

Future of Gaming in Tasmania

Paper 5 - proposed Future Gaming Market legislative provisions - licensed monitoring operator

June 2021



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Proposed Future Gaming Market legislative provisions - licensed monitoring operator

The following information, relating to the regulatory arrangements that will apply to the licensed monitoring operator under Government's "The Future of Gaming in Tasmania" (Future Gaming Market) policy, provides a summary of relevant draft legislative provisions proposed to be included in the *Gaming Control Act 1993*.

The Future Gaming Market policy determines that the network monitoring licence for electronic gaming machines (EGMs) in hotels and clubs will be put out to public tender. It is proposed that only one monitoring operator licence will be issued and the tender for that licence will be conducted after the passage of the Future Gaming Market legislation through Parliament.

It's likely that the tender process will take up to 12 months to complete and it is anticipated that the successful tenderer for the monitoring operator licence will be provided with sufficient time to establish any required infrastructure and systems prior to the commencement of the future gaming market arrangements on 1 July 2023.

To ensure continuity of EGM operations in hotels and clubs, it is proposed that a transitional period of up to 12 months will be provided (post 1 July 2023) for the monitoring operator to progressively connect the EGMs at each venue to its monitoring systems. During this period, the incumbent gaming operator will be provisionally licensed to continue EGM monitoring at venues until each venue has been connected to the new monitoring operator's systems. During the transition period, it is proposed that the daily monitoring operator fee will be paid to the operator to which each EGM is connected.

The transitional amendments provide for a transition period for the new monitoring operator leading up to and beyond the commencement day for the new model.

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.

Proposed monitoring operator model

The monitoring operator model has been informed by the different monitoring operator models and experiences observed in other Australian jurisdictions and aims to avoid issues experienced elsewhere.

The model has been developed as a best practice model that is specific to Tasmanian circumstances (ie a small number of EGMs, dispersed over a wide area, for a diverse range of venue operators). For this reason there are a number of functions that only the monitoring operator will be permitted to perform, which may be performed by parties other than the monitoring operator in other jurisdictions.



The functions to be performed by the monitoring operator have been separated into two distinct areas - **core monitoring functions** (for which venues will pay a 'per EGM per day' core monitoring fee) and **regulated fee functions** (for which venues will pay the monitoring operator to perform when and if required).

As the monitoring operator will be solely responsible for performing these functions there will be a requirement for the monitoring operator to establish appropriate service level arrangements with venue operators to ensure that these functions are performed in a consistent and agreed manner.

In addition to the functions that can only be performed by the monitoring operator, there will also be other market-based functions for which venues will have a choice of provider. These functions can be undertaken by the venue itself or a third party of the venue's choice.

For regulatory reasons the monitoring operator may be prevented from performing some of the market-based functions (eg sale or supply of EGMs to venues), however this will not prevent a related party of the monitoring operator from undertaking such functions with appropriate ring fencing and 'information walls'.

It is also proposed that a casino operator will be permitted to engage the monitoring operator (or another third party) to monitor EGMs in casinos if desired.

To ensure the privacy of any venue information obtained by the monitoring operator in the course of undertaking its functions is maintained, the monitoring operator will be subject to strict secrecy provisions prohibiting it from inappropriately sharing such information. Significant penalties will apply to the monitoring operator for breaching these provisions.

Details of the proposed monitoring operator model, including core monitoring functions, regulated fee functions and market-based functions have been included in the licensed monitoring operator fact sheet.

New definitions

Following are new draft interpretations relating to the monitoring operator and electronic monitoring system for EGMs in hotels and clubs:

- “core monitoring functions”** see section 48D(1);
- “electronic monitoring system”** means any type of connected electronic system or device that is so 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;
- “monitoring licence operations”** means any activity authorised by a monitoring operator’s licence;
- “monitoring operator”** means the holder of a monitoring operator’s licence;
- “monitoring operator’s licence”** means a licence granted and in force under section 48F;
- “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;
- “regulated monitoring functions”** see section 48D(2);

Authority conferred by monitoring operator’s licence

The monitoring operator will be responsible for operating an electronic monitoring system to monitor the operation of EGMs in hotels and clubs.

While the authority of the monitoring operator licence relates to monitoring in hotels and clubs, this will not prevent the monitoring operator from also monitoring EGMs in casinos, if desired by the casino operator.

