



Independent Gambling Authority

2004 amendments inquiry

**Guide for making
submissions**

Disclaimer

This document has been prepared for the purposes of public consultation in connection with an inquiry by the Independent Gambling Authority. The document contains information from a variety of sources, including published material and evidence given before the Authority.

Information provided and statements contained in this document are published solely for the purposes of the inquiry and should not be relied upon for any other purpose.

Note

This guide is similar to a guide published in relation to an inquiry into Smartcard technology. People who will be referring to both documents are asked to take care not to confuse dates and processes between the two inquiries.

Date

This Guide was issued on 30 August 2006.



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1. INTRODUCTION

1.1 Terms of reference

This inquiry is established by terms of reference given by the Minister for Gambling under section 13(1)(b) of the *Independent Gambling Authority Act 1995*.

The terms of reference for this inquiry are—

1. General Scope

1.1 The Authority must report on the effects of the 2004 amendments on gambling in the State of South Australia and in particular, on whether those amendments have been effective in reducing the incidence of problem gambling and the extent of any such reduction.

1.2 In designing its process and its reporting for this inquiry, the Authority must take into account that a purpose in commissioning this inquiry is to enable the Minister to comply with section 89 of the *Gaming Machines (Miscellaneous) Amendment Act 2004*.

It has been indicated that the report should be made available to the Minister for Gambling as soon as practicable after the second anniversary of the commencement of the *Gaming Machines (Miscellaneous) Amendment Act 2004* assented to on 9 December 2004.

1.2 Background to the inquiry

The *Gaming Machines (Miscellaneous) Amendment Act 2004* (Amendment Act) was assented to on 9 December 2004.

The Amendment Act was the end product of a very extensive debate in Parliament on a Bill to implement the recommendations of the Independent Gambling Authority in its *Report of Inquiry into the management of gaming machine numbers*, the most notable one being the recommendation to reduce gaming machine numbers by 3 000.

Certain provisions inserted into the Gaming Machines Act by the Amendment Act require the Minister to obtain a number of reports from the Authority. Of particular relevance is the new section 89:

89—Minister to obtain reports

(1) The Minister must obtain the following reports from the Authority—

...

(b) a report on the effects of the 2004 amendments on gambling in the State and in particular, on whether those amendments have been effective in reducing the incidence of problem gambling and the extent of any such reduction.

(2) The reports must be delivered to the Minister—

...

(b) in the case of the report under subsection (1)(b)—as soon as practicable after the second anniversary of the commencement of the 2004 amendments.

(3) The Minister must—

(a) if Parliament is sitting—have copies of a report received under this section laid before both Houses of Parliament within 6 sitting days; or

(b) if Parliament is not sitting—give copies of the report to the Speaker of the House of Assembly and the President of the Legislative Council so that they may lay copies of the report before their respective Houses on resumption of sittings and, in the meantime, distribute copies of the report among Members of their respective Houses.

(4) In this section—

2004 amendments means the amendments made to this Act by the *Gaming Machines (Miscellaneous) Amendment Act 2004*.

As the assent date was 9 December 2004, the second anniversary of the commencement of the *Gaming Machines (Miscellaneous) Amendment Act 2004* referred to in section 89(2)(b) is 9 December 2006. Having regard to the time within which the Parliament wishes the report to be made, the Authority has established a timetable for public consultation which should allow all relevant stakeholders' views and evidence to be taken into account in a report made within that timeframe.

In establishing that timetable, the Authority has determined that there should be written submissions, followed by a public hearing. The Authority has also commissioned independent external research to inform the inquiry process. That research forms part of this guideline.

The Authority will therefore receive written submissions from interested stakeholders, addressing the terms of reference, by 30 October 2006. Stakeholders who have made written submissions will be given the opportunity to make oral presentations addressing the written submissions at a public hearing on 21 and 22 November 2006.

2. INQUIRY PROCESS

2.1 Overview

The process for this inquiry has been designed with a view to the Authority gathering and having before it all the relevant material in time to report to the Minister as soon as practicable after the second anniversary of the 2004 amendments—9 December 2006.

The process for this inquiry will involve—

- ◆ an announcement of the inquiry and a call for submissions by way of advertisements in the *Advertiser* and the *Australian* on Wednesday 30 August 2006, repeated on Saturday 2 September 2006, and an email advising of the inquiry, to all stakeholders who have made submissions to earlier inquiries;

- ◆ a public hearing on 21 and 22 November 2006 at which stakeholders will be given the opportunity to present to their submission and respond to those made by others.

