will be amended to allow for Inspectors and authorised persons to issue minor infringement notices along with Police Officers. This amendment will commence upon Royal Assent.

Proposed amendment (section 172A):

(1) *A police officer, authorized person or inspector may issue and serve an infringement notice on a person if he or she reasonably believes that the person has committed an infringement offence.*

Further transitional provisions

Proposed amendment (Part 8):

In this part -
 “**changeover day**” means 1 July 2023;
 “**former Act**” means this Act as in force immediately before the changeover day.

4. Standards

Any standards of the Commission set under sections 76ZZG and 76ZZI of this Act that were in force immediately before the changeover day are taken, on and after that day, to be standards set by the Commission under section 112PA.

...



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