

TASMANIA

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**GAMING CONTROL AMENDMENT  
(COMMUNITY INTEREST) BILL 2016**

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# **GAMING CONTROL AMENDMENT (COMMUNITY INTEREST) BILL 2016**

This Public Bill originated in the House of Assembly, and, having this day passed, is now ready for presentation to the Legislative Council for its concurrence.

SHANE DONNELLY, *Clerk of the House*  
27 October 2016

*(Brought in by the Treasurer, the Honourable Peter Carl  
Gutwein)*

## **A BILL FOR**

### **An Act to amend the *Gaming Control Act 1993***

Be it enacted by Her Excellency the Governor of Tasmania, by and with the advice and consent of the Legislative Council and House of Assembly, in Parliament assembled, as follows:

#### **PART 1 – PRELIMINARY**

##### **1. Short title**

This Act may be cited as the *Gaming Control Amendment (Community Interest) Act 2016*.

##### **2. Commencement**

- (1) Except as provided in this section, this Act commences on the day on which this Act receives the Royal Assent.
- (2) Part 3 commences on a day to be proclaimed.

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**PART 2 – GAMING CONTROL ACT 1993 AMENDED**

**3. Principal Act**

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

**4. Section 35A inserted**

Before section 36 of the Principal Act, the following section is inserted in Division 2:

**35A. Interpretation**

In this Division –

*community interest matters* means –

- (a) those matters that are prescribed for the purposes of this definition; and
- (b) any other matter that the Commission determines is a community interest matter;

*operate* means operate under the authority of a licensed premises gaming licence.

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**5. Schedule 5 amended (Further transitional and savings provisions)**

Schedule 5 to the Principal Act is amended by inserting after clause 10 in Part 3 the following Parts:

**PART 4 – TRANSITIONAL PROVISIONS CONSEQUENT ON  
GAMING CONTROL AMENDMENT (COMMUNITY INTEREST) ACT  
2016**

**1. Interpretation**

In this Part –

*operate* has the same meaning as in section 35A.

**2. Application of Part**

This Part applies to –

- (a) an application under section 36(1) for a licensed premises gaming licence that authorises the possession of gaming machines at licensed premises; and
- (b) a request under section 44(2)(a) to amend a licensed premises gaming licence to authorise the possession of gaming machines at the licensed premises to which the licence relates –

if the application or request is made in respect of licensed premises where

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gaming machines have not operated in the 6-month period immediately before the application or request.

**3. Unprocessed licence applications and licence amendment requests**

If –

- (a) an application under section 36(1) for a licensed premises gaming licence or a request under section 44(2)(a) to amend a licensed premises gaming licence is made to the Commission; and
- (b) that application or request is not determined by the Commission immediately before the day on which this clause commences –

the Commission must suspend consideration of that application or request until the day on which Division 3 of Part 5 of this Schedule commences.

**4. Suspension of certain licence applications and licence amendment requests**

Notwithstanding any other provision of this Act, a person cannot make –

- (a) an application under section 36(1) for a licensed premises gaming licence; or

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- (b) a request under section 44(2)(a) to amend a licensed premises gaming licence –

until the day on which Division 3 of Part 5 of this Schedule commences.

**PART 5 – FURTHER TRANSITIONAL PROVISIONS CONSEQUENT  
ON GAMING CONTROL AMENDMENT (COMMUNITY INTEREST)  
ACT 2016**

***Division 1 – Preliminary***

**1. Interpretation**

In this Part –

*community interest matters* has the same meaning as in section 35A;

*operate* has the same meaning as in section 35A.

**2. Application of Part**

- (1) This Part applies to the holder of a licensed premises gaming licence, in respect of that licence, if –
- (a) the licence authorises the possession of gaming machines at the licensed premises to which the licence relates; and
- (b) between 16 March 2016 and the day on which this clause commences (both days exclusive) –

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- (i) an application was made under section 36(1) for that licence; or
  - (ii) a request was made under section 44(2)(a) to amend that licence to authorise the possession of gaming machines at the licensed premises to which the licence relates.
- (2) However, this Part does not apply to the holder of a licensed premises gaming licence if the application referred to in subclause (1)(b)(i) or the request referred to in subclause (1)(b)(ii) was made in respect of licensed premises at which gaming machines operated –
  - (a) before 17 March 2016; and
  - (b) in the 6-month period immediately before the application or request.

