PARLIAMENT OF TASMANIA

LEGISLATIVE COUNCIL

REPORT OF DEBATES

Thursday 18 November 2021

REVISED EDITION

Contents

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The President, **Mr Farrell**, took the Chair at 11 a.m. acknowledged the Traditional People and read Prayers.

REPEAL OF REGULATIONS POSTPONEMENT BILL 2021 (No. 59)

Third Reading

Bill read the third time.

TRAFFIC AMENDMENT (PERSONAL MOBILITY DEVICES) BILL 2021 (No. 57)

Second Reading

[10.03 a.m.]

Mrs HISCUTT (Montgomery - Leader of the Government in the Legislative Council) - Mr President, I move -

That the bill now be read a second time.

The purpose of the Traffic Amendment (Personal Mobility Devices) Bill 2021 is to deliver on the Government's commitment to permit personal mobility devices on footpaths, shared paths, bicycle paths and some roads. Personal mobility devices are small electric devices designed to transport a person over small to medium distances such as e-scooters, e-skateboards and self-balancing hoverboards.

Prior to the 2021 state election, the Government made a commitment to identify the regulatory amendments required to safely permit PMDs on certain types of public infrastructure within 60 days of being re-elected. The Government subsequently committed to implementing the necessary amendments by early December 2021.

The bill is the first in a package of regulatory amendments required to deliver on that commitment. Amendments to subordinate legislation are being progressed to regulate the use of PMDs according to a comprehensive policy framework. This framework is largely based on amendments to the model Australian Road Rules agreed by Infrastructure and Transport Ministers in May 2021. Minor amendments have been adopted to ensure that the framework is fit for purpose in Tasmania. PMDs provide an alternative transport option that is cost-effective, low pollution and can be part of the solution to traffic congestion.

Currently, motorised scooters with a power output of more than 200 watts are categorised as unregistered motor vehicles and are not permitted on public roads. The package of regulatory amendments will allow PMDs to be used by people who are at least 16 years old. PMD users will be required to comply with all applicable road rules and to ride with due care and attention for other road users. Under the framework, they must wear a helmet, must not travel past a sign prohibiting PMDs, must not use a mobile phone while in or on the device,

must not exceed specified speed limits, must not carry another person or an animal and must not ride under influence of alcohol or drugs.

Both privately owned and commercial hire-and-ride devices will be permitted under the framework. This bill amends the Traffic Act of 1925 to empower road managers, such as local councils, to authorise PMDs to access roads they manage in addition to local roads that will be permitted under regulations. The bill also provides police with the power to seize and temporarily detain a PMD if they reasonably believe it is being used contrary to the road rules, similar to existing powers for wheeled recreational devices, such as skateboards and scooters.

The Government recognises the importance of safety of PMD and other road users and has committed to reviewing the regulatory framework, including the additional provisions for road managers, in 12 months. This will identify any emerging safety implications.

I commend the bill to the Council.

[10.07 a.m.]

Ms FORREST (Murchison) - Mr President, I support the bill. Effectively, with the details and the regulations that we do not have because they are being made at the moment, I did ask if we could see a draft version but you said it is not completed yet. The overall intent of the legislation is sound. The Subordinate Legislation Committee will look at the rules when they come through.

I have a question about the personal mobility devices some older people or people with disability use, affectionally known as gophers - Wynyard being the gopher capital of the world, there are a lot of them there. We have the gopher race down the main streets during the Tulip Festival and decorated gophers in the Christmas parade. Are they caught up in the regulations? Will they be regulated under the same framework? They can go up to reasonable speeds, they go on the footpaths, they also go on the roads at times. I am not sure whether that is legal but they do around Wynyard, I have seen them doing so.