The Authority is providing just over 8 weeks for provision of written submissions. The submissions will be made public, via the Authority's website, at—<http://www.iga.sa.gov.au/pubcons.html>.

When people make their written submissions, they will also be able to register interest in making an oral presentation at the public hearing, to be held three weeks after the close of submissions.

The Authority will use its website as the principal means of communication with stakeholders over the progress of, and any changes to, the process for this inquiry.

2.2 Making submissions

Anyone can make a submission.

Submissions need to be in writing.

The Authority requires submissions to be provided both as a hard copy and electronically.

The hard copy must be provided on A4 paper (one copy only), and must be accompanied by an original, signed **Form A**. Form A is set out in Appendix 1 to this guide and is able to be downloaded separately as a Word document from the Authority's website at—<http://www.iga.sa.gov.au/pubcons.html>.

The electronic version must be provided either on disk or by email to—**2004amendments@iga.sa.gov.au** Form A is not required to be included in the electronic version of a submission.

Acceptable electronic formats for submission include Microsoft Word “document” format (*.doc), “rich-text” document format (*.rtf) and Adobe Acrobat portable document format (*.pdf). Electronic documents must match the A4 paper version.

One reason for requiring submissions to be provided in an electronic format is that they will be published on the Authority's website. The format for publication will be Adobe Acrobat format. The Authority will undertake conversion of submissions provided in Word document and rich-text formats.

Submissions are due by 4.00pm on Monday, 30 October 2006.

2.3 Hearing

The Authority has included an opportunity for stakeholders who have made written submissions to speak to their submissions at a public hearing over two days—Tuesday, 21 November 2006 and Wednesday 22 November 2006.

The hearing provides an opportunity for the members of the Authority to engage in a public dialogue with the stakeholders. It also provides the opportunity by which one stakeholder might comment on other stakeholders' submissions.

It should be noted that a presentation at the hearing is not a substitute for a written submission.

Registration of interest in making a presentation to the November public hearing must be made by the last time for providing a submission, 4.00pm on Monday, 30 October 2006.

2.4 Authority's inquiry powers

The inquiry is being conducted under the powers set out in sections 13–15 of the *Independent Gambling Authority Act 1995*, which are extracted in **Appendix 2**. These sections include provision for witnesses to attend and documents to be produced, for evidence to be taken under oath or affirmation, for protection against self-incrimination and for legal representation before the inquiry.

3. ABOUT SUBMISSIONS AND ISSUES IN THE INQUIRY

3.1 Submitter profile

It will assist the conduct of the inquiry greatly to receive, in a uniform format, some minimum basic information about the people making submissions. The submission form (**Form A**, which is included in Appendix 1) has been designed for this purpose. It also sets out the terms on which the Authority requires the submission to be made.

The information collected on Form A is—

- (1) contact details—
 - ◆ name and title of contact person;
 - ◆ name of organisation making the submission;
 - ◆ address;
 - ◆ telephone and facsimile number(s);
 - ◆ email;
- (2) other formal information about the submission, including whether it is the official submission of an organisation or a private submission, and whether the person making it wishes to remain anonymous;
- (3) whether you wish to present at the public hearing being held on 21 and 22 November 2006;
- (4) acknowledgement that the research report—*Evaluation of 2004 legislative amendments to reduce EGMs*—prepared by Frances Eltridge, Harrison Health Research and Dr Paul Delfabbro, University of Adelaide, forms part of this guide (this report is referred to in point 3.2.2 below).

If you want to make your submission on an anonymous basis, please ensure that identifying details do not appear in the body of the submission—that is that they

appear only on the Form A. In the case of anonymous submissions, the Form A submitter profile information will not be published.

3.2 What submissions might address

3.2.1 *Generally and specifically*

Although the definition of 2004 amendments covers all of the changes made to the *Gaming Machines Act 1992* by the *Gaming Machines (Miscellaneous) Amendment Act 2004*, it is anticipated that most stakeholders' interest will be on those provisions which relate to the recommendations set out in the report of the *Inquiry into the management of gaming machine numbers*—as contained in Part 3 of the Amendment Act.

For the assistance of stakeholders—

- ◆ the structure and operation of the Amendment Act is described in **Appendix 3**;
- ◆ the recommendations, and the extent to which they were reflected in the Amendment Act, are set out in **Appendix 4**; and
- ◆ policy measures additional to the Authority's recommendations, which were incorporated into the legislation during the course of Parliamentary debate, are detailed in **Appendix 5**.