Proposed amendment (section 33):

A monitoring 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 provide and operate an electronic monitoring system to monitor the operation of all gaming machines at hotels and licensed clubs;
- (b) to possess gaming machines and other gaming equipment;
- (c) to install, service, repair or maintain gaming equipment through the services of licensed technicians;
- (d) to provide core monitoring functions and regulated monitoring functions;
- (e) to do all things necessarily incidental to carrying on the activities authorised by this section.

Functions of the monitoring operator

The monitoring operator will be responsible for carrying out core and regulated monitoring functions, which will be contained in the Act and prescribed in regulations.

Refer to the Fact Sheet on the Licensed Monitoring Operator for more details on what each function will include. The cost and service levels associated with these functions will be determined through the tender process and subsequently prescribed in regulations.

Proposed amendment (section 48D):

- (1) A monitoring operator must carry out the following core monitoring functions:
 - (a) any functions imposed by this Act on monitoring operators;
 - (b) such other core monitoring functions as are prescribed.
- (2) A monitoring operator must also carry out such regulated monitoring functions as may be prescribed.

Monitoring operators to be licensed

Note that in the amendments below, reference to the 'Roll' means the *Roll of Recognized Manufacturers, Suppliers and Testers of Gaming Equipment* maintained under section 70 of the Act.

Proposed amendment (section 48E):

- (1) A person must not perform any of the core monitoring functions of a monitoring operator except in accordance with an authority conferred on the person by a monitoring operator's licence.
Penalty: Fine not exceeding 5 000 penalty units
- (2) A person must not perform any of the regulated monitoring functions of a monitoring operator unless –
 - (a) the person is acting in accordance with an authority conferred on that person by a monitoring operator's licence; or
 - (b) the person is listed on the Roll and the person is authorised to perform the function concerned under a contract or agreement with a monitoring operator.Penalty: Fine not exceeding 5 000 penalty units

Granting of monitoring operator's licence

Proposed amendment (section 48F):

- (1) The Commission may grant a monitoring operator's licence to an applicant for the licence.
- (2) In exercising its powers under this Act, the Commission is to ensure that no more than one monitoring operator's licence is in effect at any given time.
- (3) A monitoring operator must not hold any other prescribed licence other than a listing on the Roll that authorises the provision of ancillary gaming services.

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

Proposed amendment (section 48G):

The Minister may, if satisfied it is in the public interest to do so, call for applications for a monitoring 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 48U.

Surrender of licence

Proposed amendment (section 48H):

- (1) A monitoring operator may surrender a monitoring operator's licence by giving notice in writing to the Commission.
- (2) The surrender takes effect only if the Commission consents to the surrender.

Application for monitoring operator's licence

Proposed amendment (section 48I):

- (1) A person may apply to the Commission to be granted a monitoring operator's 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, that the Commission requires; and
 - (c) be accompanied by the prescribed fee.

Matters to be considered in determining application

Note that, in the following amendments, an 'associate' is deemed to be a person that:

- holds or will hold any relevant financial interest, or is or will be entitled to exercise any relevant power (whether in right of the person or on behalf of any other person) in the gaming operation business of the applicant, licence holder or person listed, and by virtue of that interest or power, is able or will be able to exercise a significant influence over or with respect to the management or operation of that gaming operation business; or
- holds or will hold any relevant position, whether in right of the person or on behalf of any other person, in the gaming operation business of the applicant, licence holder or person listed; or
- is a relative of the applicant, licence holder or person listed.

Proposed amendment (section 48J):

- (1) The Commission must not grant an application for a monitoring operator's licence unless it is satisfied that –
 - (a) the applicant and each associate of the applicant is a suitable person to be concerned in or associated with the management and operation of an electronic monitoring system; and
 - (b) the applicant's premises are suitable for the management and operation of an electronic monitoring system; and
 - (c) the proposed electronic monitoring system complies with any electronic monitoring system standards set by the Commission under section 112PA.
- (2) In particular, the Commission must consider whether –
 - (a) the applicant and each associate of the applicant is fit and proper having regard to character, honesty and integrity; and
 - (b) each such person is of sound and stable financial background; and
 - (c) the applicant has a legal right to occupy the premises which are the subject of the application; and
 - (d) 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
 - (e) the applicant has, or is able to obtain the services of persons who have, sufficient commercial and technical experience to manage and operate an electronic monitoring system; 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.