If they are caught up in it, my concern is the provision in the regulations that a person is not permitted to carry an animal. A lot of these people rely on their assistance dogs. You see them in Wynyard all the time, they are little dogs in the front carrier on those mobility devices. That would present real challenges for a lot of people who rely on their dogs being with them as a source of comfort and security. They rely on them all the time, in their presence. I know that is really important to a lot of people in the community. It is certainly a matter that occurs all the time now with people on these sorts of devices.

I am not suggesting they should be on e-scooters, riding on the back of an e-scooter. If those sort of devices are included in the new rules, I would have great concern, but there is another time to look at this in the Subordinate Legislation Committee. It needs to be clarified for all the reasons we understand the value of assistance animals to people, particularly older and vulnerable people.

[10.09 a.m.]

Mr GAFFNEY (Mersey) - Mr President, I endorse the words of the member for Murchison. It is important to read a small letter because it is an awareness-raising issue, carrying on from the gopher comments. It helps people who may be listening understand the

people who are in those circumstances with the motorised scooters and what they experience sometimes. We will all have received a similar email:

> Good afternoon,
>
> I know it such a busy time of year for you, but many within the disability community are concerned about the way a recent bill passed by the lower House may be interpreted by the police and the public and therefore the implications upon disabled people who use mobility devices. 'Personal mobility devices', as mentioned in this bill, does not identify the difference between recreational mobility devices and personal disability mobility devices. I feel this is an accidental oversight, as do many across our community.
>
> Our concern is that this could be used in the future to discriminate against us. Some may think this is an overreach, but once something has passed into legislation it only takes a test case to prove the fact.
>
> Many people with disabilities experience significant microaggression in community around the use of their wheelchairs and mobility scooters. To hear comments like 'don't run me over' from able-bodied people is a common everyday occurrence, or 'slow down' or if we are having a drink, 'are you drinking and driving?'
>
> This sort of microaggression can now be taken one step further with this bill, and the wording the 'PWD are alarmed'. Being pushed from one's wheel chair by drunk people is not that unusual. Assumed to be drunk is also not that unusual. I request that when you review this legislation you take these concerns seriously.

I was really pleased to forward that email late yesterday to the department. This morning I received a response to that, which I will let the Leader share in her response. When I sent that response back to the concerned people they were very happy that the Government had acted so quickly. I commend the people involved with that. Sometimes, if you do not get the information out there, people get concerned about things they do not know about.

The response I have received from the people I sent that to was very supportive of what the Government is trying to do.

Ms ARMITAGE (Launceston) - Mr President, that we are seeing new and more novel modes of transport is undeniable. This bill is one way that we can ensure that their introduction to Tasmanian streets is done safely, with the users, pedestrians and drivers in mind.

From time to time I see people on e-scooters around Launceston. It is a really interesting mix of people. Not just young children, but men and women of all ages who seem to be seeing their utility. It will be interesting to see in the years ahead how these types of transport might have a positive influence on the traffic congestion woes we see in places like Launceston and Hobart.

If it is to be, however, we need to make sure that the legislation and surrounding policy framework are based on sound evidence-based principles. This bill, as I understand it, has been informed by a policy framework which is largely based on amendments to the model Australian Road Rules agreed to by Infrastructure and Transport Ministers in May 2021, with minor tweaks to ensure the framework is fit for purpose in Tasmania.

Currently chairing the inquiry into Road Safety in Tasmania, there is a lot of evidence, and submissions and hearings about a multitude of factors that influence road safety. These range from things such as headlights to road quality, vehicle standards, driver experience and training, teaching, and a plethora of other factors that people are raising as issues that feed into road safety.

Therefore, I am inclined to think about how e-scooters and other personal mobility devices will factor into road safety in the years to come. The introduction of motorised scooters with a power output of more than 200 watts are categorised as unregistered vehicles and are currently not permitted on public roads. This bill will permit people who are at least 16 years old to require them to comply with all applicable road rules, to ride with due care and attention. They will also be required to wear a helmet. It is a shame we cannot make them do them up but at least they are required to wear a helmet. They must not travel past a sign prohibiting PMDs, must not use a mobile phone while in or on the device, must not exceed specified speed limits, must not carry another person or animal - I note the comment by the member for Murchison with regard to little dogs and people's animals - and must not ride under the influence of alcohol or drugs.

