

Future of Gaming in Tasmania

Paper 3 - proposed Future Gaming Market legislative provisions -
hotel and club

June 2021



Tasmanian
Government



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Proposed Future Gaming Market legislative provisions - hotel and club

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

All amendments are intended to commence on 1 July 2023 unless otherwise noted. From 1 July 2023, 'licensed premises gaming licences' will be known as 'venue licences' and 'licensed premises gaming operators' will be known as 'venue operators'.

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*).

In reading this paper, it should be noted that:

- Existing provisions of the Act that remain unchanged are excluded from this Paper.
- 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.
- To assist with readability, some of the draft provisions provided below may only form part of the relevant section in the Act, particularly where the remaining part of the section is administrative in nature.
- 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.
- Legislation section numbers referred to in this paper relate to the proposed amended Act.
- 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.



New definitions

Following are new draft interpretations relating to hotel and club venues. Note that a “FATG” refers to a Fully Automated Table Game relevant to the casino sector:

"electronic monitoring system" means any type of connected electronic system or device that is designed so that it may be used, or adapted, to send or receive data from gaming equipment in relation to the security, accounting or operation of gaming equipment;

"electronic monitoring system information" means information acquired in the course of the operation of an electronic monitoring system and includes data derived from that information;

"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;

"gaming machine authority" means an authority endorsed on a venue licence that authorises the venue operator to operate one gaming machine at the licensed premises specified in the venue licence;

"gaming operation" means –

...

- (b) in relation to licensed premises, any activity authorised by the venue licence for that licensed premises;

"hotel" means premises, other than a licensed club, in respect of which a venue licence is in force;

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

"licensed club" means premises in respect of which both of the following are in force:

- (a) a club licence within the meaning of the Liquor Licensing Act 1990;
- (b) a venue licence;

"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;

"monitoring operator" means the holder of a monitoring operator's licence;

"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;

"Roll" means the Roll of Recognized Manufacturers, Suppliers and Testers of Gaming Equipment maintained under section 70;

"venue licence" means a licence granted and in force under section 42;

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

Authority conferred by venue licence

As venue licence holders will be responsible for electronic gaming machine (EGM) gaming operations in their venues, the functions authorised to be undertaken by the licence holder will be amended and include, among other things, the ability to purchase and dispose of gaming equipment. Subsection 2(b) refers to a Fully Automated Table Game (FATG) machine that can only be operated in casinos.

Proposed amendment (section 32):

- (1) A venue licence authorises the holder of the licence, subject to this Act and any conditions to which the licence is subject, to do such of the following things as are specified in the licence:
- (a) to purchase or obtain approved gaming equipment from a person listed on the Roll;
 - (b) to purchase or obtain unrestricted gaming equipment from manufacturers and suppliers;
 - (c) to accept wagers and make payments for games of keno;
 - (d) to operate at the licensed premises, in respect of which the venue licence is in force, the number of gaming machines that is equal to or less than the number of gaming machine authorities endorsed on the venue licence;
 - (e) to possess gaming equipment at the licensed premises to which the licence relates;
 - (f) to sell or dispose of gaming equipment in accordance with this Act;
 - (g) to do all things necessarily incidental to carrying on the activities authorised by this section.
- (2) In subsection (1) –
- "gaming equipment"** does not include –
- (a) any device designed, customised or installed specifically for use in relation to the operation of, or wagering on –
 - (i) simulated games; or
 - (ii) simulated racing events, unless the simulated racing events are conducted under the authority of a Tasmanian gaming licence; or
 - (b) an FATG machine.

Application for venue licence

Amendments to the provisions of section 36 extend the objection period in relation to the grant of a licence and the period in which a person can request that the Commission make available notice information and any community interest submissions made in respect of the application from 14 days to 28 days.

Proposed amendment (section 36):

- (1) A person may apply to the Commission to be granted a venue licence for licensed premises other than premises that are –
- (a) contained within a restaurant; or
 - (b) otherwise part of a restaurant; or
 - (c) prescribed premises.
- (2) An application for a venue licence must –
- (a) be in a form approved by the Commission; and
 - (b) specify the number of gaming machine authorities (if any) which the applicant wishes to have endorsed on the venue licence if the licence is granted; and
 - (c) contain such other information, and be accompanied by any documents, the Commission requires; and
 - (d) be accompanied by the prescribed fee.
- (3) An application under subsection (1) for a venue licence must be accompanied by a community

interest submission if –

- (a) the applicant specifies in the application that he or she wishes one or more gaming machine authorities to be endorsed on the venue licence for the licensed premises; and*
- (b) gaming machines have not operated at the licensed premises any time in the 6-month period immediately before the application is made.*

(4) A community interest submission is to –

- (a) be in a form approved by the Commission; and*
- (b) contain such particulars regarding community interest matters as the Commission may require.*

(6) Within 14 days of making an application to the Commission, the applicant must cause to be published in a newspaper circulating in the area in which the licensed premises are situated a notice containing the information required by the Commission and a statement that any person may object to the grant of a licence by giving notice in writing to the Commission within 28 days of the date of publication and stating the grounds for the objection.