Investigation of application

Proposed amendment (section 48K):

- (1) On receiving an application for a monitoring operator's licence, the Commission must cause to be carried out all investigations and inquiries that it considers necessary to enable it to consider the application properly.
- (2) The Commission must refer a copy of the application and any supporting documentation to the Commissioner of Police.
- (3) The Commissioner of Police must inquire into and report to the Commission on any matters concerning the application that the Commission requests.

Commission may require further information

Proposed amendment (section 48L):

- (1) The Commission may, by notice in writing, require a person who is an applicant for a monitoring operator's licence or who, in the opinion of the Commission, has some association or connection with the applicant that is relevant to the application to do any one or more of the following:
 - (a) to provide, in accordance with directions in the notice, any information that is relevant to the investigation of the application and is specified in the notice;
 - (b) to produce, in accordance with directions in the notice, any records relevant to investigation of the application that are specified in the notice and to permit examination of the records, the taking of extracts from them and the making of copies of them;
 - (c) to authorise a person described in the notice to comply with a specified requirement of the kind referred to in paragraph (a) or (b);
 - (d) to furnish to the Commission any authorities and consents that the Commission directs for the purpose of enabling the Commission to obtain information (including financial and other confidential information) concerning the person and his or her associates from other persons.
- (2) If a requirement made under this section is not complied with, the Commission may refuse to consider the application.

Cost of investigations to be paid by applicant

Proposed amendment (section 48M):

- (1) The reasonable costs incurred by the Commission in investigating and inquiring into an application for a monitoring operator's 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 be paid.

Updating of application

Proposed amendment (section 48N):

- (1) *If a change occurs in the information provided in or in connection with an application for a monitoring operator's licence (including documents lodged with the application) before the application is granted or refused, the applicant must, as soon as practicable after the change occurs, give the Commission written particulars of the change.
Penalty: Fine not exceeding 50 penalty units.*
- (2) *When particulars of the change are given, those particulars must then be considered to have formed part of the original application for the purposes of the application of subsection (1) to any further change in the information provided.*

Determination of application

Proposed amendment (section 48O):

- (1) *The Commission must determine an application for a monitoring operator's licence by either granting or refusing the application and is to notify the applicant in writing of its decision.*
- (2) *The Commission must not grant a monitoring 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.*
- (3) *The Commission is not required to give reasons for its decision on any application under section 48I but may do so if it thinks fit.*

Monitoring operator's licence subject to conditions

The monitoring operator's licence will be subject to conditions as determined by the Commission.

Proposed amendment (section 48P):

- (1) *A monitoring operator's licence may be granted subject to such conditions as the Commission thinks fit.*
- (2) *Without limiting the conditions to which a monitoring operator's licence may be subject, a monitoring operator's licence is subject to the following conditions:*
 - (a) *the licence holder must manage and operate an electronic monitoring system in accordance with this Act and the monitoring operator's licence;*
 - (b) *the licence holder must not use electronic monitoring system information otherwise than in accordance with this Act or the monitoring operator's licence;*
 - (c) *the licence holder must provide any core monitoring functions in accordance with this Act and the monitoring operator's licence;*
 - (d) *the licence holder must not carry out any regulated monitoring functions except in accordance with the Act and the monitoring operator's licence;*
 - (e) *the licence holder must have policies in place to comply with such personal information protection principles under the Personal Information Protection Act 2004 (in relation to business operations to be carried out by the applicant pursuant to the monitoring operator's licence) as would apply to the licensee if the licensee were a personal information custodian under that Act.*
- (3) *The holder of a monitoring operator's licence must comply with the conditions to which the licence is subject.
Penalty: A fine not exceeding 2 500 penalty units.*

Monitoring operator's licence fee

It is proposed that any licence fee for the monitoring operator will be determined as part of the tender process and subsequently prescribed in regulations.

Proposed amendment (section 147B):

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

Change in situation of monitoring operator

Similar to the requirements for other licence holders under the Act, any major change to the situation of the monitoring operator, which is within the operator's control, must not occur without prior approval of the Commission. This ensures that only suitable people are permitted to be involved in the gaming industry in Tasmania.