3.2.2 *Available research and reports*

The Authority has commissioned research specifically for the purposes of this inquiry. The research was procured through a public tender process, with the tenderers' brief being to provide a report which would inform the Authority's considerations in response to the terms of reference.

The research has been executed independently of the members and staff of the Authority.

The report of that research has been published on the Authority's website.

The Authority wishes to be advised of any other reviews, studies or research conducted which might be relevant to the inquiry.

Such material might be integral to a stakeholder's submission and, if this is the case, the material itself should be included with the submission. If the material is not integral to the submission or it is impractical to include it with the submission, stakeholders are asked to include a list of those reviews, studies or research with references.

3.3 Evidence

3.3.1 *What evidence includes*

Evidence is the probative material on which we base conclusions and findings.

Evidence can be—

- ◆ an opinion of an expert;
- ◆ a person's own story or experience—

and it can appear in the following forms (among others)—

- ◆ a printed report;
- ◆ the spoken testimony of a person.

3.3.2 Evidence provided in the submissions

Submissions must identify whether comments made are supported by evidence.

If so, access or a means of access to that evidence should be made available to the Authority. For instance, if the evidence exists only in a hard copy format such as in a book, a copy of an extract should be provided. If the evidence is contained in a report in the public domain on the internet, an electronic copy should be provided.

Where such evidence cannot be made available to the Authority, the submission needs to explain how this is the case.

3.3.3 Evidence provided at public hearings

The Authority's public hearings are conducted using the Authority's inquiry powers. In an inquiry, evidence may be received under oath or affirmation. As has been the Authority's practice in other inquiry hearings, if evidence is led at the public hearing, the Authority will allow it to be tested by appropriate questioning from affected stakeholders.

In the case of a problem gambler giving evidence about behaviour or conduct, this could include conventional cross examination.

4. SUMMARY

4.1 Provision of submissions

Submissions must be provided by 4.00pm on **Monday, 30 October 2006**.

Submissions must be provided both as a hard copy with a completed **Form A**, and electronically either on disk or by email to—**2004amendments@iga.sa.gov.au**.

Please note that only the hard copy submission needs to be accompanied by Form A.

4.2 Registration for hearing

Registration of interest in making an oral presentation at the public hearing must be made at the time of providing a written submission. People who make submissions before the deadline are able to register interest up until the submission deadline.

4.3 Provisional hearing details

Two days have been set aside for the Authority to receive submissions. The details of the hearing days are—

- ◆ 9.00am on Tuesday, 21 November 2006, and
- ◆ 10.00am on Wednesday 22 November 2006.

The place for the hearing has been fixed for the Adelaide Convention Centre, North Terrace, Adelaide.

Any changes or further information will be posted on the Authority's website.

4.4 Further information

Enquiries about submissions and the inquiry process should be directed to the Authority's Manager, Responsible Gambling, on (08) 8226 7233.

APPENDIX 1

Form A (Submission form)



**Independent Gambling Authority
Form A**

2004 Amendments inquiry

(Please read the notes overleaf before completing)

1. Personal details

<i>Name of contact person (please include titles and qualifications)</i>	
<i>Street address (include postcode)</i>	<i>Home phone</i>
	<i>Work phone</i>
	<i>Facsimile</i>
	<i>Mobile phone</i>
<i>Email address</i>	
<i>Do you wish to remain anonymous? (circle/strike out as appropriate—a blank is a "NO")</i> YES NO	

2. Organisation details

<i>If you are making this submission on behalf of a body (such as a government department, a service provider, a recognised charity), on behalf of a group of people (such as an informal association of people with a specific interest in gambling) or in some other capacity (for example, as a university lecturer) please provide the details of the body and indicate whether your submission is the body's OFFICIAL position or simply your own UNOFFICIAL view.</i>
<i>Name of body, association or organisation</i>
<i>Your title, designation or position</i>
<i>Is the submission OFFICIAL or UNOFFICIAL</i>

Appendix 1: Form A (Submission form)—continued

3. Submission details

This submission is made by (circle/strike out as appropriate)

HARD COPY AND DISK

HARD COPY AND EMAIL

HAND WRITTEN COPY ONLY

If the submission has been provided as a handwritten version only, it will need to be typed to enable ease of reading and placement on the Authority's website. Do you permit the Authority to produce a typed version of your handwritten submission?

(circle/strike out as appropriate—a blank is a "YES") YES NO

4. Hearing

Do you or your organisation intend to present at the public hearing on 21 and 22 November 2006?

(circle/strike out as appropriate—a blank is a NO) YES NO

Who will be presenting at the hearing (including position held if representing an organisation)?

Will you require any equipment for your presentation, such as Powerpoint?