We must expect that some of these rules will be tested or broken. What will be interesting to see, therefore, will be what happens when the use of PMDs results in injury or damage. How will our insurers handle associated costs? How will the Motor Accident Insurance Board incorporate the use of PMDs into the allocation of funding for accident recovery given that PMDs are unregistered motor vehicles? What if pedestrians are harmed? These are also issues that I am sure will become relevant at some point in the future. I would like to understand more about what plans are in place to address them.

I am aware that the Government has committed to review the regulatory framework in 12 months to identify any emerging safety implications. I am sure that many we have not been able to think of will emerge. It would be appreciated if the Leader could indicate what safety implications are being considered and addressed now.

What I hope to see from the introduction of these PMDs to Tasmanians streets is an amelioration of traffic issues and a fun, novel mode of transport for Tasmanians, especially around our cities. Not everyone has the money, time or inclination to cycle. If we can broaden options for people to move around, then that must be a good thing.

We are hearing support for the introduction of PMDs from our communities. I believe they have the support of our local councils which will have a large degree of responsibility over them. I hope to see similar experiences with e-scooters and PMDs as have occurred in places such as the United States and the United Kingdom where they seem to work reasonably well and seem to have retained public support after their introduction.

Leader, I will ask the questions on the Floor so I can have the answers we had in briefings recorded on the record with regard to my local council of Launceston.

Do councils have to do an audit of every road in the municipality to determine if scooters can travel on them before they can start a trial? My understanding is PMDs will be allowed to travel on footpaths. This section will only apply where it is not suitable to use the footpath and they will be required to use the road. It will only be a handful of roads that are impacted but there is nothing in the bill to suggest this.

So, my question is with regard to 41CA(2), where it says:

> The road authority for a speed-limited road may, by notice published in the *Gazette*, declare that road to be a road on which a PMD user may travel, subject to such terms and conditions as are specified in the notice.

When the bill states 'roads', does it mean the entire road including the footpath or just the road? Will the council be required to declare a road on which a PMD may travel for all roads or just roads where they are not permitted to use the footpath?

It was very interesting to hear in the Hobart City Council briefing about the regulations and requirements for the hire scooters used in the 12-month micromobility operational trial. They will be geofenced. They will identify areas where they are allowed to be and how fast they can go. The safety features for the hire scooters are impressive. We were told they can fine and ban customers from the platform if customers are found to be driving unsafely or doings things that they should not. Obviously, all scooters have helmets.

The scooters can recognise something in front of them, whether it be large or small. They have pedestrian detection centres. They have low speed beginner mode. They have dangerous rider behaviour detection. They have an automatic triple 0 emergency. Users will be forced to park in a designated safe parking area. When I was in Darwin earlier this year there were scooters left everywhere. If you were not watching where you were going you could easily trip over one that was left on the footpath. People finish with them, drop them and walk off.

It is interesting that end-of-ride parking will be enforced. We were also told that there will be parked vehicle recovery. I think it was 30 people that they will be employing around the area. They will not be all on at the same time but they will be taking the scooters back and picking them up. I think it is in New Zealand where a vehicle goes around picking up scooters and taking them back to their charging stations. They need to be charged, their batteries do not last indefinitely.

Scooters, as we have heard, are already on the roads as people can buy them. We need to make sure they are safe, particularly for pedestrians. My neighbour had an accident with a skateboarder in our local mall and has had ongoing problems for a long time. Young children can be walking with you and then veer off and run ahead. We need to be sure they are as safe as they can be.

The other question I asked earlier is in regard to the liability. We were told it is the credit cards. If it is a younger person riding an e-scooter, 14 or 15 years old - I know there's an age of 16, but I'm quite sure that younger people will ride them at times. Their parents have a credit card and you put it on the application.