Proposed amendment section 48Q):

(1) *In this section –*

“major change” *in the situation existing in relation to a monitoring operator means –*

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

“minor change” *in the situation existing in relation to a monitoring operator means any change in that situation that is of a class or description that is prescribed as a minor change for the purposes of this section.*

(2) *A monitoring operator must –*

- (a) *ensure that a major change in the situation existing in relation to the operator which is within the operator's power to prevent occurring does not occur except with the prior approval in writing of the Commission; and*
- (b) *notify the Commission in writing of the likelihood of any major change in the situation existing in relation to the operator to which paragraph (a) does not apply as soon as practicable after the operator becomes aware of the likelihood of the change; and*
- (c) *notify the Commission in writing of any major change in the situation existing in relation to the operator to which paragraphs (a) and (b) do not apply within 3 days after becoming aware that the change has occurred; and*
- (d) *notify the Commission in writing of any minor change in the situation existing in relation to the operator within 14 days after becoming aware that the change has occurred.*

Penalty: Fine not exceeding 50 penalty units.

(3) *If a major change for which the approval of the Commission is sought under this section involves a person becoming an associate of the monitoring 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 an electronic monitoring system; 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.*

(4) *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.*

(5) *Sections 48E and 48F apply to, and in respect of, an application for approval under this section in the same way as they apply to, and in respect of, an application for a monitoring operator's licence.*

Commission to define monitoring operator's premises

The boundaries of the monitoring operator's premises will be specified in its licence and can be redefined by either the Commission or by application from the monitoring operator (subject to the Commission's approval).

Proposed amendment (section 48R):

- (1) *The boundaries of a monitoring operator's premises are to be defined by being specified in the monitoring operator's licence.*
- (2) *The Commission may from time to time redefine the boundaries of a monitoring operator's premises as the Commission thinks fit and may do so of its own motion or on the application of the monitoring operator.*
- (3) *An application for the redefining of the boundaries of a monitoring operator's premises must be accompanied by the prescribed fee.*
- (4) *The defining or redefining of the boundaries of a monitoring operator's premises takes effect when the Commission gives written notice of it to the monitoring operator or on any later date specified in the notice.*

New licence cannot take effect until former licence expires

Proposed amendment (section 48S):

If an application for a monitoring operator's licence has been made because an existing monitoring operator's licence is due to expire, the new monitoring operator's licence is not capable of taking effect until the existing licence has actually expired.

Duration of monitoring operator's licence

The monitoring operator's licence term will be for a period of 20 years, subject to the usual conditions that the licence holder remains suitable to be licensed during that period.

Proposed amendment (section 48T):

A monitoring operator's licence remains in force for a period of 20 years unless sooner cancelled or surrendered under this Act.

Renewal of monitoring operator's licence

The licensed monitoring operator will be able to apply for renewal of its licence up to five years prior to the expiry of the original licence. Any application for renewal will be subject to the Minister's approval.

Proposed amendment (section 48U):

- (1) *The holder of a monitoring 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 48E, 48F, 48I, 48J, 48K, 48L, 48M, 48N, 48O and 48P apply to an application for the renewal of a monitoring operator's licence in the same manner as they apply to an application for the granting of a monitoring 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

The conditions of a monitoring operator's licence may be amended by either the Commission or at the request of the monitoring operator.

Proposed amendment (section 48W):

- (1) *The conditions of a monitoring operator's licence may be amended in accordance with this section.*
- (2) *An amendment may be proposed –*
 - (a) *by the monitoring operator by requesting the Commission in writing to make the amendment; or*
 - (b) *by the Commission by giving notice in writing of the proposed amendment to the monitoring operator.*
- (3) *The Commission must give the monitoring operator at least 28 days to make submissions to the Commission concerning any proposed amendment under subsection (2)(b) and must consider the submissions made.*
- (4) *The Commission must then decide whether to make the proposed amendment, either with or without changes from that originally proposed, and must notify the monitoring operator of its decision.*
- (5) *An amendment proposed by the Commission must be in the public interest or for the proper conduct of gaming.*
- (6) *Any amendment that the Commission decides upon takes effect when notice of the decision is given to the monitoring operator or on such later date as is specified in the notice.*
- (7) *Where an amendment is proposed by the monitoring operator, the proposal is to be accompanied by the prescribed fee.*

Suspension or cancellation of monitoring operator's licence in extraordinary circumstances

As monitoring operations are critical to the ongoing conduct of EGMs in hotels and clubs, the legislation will include "step-in" provisions where the monitoring operator is unable to perform its functions and the integrity of gaming may be compromised. These provisions will allow Government to perform the functions of the monitoring operator, or enter into an agreement with another person to perform the functions of the monitoring operator. Step-in provisions are designed only to be used as a last resort where the Minister is satisfied that the conduct of the monitoring operator may materially jeopardise the integrity of the monitoring systems, or that failure to step in may result in the public interest being adversely affected in a material way.

