

CLAUSE NOTES

Gaming Control Amendment (Community Interest) Bill 2016

PART I – PRELIMINARY

- Clause 1 Cites the proposed legislation as the *Gaming Control Amendment (Community Interest) Act 2016*.
- Clause 2 Provides the Bill to commence in two stages:
- 1) Parts 1, 2 and 4 commence on the day the Act receives Royal Assent – including interpretations and the suspension of licence applications and licence amendment requests, and stay of operation of applicable gaming machines; and
 - 2) Part 3 commences on a day to be proclaimed – being the provisions of the Act applying a transitional community interest test on applicable licenses that were granted authorisation to possess gaming machines since 17 March 2016 (see clause 13).

PART 2 – GAMING CONTROL ACT 1993 AMENDED

- Clause 3 In this Part 2, the *Gaming Control Act 1993* is referred to as the Principal Act.
- Clause 4 Inserts section 35A (Interpretation).
Section 35A provides definitions that are to be used in the division.
“Community interest matters” is defined to provide that matters are to be prescribed in regulations, while there is also provision for the Tasmanian Liquor and Gaming Commission to determine other matters as community interest matters as it considers necessary.
“Operate” means operate under the authority of a Licensed Premises Gaming Licence.
- Clause 5 Amends Schedule 5 of the Act (Further transitional and savings provisions) by inserting:
- Part 4 – Transitional provisions consequent on *Gaming Control Amendment (Community Interest) Act 2016*; and
 - Part 5 – Further transitional provisions consequent on *Gaming Control Amendment (Community Interest) Act 2016: Division 1 – Preliminary*; and *Division 2 – Stay of operation of certain gaming machines*.
- Part 4 provides a suspension of licence applications and requests for amendment to existing licences seeking authorisation to possess gaming machines until the community interest matters are finalised. The provisions will not apply to an application or request for amendment where the venue has operated gaming machines before 17 March 2016 and in the six month period immediately before the application or request.
From the day Royal Assent is received until the Act is proclaimed:

- the Commission is required to suspend considering any such requests that have been submitted; and
- persons are prevented from submitting such requests.

Divisions 1 and 2 of Part 5 effectively suspend the operation of gaming machines at licensed premises where the authorisation to possess those gaming machines was applied for and granted between 16 March 2016 and the day Royal Assent is received.

It creates an offence for a licence holder to operate or permit operation of gaming machines from the date Royal Assent is received until a community interest test is applied and determined by the Commission (see clause 13). A fine of up to 600 penalty units will be imposed (currently \$94 200).

The licence holder will not be entitled to compensation or a refund resulting from the prohibition on the operation of gaming machines.

The provisions will not apply to a licence if the application or request for amendment was made in respect of the licensed venue where gaming machines operated before 17 March 2016 and in the six month period immediately before the application.

PART 3 – GAMING CONTROL ACT 1993 FURTHER AMENDED

Clause 6 In this Part 3, the *Gaming Control Act 1993* is referred to as the Principal Act.

Clause 7 Amends section 36 of the Act (Application for a licensed premises gaming licence) to:

- require an application for a Licensed Premises Gaming Licence that authorises the possession of gaming machines to include a community interest submission.

The new requirement will not apply to an application where the venue has operated gaming machines any time in the six month period immediately before the application is made.

- require a community interest submission to be in a form approved by the Commission and include information on community interest matters as required.
- provide the public with the ability to obtain certain information with respect to an application containing a community interest submission.

Clause 8 Amends section 37 of the Act (Grounds for objection) to include an additional ground for any person to make an objection against an application with a community interest submission, on the basis that the granting of the licence with an authorisation to possess gaming machines at the licensed premises is not in the community interest, having regard to community interest matters.

Clause 9 Amends section 38 of the Act (Matters to be considered in determining an application) to require the Commission to be satisfied, as part of determining an application with a community interest submission, that taking into account community interest matters, it is in the community interest to grant the licence with an authorisation to possess gaming machines.

Clause 10 Amends section 41 of the Act (Updating of application) to ensure an applicant advises the Commission of any change to information provided in a community interest submission that occurs before the application is determined.

Clause 11 Amends section 44 (Amendment of licensed premises gaming licence and conditions) to provide that a request seeking to amend an existing licence to authorise the possession of gaming machines at the licensed premises is bound by the community interest submission requirements as if it were a new application (see clause 7) including:

- the requirement that a community interest submission to be in a form approved by the Commission and include information on community interest matters as required; and
- providing the public with the ability to obtain certain information with respect to an application containing a community interest submission.

The requirements of this clause will not apply to a request to amend a licence where the venue has operated gaming machines in the six month period immediately before the request.

Clause 12 Amends section 48 of the Act (Provisional licence) to provide that the Commission must not grant a provisional Licensed Premises Gaming Licence that authorises the possession of gaming machines unless gaming machines have operated at the venue in the six month period immediately before the application.

Clause 13

Amends Schedule 5 of the Act (Further transitional and savings provisions) by inserting after Division 2 of Part 5 – Further transitional provisions consequent on *Gaming Control Amendment (Community Interest) Act 2016: Division 3 – Community interest submission; Division 4 – Determination of Commission; and Division 5 – Miscellaneous.*

Part 5 provides for transitional community interest provisions.

These provisions will apply to Licensed Premises Gaming Licence holders who applied for that licence, or applied to amend that licence, during the period 17 March 2016 (the date of the Government's announcement) and the day of Royal Assent, and authorisation was granted to possess gaming machines at a new premises. The provisions will not apply to a licence holder if the application or request for amendment was made in respect of a venue that operated gaming machines before 17 March 2016 and in the six month period immediately before the application or request for amendment.

Transitional provisions include that:

- affected licence holders must make a community interest submission within 90 days of proclamation of the Act (as well as publishing a notice in the local newspaper that includes a statement that any person may object);
- a licence holder who does not comply with the 90 day requirement will cause the Commission to amend the licence by removing their authorisation to possess gaming machines, unless the Commission grants an extension of time if satisfied that special circumstances exist that justify the extension; and
- if the Commission, following consideration of the community interest submission and all objections received, determines that the authorisation to possess gaming machines under a licence is not in the community interest, the Commission must amend the licence to remove the authorisation to possess gaming machines. The amendment allows the licence holder to continue conducting other approved gaming operations such as keno or apply to amend the licence to operate keno.

The licence holder will not be entitled to compensation or a refund resulting from any decision to remove the authorisation.

Where a licence to which this clause applies is surrendered before a community interest submission has been fully considered and a new application is received to issue a new licence (effectively transfer of business), community interest submission requirements will apply to that application.

PART 4 – REPEAL OF ACT

Clause 14

Repeals the *Gaming Control Amendment (Community Interest) Act 2016* one year from when the Act is proclaimed.