If they are from interstate or overseas, obviously we will be having overseas visitors again as of 15 December, I would like some clarification regarding compensation for an

accident. Not so much for the person on the scooter, because I appreciate there are a large number of the accidents that happen, but someone who may be crashed into and have a serious injury, and it goes back to the credit card. I appreciate all the details for the hire scooters are on there. We can probably only really talk about the hire scooters for people coming.

If there is a considerable fine of $20 million liability cover for hire scooters, how would that be recovered, particularly if it was someone younger? With Monetary Penalties Enforcement Service, we know there are a lot of unrecoverable fines we cannot get because we do not have that reciprocal coverage. As has been mentioned, scooters are already on the road and we need them to operate safely.

A set of model road rules were developed, signed off in May. I also noticed from the Government briefing police will be able to confiscate them. In an enforcement sense, they will need to be ridden with due care and attention. My understanding is they are looking at the rule rather than speed limits, which is a bit harder. Not every police officer walks around with a speed gun, but they will be able to make a charge of riding without due care and attention.

Having said all that - and the Government will be holding an education campaign shortly called Ride with Respect, with some more comprehensive advice on how the safety implications of personal mobility devices will be managed - I support the bill.

[10.22 a.m.]

Mr WILLIE (Elwick) - Mr President, I appreciate other members' comments, particularly regarding disability and the motorised vehicle question and other points members have raised. I certainly support this bill. It comes down to what was said in the briefing: a framework is better than nothing. It is now quite clear many people are taking up the opportunity to use e-scooters and other personal mobility devices. This will put some rules for where they go, how fast they go, who can use them and under what conditions and gives police powers to confiscate and enforce those rules.

In the briefing, I had some concerns about policing. We find ourselves in a difficult situation at the moment. We are still in a pandemic. I know from our work on the road safety committee police are very busy at the moment conducting COVID-19-related duties. The Public Order and Transport Unit are spending a lot of their time doing that, rather than being on our roads, which is a problem for our road safety, but with the introduction of a new mobility device on our shared cycleways, pathways, footpaths and roads, I am interested in how that is going to be policed.

An education program is going to take place and I support that as it is a good thing. As an e-bike user myself, I know policing for these devices is not great at times. I have seen some dangerous behaviour, particularly on the northern suburbs cycleway. I was going about 25 kilometres per hour on my e-bike one day and a guy on an electric skateboard went past me at about twice the speed. It is a pathway used by families, kids, the elderly, people with mobility issues and you would cause significant damage if you ran into someone at that sort of speed.

The hire market will be heavily regulated by the companies. They want their companies to be successful and the population to support them. They will not want a lot of accidents or scooters being left around, and I suggest there will be a lot of oversight with that. Where the problems may occur is in the private use and ownership. I am interested in when the hire

market will start, and what impact that may have on our emergency departments. We know, where it has been introduced in other areas there have been some issues, and that was raised in the briefing by the member for Launceston. If there is an increase in demand, how will that be managed?

How will this interface with other modes of transport? I know you are currently not able to hop onto a Metro bus with your e-bike, but can you hop onto a Metro bus with a personal mobility scooter? Will that be allowed? I can see that people who live further out might like to catch a bus into a surrounding suburb and jump on their e-scooter to get to work.

Mr PRESIDENT - I believe you can take them on trains.

Ms Forrest - How many trains are there in Tassie where you can do that?

Mr PRESIDENT - I did not say in Tasmania.

Mr WILLIE - Unfortunately for us, Mr President, there is not a train that runs through the northern suburbs, although we would both like that to happen one day.

Ms Rattray - Or in the north-east.

Ms Forrest - Or the north-west.

Ms Armitage - Launceston to Hobart.

Mr PRESIDENT - I'm sorry I started that.