(6A) A person may, within 28 days of the date of publication of a notice under subsection (6), request in writing that the Commission make available –

- (a) information as provided in the notice; and*
- (b) any community interest submission made in respect of the relevant application under subsection (3).*

Determination of venue licence application

Key changes:

- One EGM authority must be endorsed on the licence for every EGM that a hotel or club wishes to operate.
- The ability for a new venue to operate EGMs will be reliant on the availability of EGM authorities.
- Surplus EGM authorities (ie those not attached to a venue licence) will be held in a “pool” for allocation by the Tasmanian Liquor and Gaming Commission (the Commission) in accordance with the Act and Regulations.
- The Commission, when determining a venue licence application will, amongst other things, be required to consider any limitations on the issuing of EGM authorities, limitations include:
 - the state-wide cap of 2 350 EGM authorities that will be available for use in hotels and clubs;
 - individual venue caps on EGM authorities - 30 for hotels and 40 for clubs; and
 - the Minister will have the ability to issue Directions in relation to the allocation of EGM authorities (for example, by specifying matters the Commission must consider/apply).
- Where a venue licence is surrendered or cancelled (eg change of licence holder due to sale of premises or expiry of lease), the EGM authorities associated with that venue licence will be held in “reserve” for a period of up to six months, for reallocation to any new venue licence issued for that premises. If the six month period expires, the EGM authorities will be returned to the “pool” for reallocation (in accordance with the Act and Regulations).
- Venue licences will be issued for a period of 20 years.

Proposed amendment (section 42):

(1) The Commission is to determine an application for a venue licence by –

- (a) granting the application and determining the number (if any) of gaming machine authorities to be endorsed on the licence; or*
- (b) refusing the application.*

(2) Subject to subsection (3), in making a determination under subsection (1)(a), the Commission must

ensure that the endorsement of gaming machine authorities on the licence -

- (a) will not result in the maximum number of gaming machine authorities at licenced clubs and hotels under section 101B(a) or 101C(a) being exceeded; and
 - (b) is in accordance with any direction given by the Minister under section 127.
- (3) Despite subsection (2), if an application for a venue licence for licensed premises is made within 6 months of a venue licence (the former licence) for that premises being surrendered, expired or cancelled, the number of gaming machine authorities to be endorsed on the licence is to be -
- (a) the same as the number of gaming machine authorities endorsed on the former licence; or
 - (b) if a lesser number of gaming machine authorities is specified in the application for the venue licence, that lesser number.
- (4) Where an application is granted, the Commission may grant a venue licence to take effect immediately or on and from a day to be determined by the Commission.
- (5) If a venue licence takes effect on a day to be determined by the Commission, the day on which the licence takes effect may be determined by reference to -
- (a) a date; or
 - (b) the occurrence of an event; or
 - (c) the fulfilment of a condition; or
 - (d) any other matter the Commission considers appropriate.
- (6) A venue licence may be granted subject to such conditions as the Commission thinks fit.
- (7) Without limiting the matters to which conditions may relate, the conditions of a venue licence may relate to any matter for which provision is made by this Act but must not be inconsistent with a provision of this Act.
- (8) On the grant of an application for a venue licence, the Commission must issue to the applicant a venue licence that -
- (a) specifies whether acceptance of wagers for games of keno is permitted; and
 - (b) specifies the gaming area approved for the licenced premises; and
 - (c) is endorsed with the number of gaming machine authorities (if any) determined by the Commission under subsection (1)(a).
- (9) If the Commission decides to refuse an application under this section, the Commission must give the applicant reasons for the refusal in writing.
- (10) If an application is granted, the venue licence is granted for a term of 20 years, subject to the conditions, and for the licensed premises, specified in the licence.

Cost of investigation to be paid by applicant

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. This includes provisions that will allow the Commission to recover costs associated with conducting an investigation if required.

Proposed amendment (section 40A):

- (1) The reasonable costs incurred by the Commission in investigating and inquiring into an application for a venue licence are payable to the Commission by the applicant, unless the Commission determines otherwise in a particular case.
- (2) The Commission may require part or full payment in advance of the amount it estimates will be payable by the applicant and may refuse to deal with the application until the required payment is made.
- (3) Investigation and inquiry costs may include travelling expenses within or outside the State.
- (4) It is a condition of any licence granted to the applicant that any amount payable under this section by the applicant is paid.

Renewal of venue licence

Venue licence terms will be for 20 years, subject to the usual requirement that the licence holder remains suitable to be licensed during that period. Venue licence holders will be able to apply for the renewal of their venue licence up to five years prior to the expiry of the original licence. Licence renewals will be for a further 20-year period, effective from the date the renewal application is determined by the Commission, or the day on which the current licence was due to expire (whichever date is the earlier).

Proposed amendments (section 43B):

- (1) *The holder of a venue licence may, not earlier than 5 years before the expiration of the current licence, apply to the Commission for the renewal of the licence.*
- (2) *If an application is made under subsection (1) –*
 - (a) *the current licence continues in force until the licence is renewed or its renewal is refused; and*
 - (b) *if renewed, the renewal takes effect from the earlier of the following events:*
 - (i) *the day on which the current licence is renewed;*
 - (ii) *the day on which the current licence was due to expire.*
- (2A) *If the current licence ceases to be in force due to the operation of section (2)(a), the Commission may give the holder of the licence a prescribed proportional refund of the annual licence fee paid in respect of that licence.*
- (3) *An application for renewal must –*
 - (a) *be in a form approved by the Commission; and*
 - (b) *contain any information, and be accompanied by any documents, that the Commission requires; and*
 - (c) *be accompanied by the prescribed fee.*
- (4) *Sections 38, 39, 40, 40A, 41 and 42 apply to an application for the renewal of a venue licence in the same manner as they apply to an application for the granting of a venue licence.*
- (5) *The Commission may refuse to renew a venue licence if the holder of the licence does not –*
 - (a) *comply with a requirement imposed under section 40 within 60 days of the requirement being made; or*
 - (b) *if the Commission requires the provision of further information under that section, provide such information within 60 days of the further requirement being made.*

Provisional venue licence

This section provides for a provisional licence to be issued where there is a change of venue operator to allow the incoming operator to continue to operate gaming activities while the application is being determined. Amendments to this section include provisions relating to gaming machine authorities and that, if the Commission grants a provisional venue licence, the same number (or less) gaming machine authorities are to be endorsed on that licence. It also extends the provisional licence period from 90 days to 180 days to allow greater time for inquiries and investigations to be completed.

Proposed amendment (section 48):

- (1) The Commission may grant a provisional venue licence to an applicant for a venue licence for licensed premises if –
 - (a) a venue licence was in force in respect of that licensed premises immediately before the grant of the provisional venue licence; and*
 - (b) the person has made an application under section 36 for a venue licence in respect of those licensed premises and that application has not yet been determined by the Commission.**
- (2) Subject to subsection (3), if the Commission grants a provisional venue licence, the number of gaming machine authorities endorsed on the licence is to be –
 - (a) the same number of gaming machine authorities (if any) that were endorsed on the venue licence for the licensed premises immediately before the grant of the provisional venue licence; or*
 - (b) such lesser number of gaming machine authorities as is specified in the application for the venue licence.**
- (3) The Commission must not grant a provisional venue licence that authorises the operation of gaming machines at the licensed premises to which the licence relates, if gaming machines have not operated at the licensed premises in the 6-month period immediately before the application for that licence was made.*
- (4) Subject to subsection (5), a provisional venue licence granted in respect of licensed premises ceases to have effect on the earlier of the following events:
 - (a) the withdrawal of the application referred to in subsection (1)(b);*
 - (b) the determination of the application referred to in subsection (1)(b);*
 - (c) the expiry of the period of 180 days from the date on which the provisional venue licence was granted.**
- (5) The Commission may extend the period referred to in subsection (4)(c).*
- (6) This Act applies to a provisional venue licence in the same way as it applies to a venue licence (to the extent that is consistent with this section).*

Venue licence fee

Venue licence holders will be required to pay an annual licence fee to conduct EGM and Keno operations. The licence fee will be required to be paid in advance on a quarterly basis (ie on 1 July, 1 October, 1 January and 1 April). The fee will be based on the number of EGM authorities endorsed on the venue licence (as detailed in the “Hotel and Club Changes” fact sheet). These amounts will be converted to the closest number of fee units and detailed in Regulations.

Proposed amendment (section 148):

- (1) The holder of a venue licence must pay –
 - (a) a prescribed annual licence fee to the Commissioner of State Revenue for each gaming machine authority endorsed on the licence; and*
 - (b) a prescribed annual licence fee to the Commissioner of State Revenue for keno operations at the licensed premises.**
- (2) A licence fee under section (1)(a) is due and payable as prescribed.*
- (3) If the holder of a venue licence surrenders the licence, the Commissioner of State Revenue may give the person a prescribed proportional refund of the licence fee.*
- (4) If a venue licence is amended to reduce the number of gaming machine authorities endorsed on the licence, the Commissioner of State Revenue may give the licence holder a prescribed proportional refund of the relevant part of the licence fee.*
- (5) If a venue licence is amended to increase the number of gaming machine authorities endorsed on the licence, the Commissioner of State Revenue may require the licence holder to pay a prescribed*

proportional licence fee for the additional gaming machine authorities.

(6) In this section –

"relevant part", of the licence fee for a venue licence, means that part of the licence fee that is payable because of a particular gaming machine authority endorsed on the licence.

Taxation in respect of venue licence

Venue licence holders will be required to pay tax on EGM gross profits of 33.91 per cent for hotels and 32.91 per cent for clubs to the Commissioner of State Revenue by the 14th day of the following month to which the tax period relates. The administrative processes for the payment of such tax will be established closer to the commencement of the future gaming market arrangements.

Proposed amendment (section 150AK):

(1) A venue operator must pay to the Commissioner of State Revenue a tax on the gross profits derived from gaming machines each month.

(2) The tax payable under subsection (1) is–

(a) a sum equal to 33.91% of those monthly gross profits derived from gaming machine games located in hotels; or

(b) a sum equal to 32.91% of those monthly gross profit derived from gaming machine games located in licensed clubs.

(3) A sum payable by way of tax under subsection (1) must be paid to the Commissioner of State Revenue on or before the 14th day of the month immediately following the month to which that tax relates.

(4) In this section –

"monthly gross profit" means gross profits derived by a venue operator during the month in relation to which tax is payable under this section.

Calculation of gross profits

This section clarifies the calculation of gross profit for the venue operator in relation to the paying of taxes.

Proposed amendment (section 136):

(1) The gross profit derived from any period from the conduct of gaming is to be calculated in accordance with this section.

(2) The gross profit derived from machine games during any period is to be calculated by deducting from the total amount wagered in that period the sum of all winnings paid.

...

Community Support Levy

The payment of the Community Support Levy (CSL) from EGM revenue includes an increase and an extension of the levy - three per cent for casinos, five per cent for hotels and four per cent for clubs.

Again, the administrative processes for the payment of such levy will be established closer to the commencement of the future gaming market arrangements.

To provide greater flexibility and responsiveness, the distribution of CSL will change from the current model of distribution percentages set in legislation, to a model that is prescribed in Regulations. This model will be developed with relevant stakeholder input.

Proposed amendment (section 151):

- (1) A casino operator or a venue operator must, from the gross profits derived from gaming machine games in each month, pay to the Commissioner of State Revenue a community support levy.
- (2) The community support levy is –
 - (a) in the case of the holder of a general casino licence, a sum equal to 3% of those monthly gross profits derived from gaming machines in the casino; and
 - (b) in the case of the holder of a venue licence –
 - (i) a sum equal to 4% of those monthly gross profits derived from gaming machine games located in licensed clubs; and
 - (ii) a sum equal to 5% of those monthly gross profits derived from gaming machine games located in hotels.
- (3) A community support levy must be paid to the Commissioner of State Revenue on or before the 14th day of the month immediately following the month to which it relates.
- (3A) The regulations may provide for contributions to the community support levy to be made by the Treasurer which may be an appropriation of the Public Account.
- (3B) A contribution to the community support levy that is required under the regulations to be paid by the Treasurer is to be paid by the Treasurer out of the Public Account without further appropriation than this section.
- (4) The Minister must distribute the total community support levy in the manner prescribed by the regulations.

Profits from gaming machines

To ensure the integrity of gaming, only suitable persons are permitted to be associated with venue operators or the operation of gaming. As such, only the licence holder or an approved associate of the licence holder can participate in the profits of gaming.

Proposed amendment (section 89):

A venue operator must not allow a person to participate in any profits derived from gaming machines operated at the licensed premises unless that person is the venue operator or an associate of the operator.
Penalty: Fine not exceeding 5 000 penalty units

Gaming machines: limit on overall numbers

There will be a limit on the overall number of EGMs that may be endorsed on venue licences in the State of 2 350.

Proposed amendment (section 101B):

On and after the 2023 commencement day –

- (a) the maximum number of gaming machine authorities in total that may be endorsed on venue licences in the State is 2 350; and

....

Gaming machines: limit on numbers allowed in individual licensed clubs and hotels

There will be a limit to the number of EGMs that may be endorsed on an individual venue licence, to be no more than 40 per licensed club and 30 per hotel; the same as existing venue caps.

Proposed amendment (section 101C):

On and after the 2023 commencement day –

- (a) the maximum number of gaming machine authorities that may be endorsed on a venue licence for a licensed club is 40; and*
- (b) the maximum number of gaming machine authorities that may be endorsed on a venue licence for a hotel is 30.*

Increase in number of gaming machine authorities held in respect of licence

Venue licence holders will have the ability to apply for additional EGM authorities (within venue caps), should any be available. The legislation will contain the power for the Commission to make a determination with regard to the allocation of EGM authorities, with the process for the allocation of authorities to be set out in Regulations.

Proposed amendment (section 48B):

- (1) The holder of a venue licence may apply to the Commission to increase the number of gaming machine authorities endorsed on the venue licence.*
- (2) An application under subsection (1) must –*
 - (a) be in a form approved by the Commission; and*
 - (b) contain any information, and be accompanied by any documents the Commission requires; and*
 - (c) be accompanied by the prescribed fee.*
- (3) The Commission may grant an application or refuse to grant an application under this section.*
- (4) In making a determination under subsection (3), the Commission must ensure that an increase in the number of gaming machine authorities on the licence –*
 - (a) will not result in the maximum number of gaming machine authorities at licenced clubs and hotels under section 101B(a) or 101C(a) being exceeded; and*
 - (b) is in accordance with any direction given by the Minister under section 127.*
- (5) If the Commission grants an application under this section, the Commission must, as soon as practicable after approving the application, amend the licence by either –*
 - (a) endorsing the venue licence with the additional gaming machine authorities; or*
 - (b) issuing a replacement venue licence to the licence holder.*
- (6) The regulations may make provision for or with respect to –*
 - (a) the eligibility of the holders of venue licences to apply for an increase in gaming machine authorities on the licence under this section; and*
 - (b) conditions and restrictions on the endorsement of gaming machine authorities by the Commission under this section.*

Reduction in number of gaming machine authorities held in respect of licence

Venues will have the ability to apply to the Commission to relinquish single or multiple EGM authorities at any time and such EGM authorities will become available for reallocation by the Commission in accordance with established reallocation procedures, unless determined otherwise by the Minister.

Provisions will also be made for situations where a venue licence holder wishes to relinquish EGM authorities but they are not the venue owner (ie it's a leased premises). In such instances, where the lease was entered into prior to the commencement of the legislation, it is proposed that any

changes to reduce the number of EGM authorities on a venue licence by a licence holder (ie the lessee of the premises), must also be agreed to by the owner of the premises. If agreement can't be reached between the venue owner and the venue licence holder, the Commission can determine to permit a reduction of EGM authorities if it considers the request by the lessee to be fair and reasonable. This would include consideration of any existing clauses of the venue lease.

As it is anticipated that any venue lease arrangement entered into after the commencement of the legislation will provide for the situation where a licensee (that is a lease holder) wishes to relinquish any EGM authorities, the legislation will not need to provide for these arrangements.

Proposed amendment (section 48C):

- (1) *The holder of a venue licence may apply to the Commission to decrease the number of gaming machine authorities endorsed on the venue licence.*
- (2) *An application under subsection (1) must –*
 - (a) *be in a form approved by the Commission; and*
 - (b) *contain any information, and be accompanied by any documents the Commission requires; and*
 - (c) *be accompanied by the prescribed fee.*
- (3) *The Commission may grant an application or refuse to grant an application under this section.*
- (4) *If a gaming machine authority is allocated to a licence holder for licensed premises that are held under a lease, the right of that licence holder to apply to reduce the number of gaming machine authorities endorsed on the venue licence is qualified as follows:*
 - (a) *if the lease is entered into after the commencement of this section, the lease may exclude or limit the right to reduce the number of gaming machine authorities;*
 - (b) *if the lease was entered into before the commencement of this section, the right may only be exercised if the lease does not contemplate a reduction in gaming machines and either –*
 - (i) *the owner of the licensed premise agrees; or*
 - (ii) *the Commission, on application by the holder of the venue licence, determines that it is fair and equitable to reduce the number of gaming machine authorities.*

Transfer of gaming machine authorities

In general, EGM authorities will not be transferrable and any EGM authorities not required by a venue licence holder can be surrendered and will then become available for reallocation by the Commission in accordance with established reallocation procedures, unless determined otherwise by the Minister.

The one exception to this will be venue licence holders that are the same person or considered to be associated persons, with such licence holders permitted to apply to the Commission for approval to transfer EGM authorities between their venues. The ability to undertake such transfers will, amongst other things, be subject to any community interest test requirements (where applicable) and the transfer not exceeding the individual venue EGM authority cap limits (30 hotels/40 clubs).

Proposed amendment (section 48A):

- (1) *In this section –*

“associated persons” means persons associated because of the following:

 - (a) *natural persons are associated persons if they are partners in a partnership;*
 - (b) *companies are associated persons if –*
 - (i) *common shareholders have a majority interest in each company; or*
 - (ii) *the companies have common shareholders and the Commission determines that the companies are associated persons.*
- (2) *A gaming machine authority endorsed on a venue licence for licensed premises (the “initial premises”) may, by application under this section, be transferred so that it is endorsed on a venue*



licence for another licenced premises (the “**secondary premises**”) if both venue licences are held by

–

- (a) the same person; or
- (b) associated persons.

- (3) An application for the transfer of a gaming machine authority under this section must –
- (a) be made to the Commission in a form approved by the Commission; and
 - (b) contain or be accompanied by the information and documents required by the Commission; and
 - (c) be accompanied by the prescribed fee.
- (4) If gaming machines have not operated at the secondary premises at any time in the 6-month period immediately before the application is made, the following sections apply to an application under subsection (3) as if it were an application under section 36(1) for a venue licence endorsed with gaming machine authorities:
- (a) section 36(3), (4), (6), (6A) and (6B);
 - (b) section 37(1)(d) and (2).
- (5) The Commission may grant an application or refuse to grant an application under this section.
- (6) The Commission must not grant an application under this section unless it is satisfied that, in the case of an application to which subsection (4) applies, taking into account community interest matters, it is in the community interest to transfer the gaming machine authority so that it is endorsed on the venue licence for the secondary premises.
- (7) The Commission may require an applicant under this section to pay the whole or any part of the reasonable costs of the Commission in investigating and processing the application if those costs exceed the prescribed fee.
- (8) A requirement under subsection (7) must be made in writing provided to the applicant.
- (9) On the grant of an application for the transfer of a gaming machine authority, the Commission must issue to the relevant licence holders replacement venue licences that are endorsed with the number of the gaming machine authorities held by the relevant licence holder after the transfer.
- (10) The transfer of a gaming machine authority takes effect on the day the application was granted or on a later day determined by the Commission and specified in the venue licences for the initial premises and the secondary premises.

Gaming machines - limit on common ownership of authorities

There will be a limit on the maximum number of EGM authorities that any one person or associated persons can hold. This is to prevent larger venue owners from buying up smaller venues or having one operator dominating the Tasmanian market. The limit is approximately 25 per cent of the EGM authorities available.

Proposed amendment (section 101D):

- (1) The combined maximum number of gaming machine authorities that may be endorsed on venue licences held by venue operators that are associated persons, within the meaning of section 48A(1), is 587.
- (2) If venue operators become associated persons and, as a consequence those venue operators hold venue licences that are endorsed with more than 587 gaming machine authorities combined, those venue operators must, within 14 days of becoming associates, apply under section 48C to decrease the number of gaming machine authorities endorsed on venue licences held by those venue operators in excess of 587.

Penalty: Fine not exceeding 1 000 penalty units.

Ministerial directions in relation to allocation of gaming machine authorities

To provide the Government with some flexibility and control with regard to the future allocation of any available EGM authorities, a provision has been included in section 127 (ie 4A) that enables the Minister to issue a direction to the Commission in this regard.

Proposed amendment (section 127):

- (1) *The Minister may give the Commission any direction that the Minister considers to be necessary or desirable with respect to the performance or exercise by the Commission of its functions or powers under this Act or any other Act other than the Liquor Licencing Act 1990.*
- (2) *The Commission is not bound by a direction given under subsection (1) unless the direction is in writing and signed by the Minister.*
- (3) *The power conferred on the Minister by subsection (1) must not be exercised so as -*
 - (a) *to require the Commission to do anything that it is not empowered to do by this Act or any other Act; or*
 - (b) *to prevent the Commission from performing any function that it is expressly required by this Act or any other Act to perform, whether conditionally or unconditionally; or*
 - (c) *to interfere with the formation by the Commission of any opinion or belief in relation to any matter that is to be determined as a prerequisite to the performance or exercise by the Commission of any of its functions or powers under this Act or any other Act.*
- (4) *Subsection (1) does not authorize the Minister to give a direction to the Commission preventing it from -*
 - (a) *granting or refusing to grant; or*
 - (b) *exercising its power under this Act or any other Act to cancel, revoke or suspend - any licence, approval or other authority that it may grant or issue under this Act.*
- (4A) *Nothing in subsection (3) or (4) prevents or limits the exercise of power conferred by the Minister under subsection (1) to give directions to the Commission with respect to the endorsement of gaming machine authorities on venue licences by the Commission.*
- (5) *The Minister may, at any time, by notice in writing given to the Commission, revoke a direction given to it under subsection (1).*

...

Controls and procedures to be implemented by venue operator

The Commission will establish a set of procedures which relate to the administrative and accounting processes that venues will be required to adhere to for gaming operations.

Proposed amendment (section 137A):

- (1) *The Commission may approve a system of internal controls and administrative and accounting procedures for use by venue operators.*
- (2) *The Commission is to make available a copy of the approved system of internal controls and administrative and accounting procedures for each venue.*
- (3) *The system of internal controls and administrative and accounting procedures approved under subsection (1) for use by venue operators must include such specifications as are prescribed.*
- (4) *A venue operator must implement a system of internal controls and administrative and accounting procedures approved by the Commission under subsection (1).*
Penalty: Fine not exceeding 50 penalty units.
- (5) *An approval referred to in subsection (1) may be amended as the Commission thinks fit.*

Approval of machine types and machine games

This section provides for the approval of gaming machines, and the games that operate on those machines. Such applications are commonly made by manufacturers. The provisions include, among other things, the ability for the Commission to approve the rules under which the gaming machines are to be operated and includes a requirement that venue operators must not allow the machines to be operated unless they are operated in accordance with such rules.

Proposed amendment (section 80):

- (1) A person may apply to the Commission for the approval of a machine type or a machine game.
- (1A) An application under subsection (1) must be in a form approved by the Commission and must be accompanied by the prescribed fee.
- (1B) On receipt of an application under subsection (1), the Commission is to conduct an evaluation of the machine type or machine game.
- (2) The Commission may require a person who submits an application under subsection (1) 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.
- (2A) The Commission may require rules under which a gaming machine game is to be played.
- (2B) If the Commission requires rules under which a machine game is to be played, the Commission may –
- (a) approve the rules; or
 - (b) refuse to approve the rules.
- (2C) A venue operator, casino operator or monitoring operator must not permit a machine game that requires rules under this section to be played in the venue unless the machine game is played in accordance with those rules as approved by the Commission.
- Penalty: Fine not exceeding 1 000 penalty units.
- (3) If a machine type or machine game that is the subject of an application under subsection (1) is considered by the Commission to be suitable for use in gaming, the Commission must approve the machine type or game subject to such conditions (if any) as it determines.
- (4) The Commission must reject all machine types or machine games that are the subject of an application under subsection (1) which it considers are not suitable for gaming.
- (5) If a machine type or a machine game differs in any material particular from the machine type or game approved by the Commission, the machine type or machine game ceases to be approved under this section.
- (6) The Commission may repeal or vary any rules approved under subsection (2B).
- ...
- (8) A venue operator or monitoring operator must not permit –
- (a) a gaming machine to be installed in a venue unless that type of gaming machine has been approved by the Commission under subsection (3); or
 - (b) a machine game to be installed on a gaming machine unless that machine game has been approved by the Commission under subsection (3).
- Penalty: Fine not exceeding 1 000 penalty units.

Installation and storage of gaming equipment

To ensure that gaming equipment is installed, maintained and repaired in an appropriate and consistent manner in hotel and club venues, the monitoring operator and keno operator will be responsible for these functions, including any modifications (ie wiring, telecommunications, EGM bases etc) that must be completed for the equipment to be installed. The monitoring operator/keno operator will be permitted to charge venues a regulated fee for undertaking this work.

Amendments are included to enable a venue owner, who is not the venue licence holder (ie leased premise situations), to own or be in possession of gaming equipment and store such equipment if it is not installed in the venue. In a leased venue situation, the venue owner can effectively supply the EGMs (ie renting) to the lessee for use while the lessee is the venue licence holder. If the lessee decides to move on, the EGMs can remain at the venue for another lessee to apply for a venue licence and operate the EGMs. To ensure that venue owners (that are not venue licence holders) are suitable to own and supply gaming equipment, the venue owner will be required to apply under an existing provision of the Act for listing on the Roll of Recognised Manufacturers, Suppliers and Testers of Gaming Equipment and be approved 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.*

Electronic monitoring system to be in place

This amendment requires that EGMs must not be operated in hotel or club venues unless they have been connected to an approved electronic monitoring system. Venue EGM will be connected to the approved monitoring system operated by the Monitoring Operator.

Proposed amendment (section 96):

- (1) *It is a condition of a venue licence that machine games are not to be operated in the relevant licensed premises unless the machine game is connected to an electronic monitoring system approved by the Commission under section 48Y as suitable for use in monitoring licence operations associated with such games.*

Section 121 - casino operators and venue operators must erect warning notices

This section will be removed and relevant provisions will be included in regulations.

Section 138 - content of approved system

The provisions of this section will be removed and relevant provisions will be included in regulations.

Removal of jackpot prize pool from venue

To provide for instances where the jackpot balance on a venue 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

Transitional provisions

Transitional provisions are being included to ensure an effective transition to the new future gaming market structure and include matters such as the:

- initial venue licensing arrangements;
- ability for venues to purchase their own gaming equipment prior to commencement of the future gaming market arrangements;
- provisions that allow the Commission to refuse an application to operate gaming machines prior to 1 July 2023 where the number of gaming machines will exceed the proposed cap of 2 350; and
- matters that provide for the establishment of a monitoring operator.

While a few of the transitional issues may not be resolved until closer to the commencement date, the regulations will be sufficiently broad as to provide the power to include any transitional changes required to fully implement the future gaming market arrangements. Some of the transitional provisions will commence prior to 1 July 2023, including Part 7 below, which will commence on Royal Assent.

Proposed amendment (Part 7):

1. Interpretation of Part

In this Part –

"changeover day" means 1 July 2023;

"lead-up period" means the 12-month period immediately before the changeover day;

"new legislative scheme" means the provisions of the Gaming Control Act 1993 as in force immediately after 30 June 2023;

"old legislative scheme" means the provisions of the Gaming Control Act 1993 as in force immediately before 1 July 2023;

"venue licence" means a licence of that name issued under the new legislative scheme.

2. Approvals in relation to gaming equipment during lead-up period

(1) The holder of a licensed premises gaming licence may, during the lead-up period –

- (a) with the written approval of the Commission, purchase or obtain approved gaming equipment from a person listed on the Roll; and
- (b) possess gaming equipment purchased or obtained in accordance with paragraph (a); and
- (c) do all things necessarily incidental to carrying on the activities referred to in paragraphs (a) and (b).

(2) A person listed on the Roll may, with the written approval of the Commission, sell or supply approved gaming equipment to the holder of a licensed premises gaming licence during the lead-up period.

(3) A manufacturer or supplier may, with the written approval of the Commission, sell or supply unrestricted gaming equipment to the holder of a licensed premises gaming licence during the lead-up

period.

- (4) An approval under this section may be subject to such conditions as the Commission considers appropriate.
- (5) The Commission may at any time amend or revoke an approval under this section;
- (6) The amendment or revocation of an approval under this section takes effect when notice of it is given in writing to the person concerned or on a later date specified in the notice.
- (7) If a person carries out an activity in accordance with an approval under this section, the carrying out of that activity does not constitute an offence under this Act.