*Division 2 – Stay of operation of certain gaming machines*

**3. Stay of operation of certain gaming machines**

- (1) Notwithstanding any other provision of this Act, if the holder of a licensed premises gaming licence possesses gaming machines at licensed premises under the authority of a licence referred



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to in clause 2(1), the licence holder must not operate, or permit the operation of, those gaming machines unless the Commission has made a determination under clause 5(1) that the authorisation to possess gaming machines under that licence is in the community interest.

Penalty: A fine not exceeding 600 penalty units.

- (2) The holder of a licensed premises gaming licence who is prohibited under subclause (1) from operating, or permitting the operation of, gaming machines at licensed premises is not entitled to compensation or a refund in respect of any matter arising from the prohibition.

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**PART 3 – GAMING CONTROL ACT 1993 FURTHER  
AMENDED**

**6. Principal Act**

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

**7. Section 36 amended (Application for licensed premises gaming licence)**

Section 36 of the Principal Act is amended as follows:

(a) by inserting the following subsections after subsection (2):

(2A) An application under subsection (1) for a licence that authorises the possession of gaming machines at the licensed premises must be accompanied by a community interest submission if gaming machines have not operated at the licensed premises any time in the 6-month period immediately before the application is made.

(2B) A community interest submission is to –

(a) be in a form approved by the Commission; and

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- (b) contain such particulars regarding community interest matters as the Commission may require.
- (b) by inserting the following subsections after subsection (6):
  - (6A) A person may, within 14 days of the date of publication of a notice under subsection (6), request in writing that the Commission make available –
    - (a) information as provided in the notice; and
    - (b) any community interest submission made in respect of the relevant application under subsection (2A).
  - (6B) The Commission is to comply with a request under subsection (6A).

**8. Section 37 amended (Grounds for objection)**

Section 37(1) of the Principal Act is amended as follows:

- (a) by omitting from paragraph (c) “capacity.” and substituting “capacity;”;
- (b) by inserting the following paragraph after paragraph (c):

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- (d) in the case of an application to which section 36(2A) applies, 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.

**9. Section 38 amended (Matters to be considered in determining application)**

Section 38(1) of the Principal Act is amended as follows:

- (a) by inserting “it is” after “unless”;
- (b) by omitting from paragraph (b) “both.” and substituting “both; and”;
- (c) by inserting the following paragraph after paragraph (b):
  - (c) in the case of an application to which section 36(2A) applies, taking into account community interest matters, it is in the community interest to grant the licence with an authorisation to possess gaming machines at the licensed premises.

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**10. Section 41 amended (Updating of application)**

Section 41(1) of the Principal Act is amended by inserting “community interest submission made under section 36(2A) or” after “any”.

**11. Section 44 amended (Amendment of licensed premises gaming licence and conditions)**

Section 44 of the Principal Act is amended by omitting subsection (3) and substituting the following subsections:

(3) If a licensee under subsection (2)(a) requests the Commission to amend a licensed premises gaming licence to authorise the possession of gaming machines at the licensed premises to which the licence relates, the following sections apply to that request as if it were an application under section 36(1) for a licensed premises gaming licence that authorises the possession of gaming machines at the licensed premises:

(a) section 36(2A), (2B), (6), (6A) and (6B);

(b) section 37(1)(d) and (2).

(3A) Subsection (3) does not apply to a request to amend a licensed premises gaming licence to authorise the possession of gaming machines at the licensed premises if gaming machines have operated at the licensed premises in

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the 6-month period immediately before the request.

- (3B) The Commission must not amend a licensed premises gaming licence, to authorise the possession of gaming machines at the licensed premises to which the licence relates, unless it is satisfied as to the matters specified under section 38.

