

Future of Gaming in Tasmania

Paper 4 - proposed Future Gaming Market legislative provisions - keno

June 2021



Tasmanian
Government



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Published June 2021

ISBN 978-1-922379-35-1



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Proposed Future Gaming Market legislative provisions - keno

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

From 1 July 2023, there will be one dedicated keno operator licence issued to Federal Group.

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 relating to keno arrangements:

“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, pools is not a prohibited gaming activity); and
- (b) the wagering in a contingency relating to a brokered wagering event (where the event is not a prohibited gaming activity); and
- (c) the wagering in a contingency by way of a totalizator (where the totalizator is not conducted in respect of a prohibited gaming activity);

“gaming machine” means any device (other than a 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;

“keno operation” means any activity authorised by a keno operator’s licence;

“keno operator” means the holder of a keno operator’s licence;

“keno operator’s licence” means a keno operator’s licence granted and in force under section 13D;

“licensed operator” means a casino operator or a keno operator;

“prescribed licence” means -

- (a) a casino licence; and
- (b) a keno operator’s licence; and
- (c) a venue licence; and
- (ca) a monitoring operator’s licence; and
- (d) a special employee’s licence; and
- (e) a technician’s licence; and
- (f) a listing on the Roll; and
- (g) a Tasmanian gaming licence; and
- (h) a minor gaming permit; and
- (ha) a foreign games permit; and
- (i) any other licence, permit or authority or similar document prescribed by the regulations;

Conduct of keno by keno operators declared lawful

Proposed amendment (section 10):

- (1) Despite the provisions of any other Act or law, the conduct of the game of keno is lawful when the game is conducted by a keno operator in accordance with this Act and the tickets for the game are obtained at an approved venue.
- (2) The conduct of the game of keno by a keno operator in accordance with this Act and the conditions of the keno operator’s licence is not a public or private nuisance.

Authority conferred by keno operator's licence

Proposed amendment (section 13):

A keno operator's 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 from manufacturers, suppliers and testers listed on the Roll approved gaming equipment and testing services;
- (b) to purchase or obtain from manufacturers and suppliers unrestricted gaming equipment;
- (c) to supply approved gaming equipment to casino operators and venue operators;
- (d) to conduct games of keno;
- (e) to sell or dispose of gaming equipment in accordance with this Act;
- (f) to service, repair or maintain gaming equipment through the services of licensed technicians;
- (g) to do all things necessarily incidental to carrying on the activities authorised by this section.

Offence to breach licence conditions

Proposed amendment (section 13A):

(2) The holder of a keno operator's licence must comply with the conditions to which the keno operator's licence is subject.

Penalty: Fine not exceeding 2 500 penalty units.

Granting of keno operator's licence

Under the future gaming market model, Federal Group will be granted a keno operator licence and no other keno operator licence can be issued unless the Minister is satisfied it is in the public interest to do so where the existing licence is cancelled or surrendered, or where Federal Group does not apply to renew its licence (see sections 16A and 22).

Proposed amendment (section 13D):

(1) In this section –

"2023 commencement day" means the day on which Part 4 of the Gaming Control Amendment (Future Gaming Market) Act 2021 commences;

"existing gaming operator's licence" means a gaming operator's licence in force immediately before the 2023 commencement day.

- (2) On the 2023 commencement day, the Commission must grant to the holder of the existing gaming operator's licence (or to a corporation related to the holder of that licence) a keno operator's licence in respect of the same premises or part of premises for which the existing gaming operator's licence was granted.
- (3) After the 2023 commencement day, the Commission may grant a keno operator's licence in accordance with this Part to an applicant for that licence if the Minister has made a call for applications for a keno operator's licence under section 22.
- (4) A keno operator's licence granted under this Part may be subject to such conditions as the Commission thinks fit.

Renewal of keno operator's licence

A keno operator licence holder may apply to renew their licence up to five years, and no less than two years, prior to the expiry of the licence.

Proposed amendment (section 16A):

- (1) *The holder of a casino licence or a keno operator's licence may, no earlier than 5 years, and no later than 2 years, before the licence is due to expire, apply to the Commission for the renewal of the licence.*
- (2) *An application under subsection (1) must be –*
 - (a) *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) *Sections 23, 24, 25, 26, 27, 28 and 29 apply to an application for the renewal of a casino licence or a keno operator's licence in the same manner as they apply to an application for the granting of a casino licence or a keno operator's licence.*
- (4) *If a requirement made by this section is not complied with, the Commission may refuse to consider the application.*
- (5) *If an application is refused under subsection (4) or withdrawn by the applicant, the Commission, at its discretion, may refund the whole or part of the application fee.*

Amendment of conditions

Under future gaming market arrangements, any proposal by a keno operator to amend the conditions of its licence, will attract a prescribed fee.