...

4. Continuation of licensed premises gaming licence during lead-up period.

- (1) This section applies if -
 - (a) a licensed premises gaming licence is due to expire during the lead-up period; and
 - (b) the holder of that licence has made an application to the Commission for a venue licence before and in anticipation of the commencement of Part 4 of the Gaming Control Amendment (Future Gaming Market) Act 2021.
- (2) The licensed premises gaming licence continues to be valid according to its terms until the first of the following occurs:
 - (a) the changeover day;
 - (b) the licence is cancelled or surrendered.

5. Application for venue licence by holder of licensed premises gaming licence

- (1) This section applies to an application for a venue licence that is made by a licensed premises gaming operator before, and in anticipation of the commencement of Part 4 of the Gaming Control Amendment (Future Gaming Market) Act 2021.
- (2) An application to which this section applies is to be made by a licensed premises gaming operator at least 12 months before the changeover day.
- (3) If a licensed premises gaming operator makes an application to which this section applies within the lead-up period, the Commission may refuse to consider the application.
- (4) Section 38(1)(b) and section 38(2)(ba), (f) and (g) do not apply to an application to which this section applies.

6. Additional matter that may be considered in determining licensed premises gaming licence application

The Commission may refuse under section 42 to grant a licensed premises gaming licence that authorises the possession of gaming machines at licensed premises if, in the opinion of the Commission, the granting of such a licence would result in the number of gaming machine authorities endorsed on venue licences in the State (in total) exceeding 2 350 on the changeover day.

7. Regulations

- (1) The Governor may make regulations of a savings and transitional nature consequent on the enactment of the Gaming Control Amendment (Future Gaming Market) Act 2021 to effect, and facilitate, the transition from the old legislative scheme to the new legislative scheme.
- (2) Without limiting the generality of subclause (1), regulations made under that subclause may –
 - (a) provide for the preservation, continuation, extension, variation or revocation of any one or more of the following matters under the old legislative scheme:
 - (i) decisions, determinations, approvals or other such authorisations;
 - (ii) actions undertaken or exempted;
 - (iii) licences, exemptions or other such authorisations;
 - (iv) notices or other instruments or documents;
 - (v) any other matter under the old legislative scheme; and
 - (b) provide for the preservation, continuation, variation or revocation of decisions or actions taken

- under the 2003 Deed; and
- (c) deal with any incidental or ancillary matters.
- (3) Regulations made under subclause (1) may –
- (a) specify that they take effect on –
- (i) the day on which any part of the Gaming Control Amendment (Future Gaming Market) Act 2021 commences; or
- (ii) on a day after the day on which any provision of the Gaming Control Amendment (Future Gaming Market) Act 2021 commences, whether the day so specified is before, on or after the day on which the regulations are made; and
- (b) be made so as to apply differently according to matters, limitations or restrictions, whether as to time, circumstance or otherwise, specified in the regulations; and
- (c) authorise any matter to be from time to time determined, applied or regulated by any person or body specified in the regulations.

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.

2. Pending applications for licenced premises gaming licence

An application for a licensed premises gaming licence made under section 36 of the former Act that has not been determined before the changeover day is taken to be an application for a venue licence made under this Act and is to be dealt with by the Commission in accordance with this Act.

.....

7. Limit on common ownership of authorities

(1) In this subclause –

“associated venue operators” means venue operators that are associated persons, within the meaning of section 48A(1).

(2) If, on the changeover day, the total number of gaming machine authorities endorsed on venue licences held by associated venue operators exceeds 587, those venue operators must, within 14 days of the changeover day, apply under section 48C to decrease the number of gaming machine authorities so that the total number of gaming machine authorities held on those licences no longer exceeds 587.

Penalty: Fine not exceeding 1 000 penalty units.

Other amendments relevant to all sectors

The following sections contain amendments relevant to all licence holders, including venue operators. For this reason, the details of these amendments have been included in the “general amendments” consultation paper:

- Revocation of 2003 Deed (section 6)
- Authority conferred by a special employee's licence (section 34)
- Authority conferred by a technician's licence (section 35)
- Training of Special Employees (section 50)
- Approval of certain contracts by Commission (section 77V)
- Approval of other gaming equipment (section 81)
- Approval of jackpots and linked jackpot arrangements (section 84)
- Installation and storage of gaming equipment (section 90)
- Complaints regarding gaming and gaming equipment (section 97A)
- Investigation of prescribed licence holder (section 112N)
- Investigation into associate or other person (section 112O)
- Costs of investigation (section 112OA)
- Temporary transfer of prescribed licence to liquidator (section 112OB)
- General gaming standards (section 112PA)
- Suspension of licence without opportunity to be heard (section 112U)
- Unclaimed winnings (section 149)
- Sale or supply of gaming equipment (section 154)
- Waiver of fees (section 173A)
- Regulations (section 174).



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