(circle/strike out as appropriate—a blank is a NO) YES NO

If you require any equipment other than Powerpoint, please specify.

Acknowledgment and consent

1. I have read the submission guidelines for the inquiry and make this submission on the basis set out in that document.
2. I take responsibility for the correctness and accuracy of statements made in this submission.
3. Unless specifically attributed to others, the opinions, comments and observations in this submission are my own.
4. I consent to the whole or any part of this submission being published by the Independent Gambling Authority.
5. I am aware that the independent research report—*Evaluation of 2004 legislative amendments to reduce EGMs*—has been prepared for the purposes of the inquiry, has been made publicly available and is likely to be referred to during the course of the inquiry.

Date

Signature

Appendix 1: Form A (Submission form)—continued

NOTES FOR COMPLETION OF SUBMISSIONS

1. Personal details

If you want to be **anonymous**, Form A will be separated from the attached submission and only the submission will be shown to the participants or otherwise published. However, you will need to be careful with your submission to make sure that you do not inadvertently identify yourself. Please note that your details may be disclosed to certain members of the board and staff of the Authority.

2. Organisation details

- (1) This section has two purposes: while it allows a person to make an official submission on behalf of an organisation, it also allows people whose role in an organisation makes them experts or opinion leaders (or both) to credential their submissions appropriately.
- (2) If the submission is made as the official submission of a group, please expect the Office of the Authority to seek independent verification of the status of the submission.

3. Submission details

When supplying your submission on disk or by email, please make the submission as a Word for Windows (*.doc) or rich-text format (*.rtf) document or as an Adobe Acrobat format document—in the case of email, supplied as an attachment

4. Acknowledgment

The acknowledgment is important. It makes sure that you understand some of the issues involved in making comments which might be published. Please read it carefully.

APPENDIX 2**Extracts of sections 13–15 of the Independent Gambling Authority Act****13. Inquiries by Authority**

- (1) The Authority—
 - (a) may hold an inquiry whenever it considers it necessary or desirable to do so for the purpose of carrying out its functions; and
 - (b) must, if requested to do so by the Minister, hold an inquiry into any matter relating to—
 - (i) the operations of a licensee under a prescribed Act; or
 - (ii) the operation, administration or enforcement of a prescribed Act.
- (2) On completing an inquiry under this section, the Authority must submit to the Minister a report of the inquiry and the findings of the Authority on the inquiry, and any such report may include recommendations for action to be taken.
- (3) Unless the Authority recommends that the report should remain confidential, the Minister must, within six sitting days of receiving a report under subsection (2), cause a copy of the report to be laid before each House of Parliament.

14. Powers and procedures of Authority on an inquiry or appeal

- (1) For the purposes of proceedings before the Authority (whether under this Act or any other Act), the Authority may—
 - (a) by summons signed on behalf of the Authority by the Secretary of the Authority, require the attendance before the Authority of any person; or
 - (b) by summons signed on behalf of the Authority by the Secretary of the Authority, require the production of any equipment or other item, or any books, papers or documents; or
 - (c) inspect any equipment or other item, or any books, papers or documents produced before it and retain them for such reasonable period as it thinks fit, and, in the case of books, papers or documents, make copies of any of them, or of any of their contents; or
 - (d) require any person to make oath or affirmation that he or she will truly answer all questions put to him or her by the Authority relating to any matter being inquired into or that is before the Authority; or
 - (e) require any person appearing before the Authority to answer any relevant questions put to him or her by any member of the Authority or by any person appearing before the Authority.
- (2) If a person—
 - (a) who has been served with a summons to appear before the Authority, fails without reasonable excuse (proof of which lies on the person) to attend in obedience to the summons; or
 - (b) who has been served with a summons to produce equipment or any other items, or books, papers or documents, fails without reasonable excuse (proof of which lies upon the person) to comply with the summons; or
 - (c) misbehaves before the Authority, wilfully insults the Authority or any member of the Authority or interrupts the proceedings of the Authority; or
 - (d) refuses to be sworn or to affirm or to answer any relevant question when required to do so by the Authority,

Appendix 2: Extracts of sections 13–15 of the Independent Gambling Authority Act—continued

the person is guilty of an offence.

Maximum penalty: \$10 000 or imprisonment for 6 months.