Mr WILLIE - You did, it is your fault, you are supposed to be moderating the debate. No, I am not reflecting on the Chair.

Members laughing.

Mr WILLIE - Could we have some clarification around the policing, which will be important - more information about the education program; and how these devices will interface with other modes of transport. The Derwent ferry has started and people are able to take their bikes on that, and that has been used by a number of people now. There is also an opportunity with Metro buses to help people consider other modes of transport rather than their cars, particularly if they are living in suburbs further out. If those things could be clarified, I certainly support the bill and look forward to those answers.

[10.28 a.m.]

Ms WEBB (Nelson) - Mr President, I also support this bill. It is pleasing to see us actively looking to encourage and accommodate new technology in this space. In the Greater Hobart Traffic Congestion inquiry, we had a lot of discussion around how to better encourage and facilitate the adoption of new devices and technologies. This is welcome. I will not go over similar ground to other members but I endorse the questions and comments that have already been made.

I have a couple of points to put to Government, to see where the thinking has been on these elements, and perhaps encourage some further action if there has not yet been thought

put to them. One relates to the accidents we know will occur, because we can look to other jurisdictions and see that. From our understanding, it is likely that may be centred on the private use of these vehicles. It is not so much an issue of liability; I know others have raised those issues. I wondered how will we know and ensure we are collecting accurate data about these accidents and injuries and the impact or costs to the community?

Accidents may be reported to police and data may be captured through that reporting mechanism. However, we heard in the briefing that the majority of the accidents are likely to involve the single vehicle and injuries to the driver themselves, rather than to others. I imagine that in many cases they might be relatively invisible in data collection, unless we are looking for ways to actively try to monitor, capture and measure that. We know that there will be costs associated with those sorts of accidents, whether it is a direct cost to the person themselves in injuries and their property but also more broadly, costs to us through the healthcare system or medical response maybe. Things like loss of work time, loss of productivity that flow from injuries people have encountered.

It would be interesting for us to understand what this looks like as a picture so we know and can potentially better accommodate and prepare for or ameliorate these situations. It is new to us. These are new devices and we have not yet encountered the full impact. I am interested in the thinking that has been done to try to capture that picture in a data sense.

I am interested to understand whether we are looking to monitor and map and how these PMDs show up in property crime in this state. They become something that is inevitability going to show up in our theft and crime statistics, and damage.

Mr Willie - Getaway vehicles.

Ms WEBB - I am not sure about that one but potentially it would be interesting for us to see. There will be new and unusual uses for these vehicles. That comes to mind for me because I have family members in other jurisdictions who utilise these and there has already been involvement with theft and damage. Will we be mapping and monitoring where these new vehicles sit in that so we understand the picture?

The third thing I wanted to bring up is probably one that is quite close to my heart because it relates to older Tasmanians. From my past work history this has been something that I am very interested in. How do we manage and provide wonderful opportunity for older Tasmanians in this state and ensure that our ageing demographic, which we know is a feature of our state, is really well catered for in a policy sense so that we really optimise the value and the contribution of older Tasmanians?

The thing about these devices that we would readily identify is that they have the potential to discourage older Tasmanians from using or accessing public spaces, particularly city areas. That is not a reason not to allow these vehicles or not to have them become part of the picture of our cities and our communities but it is something for us to be mindful of. We know that if older Tasmanians become fearful about accessing public areas that is going to impact on their lives. Confidence is very important for maintaining independence in older Tasmanians and independence is really important for maintaining health and wellbeing and quality of life.

Would the Government contemplate a commitment to partner with COTA - Council on the Ageing Tasmania - as the peak body in that space, to monitor the views and experiences of

older Tasmanians as we embark on this journey? Now at this early stage, prior to introduction or at the time when we are introducing these vehicles, and then at intervals going forward as they become more embedded and there is widespread use - so that we understand how older Tasmanians are experiencing and being impacted by them.