Proposed amendment (section 14):

- (7) *Where an amendment to the conditions of a casino licence or keno operator's licence is proposed under this section by the licensed operator, the proposal is to be accompanied by the prescribed fee.*

Duration of licence

The duration of the keno operator's licence will be for 20 years.

Proposed amendment (section 16):

A casino licence and a keno operator's licence remain in force for a period of 20 years unless sooner cancelled or surrendered under this Act.

Application for keno operator's licence

Proposed amendment (section 22A):

- (1) *An application for a casino licence or a keno operator's licence 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.*
- (2) *If a requirement made by this section is not complied with, the Commission may refuse to consider the application.*
- (3) *If an application is refused under subsection (2) or withdrawn by the applicant, the Commission, at its discretion, may refund the whole or part of the application fee.*

Licence cannot be granted without Minister's approval

The Commission must not grant a keno operator's licence without the Minister's approval. This excludes the initial keno operator's licence (upon commencement of the new model), which is required under the proposed legislation to be issued to the existing operator (or to a corporation related to that operator).

Proposed amendment (section 29):

Except as provided in sections 13B(2) and 13D(2), the Commission must not grant a casino licence or a keno operator's licence to any person unless the Minister has approved the granting of such a licence to that person and has advised the Commission of any terms and conditions to be included in the licence.

Matters to be considered in determining application

Proposed amendment (section 23):

- (1) *The Commission must not grant an application for a casino licence or a keno operator's licence unless satisfied –*
- (a) *that the applicant, and each associate of the applicant, is a suitable person to be concerned in or associated with the management and operation of a casino or a keno operation; and*
 - (b) *the applicant's premises are suitable for the management and operation of a casino or keno operation.*
- (2) *In particular, the Commission must consider whether –*
- (a) *each such person is fit and proper having regard to character, honesty and integrity; and*
 - (b) *each such person is of sound and stable financial background; and*
 - (ba) *the applicant has a legal right to occupy the premises which are the subject of the application; and*
 - (c) *in the case of an applicant that is not a natural person, the applicant has, or has arranged, a satisfactory ownership, trust or corporate structure; and*
 - (d) *the applicant has or is able to obtain financial resources that are adequate to ensure the financial viability of the casino or keno operation and the services of persons who have sufficient experience in the management and operation of a casino or keno operation; and*
 - (e) *the applicant has sufficient business ability to maintain a successful casino or keno operation; and*
 - (f) *any of those persons has any business association with any person, body or association who or which, in the opinion of the Commission, is not fit and proper having regard to character, honesty and integrity or has undesirable or unsatisfactory financial resources; and*
 - (g) *each director, partner, trustee, executive officer and secretary and any other officer or person determined by the Commission to be associated or connected with the ownership, administration or management of the operations or business of the applicant is a suitable person to act in that capacity; and*
 - (h) *the size, layout and facilities of the applicant's premises are suitable; and*
 - (i) *the proposed security arrangements are adequate.*

Action to be taken if keno operator's licence cancelled, surrendered or due to expire

Proposed amendment (section 22):

The Minister may, if satisfied that it is in the public interest to do so, call for applications for a casino licence or a keno operator's licence if a licence of that kind –

- (a) has been cancelled or surrendered; or
- (b) is due to expire within the next 2 years and the licence holder has not made an application to renew the licence under section 16A(1).

Change in situation of licensed operator

Where a 'major change' involves a person becoming an associate of the keno operator, the Commission must be satisfied that the person is suitable to be associated with the management or operation of a keno operation. The Minister must also approve any change where a person becomes a major shareholder of the keno licence holder (ie someone that holds more than 10 per cent of the issued shares in a body corporate).

Proposed amendment (section 30):

(1) In this section -

"major change" in the situation existing in relation to a licenced operator means -

- (a) any change in that situation which results in a person becoming an associate of the licenced operator; or
- (b) any other change in that situation which is of a class or description prescribed as a major change for the purposes of this section;

...

(3) If a major change for which approval of the Commission is sought involves a person becoming an associate of the licensed operator, the Commission must not grant prior approval for that change for the purposes of subsection (2)(a) unless –

- (a) the Commission is satisfied that the person is a suitable person to be associated with the management or operation of a casino or a keno operation; and
- (b) in the case of a person who is to become a major shareholder in the licensed operator, the Minister has given written consent to the granting of the prior approval by the Commission.

(3A) For the purposes of subsection (3) a major shareholder is a person who holds more than 10% of the issued shares in a body corporate.

Electronic monitoring system to be in place

This amendment requires that approved electronic monitoring systems be in place for keno operations conducted by casino and keno licence holders.

Proposed amendment (section 96):

(4) It is a condition of a keno operator's licence that any gaming equipment used for the sale of tickets in keno that is installed in licensed premises by the keno operator is connected to an electronic monitoring system approved by the Commission under section 81 as suitable for use in monitoring operations associated with such equipment.

Controls and procedures to be implemented by keno operators and monitoring operators

This change requires that a keno operator must have in place a system of internal controls and administrative and accounting procedures approved by the Commission before conducting any keno operations.

Proposed amendment (section 138):

- (1) A keno operator or monitoring operator must not conduct keno operations or monitoring licence operations unless the Commission has approved in writing a system of internal controls and administrative and accounting procedures in respect of the operator.
- (2) Any approval referred to in subsection (1) may be amended as the Commission thinks fit.
- (3) An approval or amendment of an approval under this section takes effect when notice of it is given in writing to the operator concerned or on a later date specified in the notice.
- (4) A keno operator or monitoring operator must not operate keno operations or monitoring licence operations unless the operator has implemented a system of internal controls and administrative and accounting procedures approved by the Commission under subsection (1).

Penalty: Fine not exceeding 50 penalty units.

Other returns by keno operators

The proposed amendment reflects the current requirement for the keno operator to pay a contractually agreed commission to casino and venue operators for amounts wagered on keno at their venues. It is also being considered to provide for the minimum rate of commission that would be payable by the keno operator to casino and venue operators in Regulations. This rate is currently included in standard form contracts approved by the Commission.

Proposed amendment (section 145):

- (1) A keno operator must ensure that a casino operator or venue operator is paid, in respect of keno wagers accepted by the casino operator or venue operator, the percentage of the total amount wagered on keno at the approved venue during such periods as the Commission determines as agreed by the keno operator and the casino operator or the keno operator and the venue operator under -
 - (a) a standard form contract within the meaning of section 77V; or
 - (b) such other relevant contract approved by the Commission under that section.

Keno operator licence fee

The keno operator licence holder will be required to pay a monthly licence fee to operate state-wide keno of \$41 666.67, payable in advance on the first day of each month. This fee is to be prescribed in regulations and adjusted annually by the Consumer Price Index.

Proposed amendment (147A):

The holder of a keno operator's licence must pay the prescribed monthly licence fee to the Commissioner of State Revenue on the first day of each month during the currency of the licence.

Taxation in respect of keno

The keno operator licence holder will be required to pay tax on state-wide keno gross profits of 20.31 per cent to the Commissioner of State Revenue by the 14th day of the following month to which the tax period relates.

Proposed amendment (section 150A):

- (1) A keno operator must pay to the Commissioner of State Revenue a tax on the gross profits derived from keno each month.
- (2) The tax payable under subsection (1) in respect of the monthly gross profits derived from keno is a sum equivalent to 20.31% of those profits.
- (3) A keno operator must pay the tax payable under this section in relation to a month not later than 14 days after the end of that month.
- (4) In this section –
"monthly gross profit" means gross profits derived by a keno 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 keno operator in relation to the paying of taxes.

Proposed amendment (section 136):

- (1) The gross profit derived for any period from the conduct of gaming is to be calculated in accordance with this section.
...
- (2A) the gross profit derived from keno during any period is to be calculated by deducting from the total amount wagered in that period -
 - (a) the sum of all winnings paid, other than jackpots and bonus prizes; and
 - (b) any amount accrued during the period in jackpot prize pools and bonus prize pools....
- (7) A reference to winnings in this section does not include the value of any prizes paid out as part of a promotion.

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.

6. Directions and approvals in respect of keno

(1) In this clause -

"keno authorisation" means a direction or approval relating to the conduct of keno, issued or given to the holder of a gaming licence under the former Act

(2) This clause applies in respect of a person if -

(a) the person, or a corporation related to the person, held a gaming licence under the former Act immediately before the changeover day; and

(b) the person holds a keno licence on the changeover day under this Act.

(3) A keno authorisation, given or issued by the Commission under a provision of the former Act to a person, or to a corporation related to the person, is taken on and from the changeover day to be a direction or approval given or issued under the equivalent provision of this Act to that person as the holder of a keno licence on the same terms and conditions.

Other amendments relevant to all sectors

The following sections contain amendments relevant to all licence holders, including the keno operator. 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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