- (3) A person is not excused from answering a question or from producing books, papers or documents under this section—

- (a) on the ground that the answer to the question or the contents of the books, papers or documents would tend to incriminate the person; or
- (b) on the ground of legal professional privilege,

but if the person objects to answering a question on the ground that the answer would tend to incriminate him or her, the answer will not be admissible against him or her in criminal proceedings (except in proceedings for perjury) or, if the person objects to answering a question on the ground of legal professional privilege, the answer will not be admissible in civil or criminal proceedings against the person who would, but for this subsection, have the benefit of the legal professional privilege.

- (4) The Authority may, if requested to do so by a person who has been required to answer a question by the Authority or who has produced books, papers or documents to the Authority, by order prohibit the publication in any newspaper or by radio or television of the name of the person, any answer given by him or her in proceedings before the Authority or the contents of any book, paper or document produced by him or her to the Authority.

- (5) A person who contravenes an order under subsection (4) is guilty of an offence.

Maximum penalty: \$10 000.

- (6) The Authority may sit at any time and in any place (including a place outside this State) and may adjourn its sittings from time to time and from place to place.

- (7) In the course of any proceedings, the Authority may—

- (a) receive in evidence any transcript of evidence in proceedings before a court or tribunal and draw any conclusions of fact from the transcript that it thinks proper; or
- (b) adopt, as in its discretion it considers proper, any findings, decision or judgment of a court or tribunal that may be relevant to the matter before the Authority.

15. Representation before Authority

- (1) A person appearing before the Authority may appear—

- (a) personally;
- (b) by counsel;
- (c) if a body corporate—by an officer or employee of the body corporate who has obtained leave of the Authority to appear on behalf of the body corporate;
- (d) if the party is a member of a genuine association formed to promote or protect the interests of a section of the liquor industry or the gaming machine industry or of employees in those industries—by an officer or employee of that association.

- (2) The Commissioner of Police may be represented before the Authority—

- (a) by a member of the police force; or
- (b) by counsel.

APPENDIX 3

Structure and operation of the Amendment Act

<i>Contents of Amendment Act</i>	<i>Description of operation</i>
Part 1—Preliminary	<i>These provisions are formal.</i>
1 Short title	
2 Commencement	
3 Amendment provisions	
Part 2—Amendment of Gaming Machines Act 1992 (extension of gaming machines moratorium)	<i>This provision removed the “sunset” date on the gaming machine freeze with effect from 9 December 2004. Later provisions (timed to commence with the trading system) removed the gaming machine freeze.</i>
4 Amendment of section 14A—Freeze on gaming machines	
Part 3—Amendment of Gaming Machines Act 1992 (gaming machine entitlements)	
5 Amendment of section 3—Interpretation	<i>This provision introduced new definitions of “Club One”, “gaming machine entitlement” and “non-profit association” for the purposes of other operative provisions of the Gaming Machines Act.</i>
6 Amendment of section 14—Licence classes	<i>This provision relates to Club One and the special club licence.</i>
7 Repeal of section 14A	<i>This provision removed the gaming machine freeze (with effect from 1 July 2005).</i>
8 Amendment of section 15—Eligibility criteria	<i>This provision allowed Club One to hold a gaming machine licence (sub-section(1)) and introduced the social effect test for the grant of gaming machine licences generally (sub-section (2)).</i>
9 Substitution of section 16	<i>This provision made one of the amendments needed to limit the number of machines which a gaming machine licensee may operate to the number of gaming machine entitlements held. (It also included temporary provision for a licensee to retain surplus gaming machines pending disposal or the acquisition of gaming machine entitlements.)</i>
16 Number of gaming machines to be operated under licence	
10 Amendment of section 24—Discretion to refuse application	<i>This provision made a change consequential on the imposition of the social effect test.</i>
11 Insertion of section 24A	<i>This provision set out requirements for Club One, relating to the qualities of the organisation, the qualifications of its directors, its responsibilities when placing gaming machines in venues, requirements for it to seek the approval of the Liquor and Gambling Commissioner for certain agreements and an annual reporting requirement.</i>
24A Special club licence	

Appendix 3: Structure and operation of the Amendment Act—continued

Contents of Amendment Act

- 12 Insertion of Division 3A
Division 3A—Gaming machine entitlements
- 27A Gaming machine entitlements
- 27B Transferability of gaming machine entitlements
- 27C Premises to which gaming machine entitlements relate
- 27D Effect of this Division on obligations under a lease or mortgage
- 27E Statement of Parliamentary intention with regard to gaming machine numbers
- 13 Amendment of section 37—Commissioner may approve managers and employees
- 14 Amendment of section 68—Certain profit sharing etc is prohibited
- 15 Amendment of section 70—Operation of decisions pending appeal
- 16 Insertion of section 71A
 71A Moratorium on increases in rates of gaming tax
- 17 Insertion of section 86A
 86A Guidelines
- 18 Insertion of sections 88 and 89
- 88 Exclusion of compensation
- 89 Minister to obtain reports
- 90 Minister to obtain report on Smartcard technology
- 91 Minister to obtain report on gambling rehabilitation programs
- 19 Amendment of Schedule 1—Gaming machine licence conditions