Proposed amendment (section 48V):

- (1) *Despite 3*
 - (b) *use the former licensee's best endeavours to make available such staff of the former licensee as are reasonably necessary for those arrangements.*

Penalty: Fine not exceeding 10 000 penalty units.

...
- (7) *The Minister may extend the period referred to in subsection (5)(a) for such period as the Minister sees fit.*

Rights associated with and control of electronic monitoring system information

All rights associated with electronic monitoring system information are to be vested in the Crown. Confidentiality requirements will be imposed on the monitoring operator to provide a level of comfort to venue operators that information collected by the monitoring operator is not shared or used inappropriately.

Proposed amendment (section 48X):

- (1) *All rights associated with electronic monitoring system information obtained by a monitoring operator under the authority of a monitoring operator's licence are vested in the Crown.*
- (2) *A monitoring operator must not use or divulge electronic monitoring system information referred to in subsection (1) to any person without the written consent of the Minister or as otherwise authorised in accordance with the monitoring operator's licence or this Act.*
Penalty: Fine not exceeding 5 000 penalty units
- (3) *A monitoring operator may divulge electronic monitoring system information acquired in the course of the operation of an electronic monitoring system at licensed premises to the venue operator for those licensed premises.*
- (4) *A person to whom electronic monitoring system information is divulged by the monitoring operator must not use or divulge electronic monitoring system information otherwise than in accordance with this Act or any terms or conditions under which the information is divulged to the person.*
Penalty: Fine not exceeding 2 500 penalty units
- (5) *If a person who is in possession of electronic monitoring system information divulges that information to another person, the information provided to that other person is subject to –*
 - (a) *the same terms and conditions to which the person divulging the information was subject; and*
 - (b) *such additional terms and conditions as may be imposed by the person divulging the information.*
- (6) *Despite subsection (2), a monitoring operator may, during the term of the monitoring operator's licence, use electronic monitoring system information for the purposes of the operation and management of an electronic monitoring system.*

Approval of electronic monitoring systems

In line with all other gaming equipment, the monitoring operator's systems will be required to be approved by the Commission. The Commission has established "Gaming Machine Monitoring System Technical Standards" that the monitoring operator will be required to adhere to. The current standards can be accessed on Treasury's Liquor and Gaming webpage, noting that these will be reviewed prior to the tender of the monitoring operator licence. The webpage can be located at the following address:

www.treasury.tas.gov.au/liquor-and-gaming/gambling/resources-for-licence-holders/rules-and-standards-for-gambling

Proposed amendment (section 48Y):

- (1) *A person may apply to the Commission for approval of an electronic monitoring system, or a class of electronic monitoring systems, for use in monitoring licence operations.*
- (2) *An application under subsection (1) must be in a form approved by the Commission and must be accompanied by the prescribed fee.*
- (3) *On receipt of an application under subsection (2), the Commission is to conduct an evaluation of the electronic monitoring system or class of electronic monitoring systems.*
- (4) *The Commission may require a person who makes an application under subsection (1) to provide any additional information or material that the Commission considers necessary for the purposes of an*



evaluation under subsection (3).

- (5) *If an electronic monitoring system or a class of electronic monitoring systems is considered by the Commission to be suitable for use in monitoring licence operations, the Commission may approve the electronic monitoring system or class of electronic monitoring systems subject to such conditions (if any) as it determines.*
- (6) *If an electronic monitoring system differs in any material particular from the electronic monitoring system or class of electronic monitoring systems approved by the Commission under this section, the electronic monitoring system ceases to be approved under this section.*
- (7) *The Commission may amend the approval of a particular electronic monitoring system, or class of electronic monitoring systems by written notice sent to the operator of that system or class of electronic systems.*
- (8) *The Commission may require the operator of an electronic monitoring system to provide further information in relation to that system when considering whether to amend an approval under subsection (7).*
- (9) *A monitoring operator must not permit gaming machines to be connected to an electronic monitoring system unless that system or class of system has been approved by the Commission under this section as suitable for use in monitoring licence operations.*

Penalty: Fine not exceeding 1 000 penalty units

Electronic monitoring system to be in place

Proposed amendment (section 96):

...

- (2) *It is a condition of a monitoring operator's licence that any machine games installed in licensed premises by the monitoring operator are to be 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.*

Approval of machine types and machine games

This section provides for the approval of gaming machines, Fully Automated Table Game machines and the games that operate on those machines. The provisions include, among other things, the ability for the Commission to approve the rules under which the gaming machines and FATG machines are to be operated, and includes a requirement that the venue and monitoring operator 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 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 in a venue unless that machine game has been approved by the Commission under subsection (3).

Penalty: Fine not exceeding 1 000 penalty units.

Control and procedures to be implemented by monitoring operators

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

Monitoring operator regulations

As the tender for the monitoring operator's licence will not be conducted until after the passage of the Future Gaming Market legislation, it is considered important to have the ability for Regulations to be made in relation to monitoring operations. This will allow for relevant details to be finalised during the tender process and then included in regulations and will also provide the flexibility required by Government and the monitoring operator to conduct its business under a new regulatory model.

Proposed amendment (section 48Z):

- (1) The regulations may make provision for or with respect to the following:
 - (a) the functions and powers of monitoring operators under this Act;
 - (b) requirements or limitations on the provision of core monitoring functions and regulated monitoring functions;
 - (c) the amount, or means of calculating the amount, of fees payable in relation to the provision of core monitoring functions and regulated monitoring functions;
 - (d) requirements or limitations as to the persons, or class of persons, that may provide specified core monitoring functions or regulated monitoring functions;
 - (e) persons to whom specified core monitoring functions or specified regulated monitoring functions are to be provided;
 - (f) any other matters affecting or arising out of, monitoring licence operations;
 - (g) directions by the Minister to the monitoring operator or any other person concerned in the management or supervision of electronic monitoring systems –
 - (i) regarding any matter that relates to the operation of an electronic monitoring system; and
 - (ii) regarding any agreement or arrangement that relates to an electronic monitoring system; and
 - (iii) requiring the monitoring operator to provide such information or particulars, and in such circumstances as may be prescribed by regulations;
 - (h) the enforcement of directions under paragraph (g).

Transitional provisions

This Part will commence upon 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.

...

3. Authorisation in relation to electronic monitoring system during lead-up period

- (1) The Commission, in writing, may authorise a person to do such of the following activities during the lead-up period as are specified in the authorisation –
 - (a) to supply and install an electronic monitoring system and other gaming equipment at hotels and licensed clubs;
 - (b) to possess gaming machines and other gaming equipment;
 - (c) to service, repair or maintain gaming equipment through the services of licensed technicians;
 - (d) to do all things necessarily incidental to carrying on the activities specified in the authorisation.
- (2) An authorisation under subsection (1) may be subject to such conditions as the Commission considers appropriate.
- (3) The Commission may at any time revoke or amend an authorisation.
- (4) If a person carries out an activity in accordance with an authorisation under this section, the carrying out of that activity does not constitute an offence under this Act.

....

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.

...

3. Transitional monitoring operator’s licence

(1) In this clause –

“gaming operator’s licence” means a gaming operator’s licence in force immediately before the changeover day.

- (2) On the changeover day, the Commission may grant to the holder of a gaming operator’s licence, or to a corporation related to the holder of that licence, a transitional monitoring operator’s licence for a period not exceeding 12 months.
- (3) A transitional monitoring operator’s licence authorises the licence holder, subject to this Act and any conditions to which the licence is subject, to perform the functions of a monitoring operator.
- (4) Unless sooner cancelled or surrendered, a transitional monitoring operator’s licence granted under subclause (2) expires on the earlier of the following events:
 - (a) the end of the term for which the licence was granted;
 - (b) 30 June 2024.
- (5) This Act applies in respect of a transitional monitoring operator’s licence in the same way as it applies in respect of a monitoring operator’s licence (to the extent that is consistent with this clause).

Other amendments relevant to all sectors

The following sections contain amendments relevant to all licence holders, including the monitoring 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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