That way we can better equip ourselves as a community to ensure that those potential negative outcomes are ameliorated and do not come to pass as far as possible. I would like to see an active commitment to look at that as we regulate and roll out these vehicles.

Those were the things that I wanted to add to the debate today. I am supportive of the bill and I am very supportive of us seeing widespread use of these sorts of devices and technologies to the benefit of the whole community.

[10.34 a.m.]

Mr VALENTINE (Hobart) - Mr President, as the member for Nelson pointed out during our Greater Hobart Traffic inquiry, we had some discussions in this regard. You will hear about the recommendations next Tuesday, if you come along; we will be noting that report. One of the recommendations is that there be separated pathways for these sorts of things. It also points to bicycles. For the record, could the Leader place on the record whether this includes bicycles and e-bicycles as personal mobility devices, or whether that is separate, and how that interplay happens? Some people may be a little confused as to where bicycles and e-bicycles sit, in terms of this bill.

We have the oldest age profile of any state in Australia. The point the member for Nelson was making is very valid for Tasmania. South Australia used to be the oldest but we took that over about a decade ago. A lot of older people get out and about, walking on footpaths and/or cycleways, and a lot of young families take their kids out . I have heard stories, as the member for Elwick relates, about the intercity cycleway, with kids darting out from a group of people; someone on a bike goes straight over the handlebars because they cannot pull up in time, they are going too fast. There are these sorts of issues.

It is good to see in this bill that councils are being given the power to design where these personal mobility devices may, or may not, be used. No two cities are the same. There will be circumstances within cities where there are no-go zones, whereas other cities or towns may not have so many. That is important, as is having a consistent set of regulations. It is pleasing to see that regulations are being developed.

I also seek to have on the record whether segways are incorporated in PMDs and hoverboards, as opposed to e-scooters and scooters. You do not have to have a motor to use a scooter; you can go downhill just as fast on a scooter without a motor and it can be just as damaging to people. I believe it is important to have some clarification that it is for all scooters, not just for e-scooters.

For probably the last half-a-dozen years or more, I have driven an electric plug-in hybrid vehicle. When in electric mode, that vehicle has an electronic hum, to let people around you know that you are coming. It is not totally silent. It is a manufactured noise which is designed to alert people to your presence. Is there an opportunity in the regulations to address that sort of thing so that, at certain speeds, any e-devices give out warning signals, to alert people? People might be in a different space when walking on a footpath and they may not know that something is coming up behind them at 20 kms an hour, or 25 in some cases, if it is on a

cycleway; 15 if it is on a footpath. An alert that something is happening may be useful, if they have reasonable hearing. The member might comment on whether this issue might be covered in regulations.

MAIB is another issue. If you are on a bicycle and a car hits you, or you hit a car, you are covered. If you do serious damage to yourself and you are in an accident with a car you are covered by MAIB, but if a bicycle hits a bicycle, you are not. Where do we go with that as a society? Do we go down the path of somehow registering bicycles, e-mobility or personal mobility devices, so there is some way of being able to apportion liability where it is due?

That takes me to the point the member for Nelson was talking about with regard to data. It is something I asked during the briefing - those who are involved in accidents and a pedestrian may be litigating the person who was riding, in this case, an e-scooter, the data that is generated as to where that scooter was at the time, who was riding it - that sort of information is critical to a case like that. Is that data available to an individual, as opposed to the council, to be able to use in their case before a court? We hear that where there are e-scooters, there seem to be a lot more accidents. The member for Launceston talked about New Zealand and the amount of -

Ms Armitage - $15 million in two years for their claims.

Mr VALENTINE - Quite clearly, we can expect there are going to be some issues and the availability of that data is really important in those individual cases. We need to be considering regulations in regard to this. If I could have some idea as to whether those aspects are going to be taken care of in the regulations, that would be good to know. That is all I have to say on it, I support the bill. We are going forward as a community, increasing our opportunities for transport in these ways, which I think can be very good. Yes, there are some downsides but what we will find is we will end up with calmer cities, with greater ability for people to move in and through if we get the regulations right, if people feel protected, especially the elderly. I ask those questions and congratulate the Government for bringing this legislation on.