Description of operation

This provision dealt with the initial assigning of gaming machine entitlements (including in respect of the machine reductions for hotels), the trading system (including the fixed price of \$50 000 per entitlement) and the regulations, how entitlements can be transferred and special rules concerning mortgage and lease obligations of gaming machine licensees. The provision also inserted a statement of Parliamentary intention that no further reductions in gaming machine numbers would take place prior to 30 June 2014.

This provision related to Club One and the special club licence.

This provision related to Club One and the special club licence.

This provision related to a rewording of the allowance for suspension of decisions pending appeal.

This provision inserted a statement of Parliamentary intention that there would not be any increase in gaming tax prior to 30 June 2014.

This provision made guidelines issued by the Authority (with respect to the social effect test and the approval of new gaming machine games) subject to Parliamentary disallowance.

This provision excluded rights of compensation for the gaming machine reductions. It also required the production of reports on smartcard technology, gambler rehabilitation, the implementation of the gaming machine entitlements scheme and the impact of the 2004 amendments.

This provision made one of the amendments needed to limit the number of machines which a gaming machine licensee may operate to the number of gaming machine entitlements held.

Part 4—Amendment of Gaming Machines Act 1992 (miscellaneous amendments)

- 20 Amendment of section 3—Interpretation
- 21 Insertion of section 7A
 7A Powers to make interim or conditional decisions and accept undertakings from parties

This provision included an individual holding a licence in the class of persons requiring approval to work as a venue manager.

This provision made express allowance for a number of process practices for gaming machines licences, including interim or conditional grants and the summary revocation of a licence on a licensee failure to comply.

Appendix 3: Structure and operation of the Amendment Act—continued

Contents of Amendment Act

Contents of Amendment Act	Description of operation
22 Amendment of section 14—Licence classes	<i>These provisions were ancillary to the State Procurement Board ceasing to hold the sole gaming machine service.</i>
23 Amendment of section 15—Eligibility criteria	<i>This provision made a change consequential on the insertion of Part 3 Division 4A (see section 25).</i>
24 Amendment of section 26—State Supply Board to hold supplier’s licence	<i>This provision caused the State Procurement Board to cease holding a gaming machine service.</i>
25 Insertion of Part 3 Division 4A <i>Division 4A—Devolution of licensee’s rights</i>	<i>This provision remade in greater detail the process for dealing with the death or insolvency of a licensee.</i>
28B Devolution of licensee’s rights	
28C Bankruptcy or winding up of licensee	
28D Notice to be given of exercise of powers under Division	
26 Amendment of section 30—Objections	<i>This provision made express allowance for process practices concerning objections to licences.</i>
27 Insertion of section 35A 35A Interpretation	<i>These provisions remade, with amendments, the disciplinary action process for gaming machine licensees (and former licensees).</i>
28 Amendment of section 36—Cause for disciplinary action against licensees	
29 Insertion of sections 36A and 36B 36A Inquiry 36B Taking of disciplinary action against licensees	
30 Insertion of section 38B 38B Commissioner may approve gaming machine technicians	<i>These provisions established an approval regime for the employees of the holders of gaming machine service licences.</i>
31 Amendment of section 42—Discretion to grant or refuse approval	
32 Insertion of section 42A 42A Advertisement of certain applications and objections	<i>This provision established a process of objection for applications resulting in an approval given by the Liquor and Gambling Commissioner.</i>
33 Amendment of section 43—Intervention by Commissioner of Police	<i>This provision expanded the scope for intervention in applications by the Commissioner of Police (to include approved technicians).</i>
34 Substitution of sections 48, 49 and 50 48 Offences relating to management of business or positions of authority 49 Offence related to employment in gaming areas 50 Offence related to personal performance of work on gaming machines 50A Approved gaming machine managers and employees must carry identification	<i>These provisions expanded liability for certain existing offence to cover both the individual (for instance, working without the approval of the Liquor and Gambling Commissioner) and the licence (previously not able to be prosecuted for the offence). An additional offence—concerning failure to carry identification—was inserted.</i>
35 Amendment of section 51—Persons who may not operate gaming machines	<i>This provision made it an offence for a senior person working for a gaming machine service licensee to play a gaming machine.</i>

Appendix 3: Structure and operation of the Amendment Act—continued

<i>Contents of Amendment Act</i>	<i>Description of operation</i>
36 Amendment of section 52—Prohibition of lending or extension of credit	<i>This provision established separated from the existing offences, offences of employees of gaming machine licensees extending credit for gaming. The licensee has concurrent liability.</i>
37 Insertion of section 53B 53B Commissioner's directions to ensure security of gaming machines	<i>This provision gave the Liquor and Gambling Commissioner power to deal with circumstances where gaming machines have been left in vacated premises or have not been adequately secured.</i>
38 Amendment of section 59—Licensee may bar excessive gamblers	<i>This provision reworded the offence of allowing a barred person on premises; if any employee commits the offence, the licensee has concurrent liability.</i>
39 Amendment of section 69—Right of appeal	<i>This provision gave a right of appeal to objectors in proceedings.</i>
40 Amendment of section 72A—Gaming tax	<i>This provision inserted the requirement that \$3.84 million be paid into the Gamblers Rehabilitation Fund from collections of gaming tax.</i>
41 Amendment of section 72B—Recovery of tax	<i>This provision gave the Liquor and Gambling Commissioner the power to suspend a licence when the licensee was more than 10 days in default of payment of gaming tax.</i>
42 Insertion of section 73BA 73BA Gamblers Rehabilitation Fund	<i>This section established the Gamblers Rehabilitation Fund as a statutory fund.</i>
43 Amendment of section 74—Annual reports	<i>This provision was ancillary to the State Procurement Board ceasing to hold the sole gaming machine service.</i>
44 Amendment of section 82—Service	<i>This provision allowed for service of process on persons other than licensees, including by post.</i>
45 Amendment of section 85—Vicarious liability	<i>This provision extended disciplinary coverage to those occupying positions of authority in trusts or corporate entities controlling licences.</i>
46 Amendment of Schedule 1	<i>This provision amended the conditions to which a gaming machine licence is subject. It removed redundant references to the sole gaming machine service licence and to matters now dealt with by offence provisions. It also introduced a new head of power for the approval and alteration of responsible gambling codes of practice—with respect to early intervention with problem gamblers.</i>
47 Amendment of Schedule 3 1 Gaming machine licence purportedly granted to Roosters Club Incorporated	<i>This provision validated the grant of a particular gaming machine licence which had been found to be void.</i>
48 Insertion of Schedule 4 <i>Schedule 4—Transitional provision</i> 1 Gaming machine entitlements	<i>This provision dealt with a situation where a licence applied for prior to the commencement of the gaming machine freeze had not been granted prior to the commencement of the Schedule.</i>

Appendix 3: Structure and operation of the Amendment Act—continued

Contents of Amendment Act

Schedule 1—Related amendment of Independent Gambling Authority Act 1995

- 1 Amendment of section 11—Functions and powers of Authority
- 2 Amendment of section 17—Confidentiality

Description of operation

These provisions made amendments to the Independent Gambling Authority Act 1995.

One reworded the so-called “sustainable industry” object in that Act. The other made the Independent Gambling Authority subject to Freedom of Information laws.

APPENDIX 4

Recommendations of the gaming machine numbers inquiry and how reflected

Recommendation

1. A new licensing instrument, called a “machine entitlement”, will be established. One machine entitlement would entitle the holder of a gaming machine licence to operate one gaming machine.
2. On the final implementation day, all gaming machine licences in force will be amended so that each only authorises the licensee to operate the number (up to 40) of gaming machines for which the licensee holds gaming machine entitlements.
3. Also on the final implementation day, all gaming machine licences in force will have a renewal date inserted, being a date between 4 and 9 years from the final implementation day (to allow an orderly scheme of renewal).
4. The Gaming Machines Act should be amended to provide for the Liquor and Gambling Commissioner to issue, at some time prior to the commencement date, the following numbers of gaming machine entitlements:
 - (a) In respect of each licence for premises with between 28 and 40 gaming machines installed, eight fewer than the number of installed machines;
 - (b) In respect of each licence for premises with between 20 and 27 gaming machines installed, 20; and
 - (c) In respect of each licence for premises with between 1 and 19 gaming machines installed, the number of gaming machines installed.
5. For the purposes of this recommendation, dormant licences (such as those of Aaron Pty Ltd and Anport Pty Ltd) would be deemed to be licences for premises with machines installed.
6. Machine entitlements should be tradeable. The purchasing licensee would need to purchase the entitlement for a particular site and would forfeit the entitlement if it were not activated (by the installation of a machine) within 6 months of the sale.

How reflected

This recommendation was implemented..

This recommendation was implemented.

This recommendation was not implemented. Licences are ongoing and, subject to payment of taxes, will only be involuntarily suspended or cancelled as a result of formal disciplinary action.

These recommendations were the key to reducing the numbers of gaming machines. They were implemented in part.

Gaming machine entitlements were assigned in advance of the final implementation date (1 July 2005) and, in respect of for-profit (ie, hotel) businesses, in accordance with the reduction schedule.

However, non-profit licensees were assigned the same numbers of entitlements as they the numbers of machines held.

This was done.

Gaming machine entitlements are tradeable. The Regulations are able to provide for the lapse of entitlements if not used.

 Appendix 4: Recommendations of the gaming machine numbers inquiry and how reflected—continued
Recommendation

7. There would be at least one trading round, in a managed tender process similar to that used in Queensland, prior to the final implementation date.
8. After the final implementation date, there would be semi-annual opportunities to trade machine entitlements.
9. There should be provision in the Gaming Machines Act for regulations to be made to establish one or more trading zones, with a zone being able to be made up of a one complete area or two or more non-adjointing areas.
10. Machines in a zone would only be able to be sold to a licensee for a particular site within the zone or (if allowed by the regulations) for a particular site outside the zone.
11. In respect of an application for a gaming machine licence at a new site (a site where there had previously not been gaming machines, whether or not there was already a hotel on the site), there should be amendments to the Gaming Machines Act and the Development Act to—
 - (a) allow the use of land for gaming machines to be a matter requiring the consent of a development approval panel;
 - (b) require the Liquor and Gambling Commissioner, as licensing authority, to take into account social impacts and, in particular, to receive objections from local government and members of the local community when exercising his or her discretion and to exercise that discretion having regard to guidelines issued by the Authority;
 - (c) ensure that an appeal from a decision concerning a new site, on the merits, was available both to the licence applicant and to any objectors.
12. In respect of club licences, there should be amendments to the Gaming Machines Act to allow the licensing of a non-profit body to own and operate gaming machines in clubs.

How reflected

The Queensland model is a market price model. Amendments made to the Bill during the debate required entitlements to be traded at a fixed price of \$50 000.

In other respects, this recommendation was implemented. Trading did take place prior to the final implementation date of 1 July.

The legislative scheme allows for this. As at August 2006, there have been two trading rounds.

Trading zones were not a feature of the legislation as passed.

Trading zones were not a feature of the legislation as passed.

This recommendation was not implemented.

This recommendation was implemented so far as requiring the Commissioner to take into account social impacts and to exercise discretion having regard to guidelines.

This recommendation was implemented.

This recommendation was implemented.

APPENDIX 5

New policy measures incorporated during Parliamentary debate

1. The purchase price of a gaming machine entitlement is fixed at \$50 000.
2. A statement of Parliamentary intention was made to the effect that no further reductions in gaming machine numbers would take place prior to 30 June 2014.
3. A statement of Parliamentary intention was made to the effect that there would not be any increase in gaming tax prior to 30 June 2014.
4. The guidelines made by the Independent Gambling Authority for the purposes of section 15(5) [the social effect of the grant of a gaming machine licence] and section 40 [games likely to exacerbate problem gambling are not to be approved] are required to be tabled in Parliament and be subject to disallowance by a vote of either House.
5. The Gamblers Rehabilitation Fund is re-established as a statutory fund, with a guaranteed income of \$3.84 million annually hypothecated from gaming tax collections.
6. Section 11(2a) of the *Independent Gambling Authority Act 1995* is reworded with respect to objects required to be taken into account by the Independent Gambling Authority when performing functions. The wording of the section, with alterations highlighted, follows:
 - (2a) In performing its functions and exercising its powers under this Act or a prescribed Act, the Authority must have regard to the following objects:
 - (a) the fostering of responsibility in gambling and, in particular, the minimising of harm caused by gambling, recognising the positive and negative impacts of gambling on communities; and
 - (b) the maintenance of **an economically viable and socially responsible gambling industry (including an economically viable and socially responsible club and hotel gaming machine industry)** in this State
7. The Independent Gambling Authority is made subject to the provisions of the *Freedom of Information Act 1992*.
8. The Minister for Gambling is to obtain reports concerning—
 - (a) smartcard technology [tabled July 2005];
 - (b) State-funded gambling rehabilitation services [tabled July 2005];
 - (c) implementation of gaming machine entitlements [circulated January 2006];
 - (d) the “2004 amendments” [this inquiry].



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