**12. Section 48 amended (Provisional licence)**

Section 48 of the Principal Act is amended by inserting after subsection (1) the following subsection:

- (1A) However, the Commission must not grant a provisional licensed premises gaming licence that authorises the possession of gaming machines at the licensed premises to which the licence relates, if gaming machines have not operated at the licensed premises in the 6-month period immediately before the application for that licence was made.

**13. Schedule 5 amended (Further transitional and savings provisions)**

Schedule 5 to the Principal Act is amended by inserting after clause 3 in Division 2 of Part 5 the following Divisions:

***Division 3 – Community interest submission***

**4. Community interest submission**

- (1) The holder of a licensed premises gaming licence must, within 90 days after the day on which this clause commences, make a community interest submission to the Commission –
  - (a) in respect of a licence referred to in clause 2(1); and
  - (b) in accordance with section 36(2B).
- (2) The Commission may extend the period referred to in subclause (1) if satisfied that special circumstances exist that justify the extension.
- (3) Within 14 days of making a community interest submission under subclause (1), the holder of a licensed premises gaming licence must cause to be published, in a newspaper circulating in the area in which the licensed premises are situated, a notice containing the information required by the Commission and a statement that any person may object to the licence by giving notice in writing to the Commission, within 14 days of the date of publication of the notice, stating the grounds for the objection.

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- (4) A person may, within 14 days of the date of publication of a notice under subclause (3), request in writing that the Commission make available –
  - (a) information as provided in the notice; and
  - (b) the community interest submission made in respect of the licence specified in that notice.
- (5) The Commission is to comply with a request under subclause (4).
- (6) A person may, within 14 days of the date of publication of a notice under subclause (3), object to the licence specified in that notice on the grounds that authorisation to possess gaming machines under that licence is not in the community interest, having regard to community interest matters.
- (7) An objection under subclause (6) is to –
  - (a) be in writing; and
  - (b) set out the reasons for the objection.

***Division 4 – Determination of Commission***

**5. Determination of Commission**

- (1) If the Commission receives a community interest submission made in relation to a



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licensed premises gaming licence under clause 4(1), the Commission must determine whether or not, after taking into account community interest matters, the authorisation to possess gaming machines under that licence is in the community interest.

- (2) The Commission must not make a determination under subclause (1) without first considering –
  - (a) the community interest submission made under clause 4(1) in relation to that licensed premises gaming licence; and
  - (b) every objection made under clause 4(6) in relation to that licensed premises gaming licence.
- (3) The Commission must, as soon as practicable, notify the licence holder of a determination made in respect of his or her licensed premises gaming licence under subclause (1).
- (4) If the Commission determines under subclause (1) that the authorisation to possess gaming machines under a licensed premises gaming licence is not in the community interest, the Commission must, by written notice given to the licence holder –

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- (a) amend the licence to remove the authorisation to possess gaming machines at the licensed premises to which the licence relates; and
  - (b) give reasons to the licence holder for its determination.
- (5) If the holder of a licensed premises gaming licence does not make a community interest submission in accordance with this Part, the Commission must, by written notice given to the licence holder, amend the licence referred to in clause 2(1) to remove the authorisation to possess gaming machines at the licensed premises to which the licence relates.
- (6) The amendment of a licence under this clause takes effect on the day on which the licence holder receives notice of the amendment or on a later day specified in the notice.
- (7) The holder of a licensed premises gaming licence is not entitled to compensation or a refund in respect of any matter arising from the amendment of the licence holder's licence in accordance with this clause.

***Division 5 – Miscellaneous***

**6. Surrender of licence prior to determination of Commission**

(1) In this clause –

***transitional licensed premises*** means licensed premises in respect of which the holder of a licensed premises gaming licence has surrendered his or her licence before the Commission has made a determination under clause 5(1) in relation to that licence.

(2) If an application under section 36(1) for a licensed premises gaming licence is made in respect of transitional licensed premises, the premises are taken for the purposes of section 36(2A) to have not had gaming machines operating at the premises at any time in the 6-month period immediately before the application is made.

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Part 4 – Repeal of Act

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**PART 4 – REPEAL OF ACT**

**14. Repeal of Act**

This Act is repealed on the three hundred and sixty fifth day from the day on which Part 3 commences.