[10.43 a.m.]

Mrs HISCUTT (Montgomery - Leader of the Government in the Legislative Council) - Mr President, I have some lengthy answers. Starting with the member for Murchison, motorised mobility devices, such as motorised wheelchairs, will be excluded from the definition of a PMD under the road rules.

Ms Forrest - That includes the gophers. They are not wheelchairs, but that is alright as long as they are excluded.

Mrs HISCUTT - That is what they are, yes. The member for Mersey spoke about the response he received in regard to his concerns. I will read that letter in, so everybody knows what the response was. It started from the department:

> Dear honourable Mike Gaffney MLC,
>
> Thank you for your interest in the Personal Mobility Devices Bill currently before the Legislative Council.

This bill refers to a personal mobility device, PMD, as having the same meaning as the definition of a PMD within the meaning of the Road Rules 2019 road rules.

Consequently, the Tasmanian Government is currently progressing amendments to the road rules to define the PMD as a device that -

- has at least one wheel; and
- is designed to be used by one person; and
- is propelled by an electric motor or motors; and
- when propelled only by the motor or motors, it is not capable of travelling over 25 kilometres per hour on level ground; and
- is fitted with an effective stopping system controlled by using brakes, gears or motor control.
- it is not more than 1250 millimetres in length by 700 millimetres in width and 1350 millimetres in height.
- when the device is not carrying a person or other load, it is 45 kilograms in weight. That does not include a bicycle, motorised scooter, motorised wheelchair or wheeled recreational device.

Then it goes on to say:

The road rules define a wheelchair as a chair mounted on two or more wheels that is built to transport a person who is unable to walk, or who has difficulty in walking, but does not include a pram, stroller or trolley.

This definition of a PMD is based on the one provided in the model Australian Road Rules, the ARRs, except for the maximum device weight. These form the basis of the road rules in each state and territory.

Australian infrastructure and transport ministers approved amendments to the model ARRs in May 2021, to recognise the legal use of PMDs following a two-year project led by the National Transport Commission, the NTC. Through this project, the NTC identified the use of motorised mobility devices, MMDs, such as motorised wheelchairs, are inherently different from PMDs, which is why they have been excluded from the definition of a PMD, as noted above.

The Tasmanian Government acknowledges that MMDs are designed to assist people with mobility difficulties, whereas PMDs are intended for recreational use and commuting. It is worth noting the bill will implement two components of the policy framework to regulate PMDs, providing road managers with the ability to permit PMDs on roads that are speed limited to 50 kilometres per hour, in addition to local roads that will be permitted under the regulation amendments. It will provide police with the power to temporarily confiscate a PMD if they reasonably believe that it is being used

contrary to the road rules. The remaining policy framework to regulate PMDs will be implemented through regulation amendments.

It concludes:

I trust this has clarified the concerns raised by your constituents.

As the member for Mersey has said, his constituents were quite happy with that response.

Moving on to the member for Launceston who talked about the MAIB not covering PMDs, PMDs are excluded from the definition of a motor vehicle. Any incident involving a motor vehicle will be covered by the MAIB insurance. Any incident involving PMDs and pedestrians will be addressed similarly to skateboards and pedestrians or bicycles and pedestrians. That is, it would be a civil matter. The hire-and-ride has a $20 million public liability insurance included in it.

Safety features of commercial hire-and-ride vehicle operators was another question. The safety initiative there is geosensing, which is limiting speed in areas e-scooters can access. Topple detection - if an e-scooter has left or fallen on its side, it alerts the operator; and it has pedestrian detection mechanisms.

Another concern from the Launceston City Council. The Launceston City Council has been consulted this week at the officer level. