

Gaming Acts (Miscellaneous Amendment) Bill

EXPLANATORY MEMORANDUM

PART 1—PRELIMINARY

Clause 1 sets out the purposes of the Act.

Clause 2(1) provides that the following provisions come into operation on Royal Assent—

Part 1 of the Act—preliminary.

Part 4 of the Act—repeals the provisions relating to investment-related lotteries.

Section 28—amends the secrecy provisions of the **Gaming Machine Control Act 1991** to clarify that they do not apply to the giving of certain information.

Section 35—makes statute law revision amendments to the **Gaming Machine Control Act 1991**.

Section 36—allows the Treasurer to provide for certain tax exemptions for the purposes of section 77(1) of the **Gaming and Betting Act 1994**.

Section 38—makes statute law revision amendments to the **Gaming and Betting Act 1994**; and

Section 40—makes statute law revision amendments to the **Gaming No. 2 Act 1997**.

Clause 2(2) provides that clause 33 comes into the operation on the same day as section 8 of the **Gaming Machine Control (General Amendment) Act 1993** comes into operation.

Clause 2(3) provides that clause 37 which makes consequential amendments to the **Gaming and Betting Act 1994**, as a result of amendments made to that Act by the **Gaming Acts (Further Amendment) Act 1997**, is deemed to have come into operation on 6 May 1997.

Clause 2(4) provides that the remainder of the Act comes into operation on a day or days to be proclaimed.

Clause 2(5) provides for a default commencement date of 1 November 1998.

PART 2—GAMING MACHINE CONTROL ACT 1991

Clause 3 states that in Part 2, the **Gaming Machine Control Act 1991** is called the Principal Act.

Clause 4 amends the definition of "approved venue" in the Act, to mean premises to which the licence of a venue operator applies and in respect of which a premises approval granted under Part 2A is in force. It also inserts into the Act a definition of Register, being the Register of Venue Operators and Approved Venues established and maintained under section 25AA of the Act.

Clause 5 provides that the Authority or the Director, instead of the Minister for Gaming, may authorise the manufacture, sale, supply, obtaining or possession of gaming machines for use outside Victoria.

Clause 6 allows the Director of Gaming and Betting to authorise a person to possess, for any purpose, gaming machines which are not in working order.

Clause 7 inserts a new Part 2A into the Principal Act which establishes a scheme whereby the Authority can approve certain premises as suitable for gaming. The owner, or an authorised representative of the owner of premises in respect of which particular types of liquor licence are in force, or which are tabaret premises, may apply to the Authority for approval of those premises as suitable for gaming. The Authority is empowered to investigate the application, and determine it having regard to the matters specified in the Act. The Authority must not grant an application for approval unless satisfied as to the authorisation of the applicant and the suitability of the premises (at the time of application or on completion of building works) for the management and operation of gaming machines. In particular it must consider the size, layout and facilities of the premises and the adequacy of proposed security arrangements. The approval must specify the number of gaming machines permitted and the gaming machine areas approved for the premises. The term of

the approval is 5 years or such other term as is specified. An approval will be automatically revoked upon the cancellation, removal, surrender or release of the liquor licence in relation to the premises, and will be suspended at any time when the liquor licence over the premises is suspended. An approval may be revoked on specified grounds. An approval can be renewed.

- Clause 8 amends section 13 of the Principal Act to clarify that the authority granted by a venue operator's licence includes the authority to manage and operate an approved venue.
- Clause 9 amends section 19(1) of the Principal Act to remove the requirement that an application for a venue operator's licence must be made in respect of specific premises, and makes other amendments to section 19 consequential upon that change.
- Clause 10 provides that the Director may object to the grant of a venue operators' licence on any of the grounds referred to in section 20(1) of the Principal Act, and may do so at any time before the determination of the application.
- Clause 11 Clause 11(1) removes the requirement to consider the suitability of premises from the matters of which the Authority must be satisfied in determining an application for a venue operator's licence. Clause 11(2) removes from the matters to which the Authority must consider in determining an application, the financial stability and soundness of the applicant, and matters related to the suitability of the premises, as the venue operator's licence will no longer refer to premises.
- Clause 12 amends section 25(2) of the Principal Act to provide that a venue operator's licence must specify the premises (if any) which the licence holder is authorised to operate, the number of gaming machines permitted in each, and the gaming machine areas approved for each of the premises.
- Clause 13 inserts a new section 25AA into the Principal Act, which requires the Authority to keep and maintain a Register of Venue Operators and Approved Venues containing the name and address of each venue operator, the name and address of each associate to the venue operator, the name of each approved venue, the number of machines permitted in each venue and the name and address of the nominee if any at each approved venue.

- Clause 14 amends section 25A of the Principal Act consequential upon the other amendments to that Act. In particular, it requires a venue operator who is not a natural person to nominate a nominee for each approved venue it is authorised to operate.
- Clause 15 amends section 26 of the Act to provide that it is to be read subject to section 27. This is to allow for the amendment of a venue operator's licence by the inclusion of additional approved venues or the removal of approved venues under the new scheme.
- Clause 16 Clause 16(1) amends section 27(1) of the Principal Act to provide that a venue operator's licence may be amended by the addition or removal of an approved venue, variation of the number of gaming machines permitted in an approved venue and variation of the gaming machines areas approved for an approved venue. Clause 16(2) amends section 27(2) of the Principal Act to remove the requirement of notification of the gaming operator and to require any request for amendment to be made in accordance with the requirements in new section 27(2A). Clause 16(3) inserts a new section 27(2A) providing that an amendment proposed by a venue operator must be made in or to the effect of the form approved by the Authority and must be accompanied by the prescribed fee. Clause 16(4) amends section 27(3) to remove the requirement that the Authority allow the gaming operator an opportunity to make submissions on an amendment. Clause 16(5) makes amendments to section 27(3A) consequential upon this change. Clause 16(6) inserts new sub-sections (3B) and (3C) into section 27 of the Principal Act. New section 27(3B) sets out the matters which the Authority may consider in determining whether to make an amendment to the conditions of a licence, including that the amendment will not conflict with a direction under section 12, and that if premises are to be added to the licence as an approved venue that these premises are genuinely independent of any other approved venue within 100 metres from the approved venue. New section 27(3C) applies sections 23 and 24 of the Principal Act to the amendment procedure. This requires an applicant for an amendment to provide the Authority with updated information, and allows the Authority to refuse to consider an application for amendment if the required information is not provided.

- Clause 17 amends section 28(2) of the Principal Act to provide that cancellation etc of the liquor licence over premises will result in those premises being automatically removed from the venue operator's licence
- Clause 18 amends section 30(1) of the Principal Act to remove suitability of the premises as a ground for disciplinary action against the venue operator. This is consequential on the severance of the venue operator's licence from a particular venue.
- Clause 19 amends section 31 of the Principal Act which deals with provisional licences to remove references to approved venues in that section.
- Clause 20 amends section 41 of the Principal Act to remove the requirement for an application for a special employee's licence to be accompanied by a certificate of suitability from the venue operator or gaming operator who employs or is proposing to employ the applicant.
- Clause 21 amends section 55(1) of the Principal Act to remove the requirement that venue operators notify the Authority of the commencement or cessation of employment of a special employee.
- Clause 22 amends sections 62, 63, 64 , 65, 65A and 66 of the Principal Act to provide that the Authority rather than the Director of Gaming and Betting will determine an application to be listed on the Roll of Recognised Manufacturers and Suppliers of Gaming Machines and Restricted Components.
- Clause 23 inserts a new section 66A into the Principal Act allowing a person listed on the Roll to request that their name be voluntarily removed from the Roll.
- Clause 24 repeals section 68 and consequentially amends section 32 of the Principal Act to provide that the Authority is no longer required to approve the form of a contract between a venue operator and a gaming operator.
- Clause 25 amends section 69 of the Principal Act to clarify that the Authority's approval of a gaming machine type or game is limited to approval of its player return, game fairness and game security.

- Clause 26 inserts a new section 135D into the Principal Act which provides for Tattersall's to pay an annual supervision charge in an amount to be determined by the Treasurer, having regard to the reasonable costs and expenses incurred by the Authority in carrying out its functions and powers under the Principal Act.
- Clause 27 amends section 136 of the Principal Act consequential on the amendments to the licensing scheme for venues.
- Clause 28 amends section 139 of the Principal Act to clarify that the Authority or the Minister may disclose the names of all venue operators, and of all persons listed on the Roll, and the addresses of all approved venues, and the number of gaming machines in each approved venue.
- Clause 29 amends section 142A(4)(b) to remove the requirement that a new associate of a venue operator be assessed for financial soundness and stability.
- Clause 30 allows the Authority to recover the investigations costs in connection with the amendment of a licence.
- Clause 31 makes amendments to the evidentiary provisions of the Principal Act, to include an approval of premises.
- Clause 32 allows an appeal against a decision to revoke or refuse to revoke an approval of premises under Part 2A.
- Clause 33 amends new section 12A to deem a person who is authorised by the Federal Airports Corporation to sell or supply liquor at a Federal Airport and who is eligible to be the holder of a club licence under section 48 of the **Liquor Control Act 1987**, to be the holder of such a club licence for the purposes of applying for a premises approval.
- Clause 34 makes transitional arrangements consequential on these amendments. Clause 34(1) provides that the amendments to the secrecy provision in section 139 of the Principal Act apply to information acquired before and after the commencement of the section. Clause 34(2) requires the Director to provide the Roll to the Authority as soon as possible after the commencement of clause 22, and provides that any application to be listed on the Roll, or an appeal or a proposal to add or amend a condition to a listing, which is still pending upon the commencement of clause

22, will be determined as if clause 22 had not been enacted. Clause 34(3) deems venues approved at the time of commencement of Clause 7 to be approved premises under new Part 2A, with the current venue operator as the holder of the approval of the premises, and the premises to be specified in the venue operator's licence as premises which the venue operator is authorised to manage and operate with the gaming machines and gaming areas already approved for that approved venue.

Clause 35 makes a statute law revision amendment to section 12(3) of the Principal Act.

PART 3—GAMING AND BETTING ACT 1994

Clause 36 amends section 3 of the **Gaming and Betting Act 1994** to insert a new sub-section (5) which will allow the Treasurer to give a notice to the licensee, subject to any conditions specified in the notice, to exempt specified amounts of net investment or amounts of a specified class from the taxation requirements in section 77(1) of the Act.

Clause 37 amends section 57 of the **Gaming and Betting Act 1994** to correct certain cross-references.

Clause 38 makes statute law revision amendments to sections 34, 39 and 146 of the **Gaming and Betting Act 1994**, and repeals spent provisions.

PART 4—GAMING NO. 2 ACT 1997

Clause 39 repeals Part 6 and section 121 of the **Gaming No. 2 Act 1997** and the **Banking (Premium Accounts) Act 1992**, which deal with investment-related lotteries.

Clause 40 makes statute law revision amendments to the **Gaming No. 2 Act 1997**.

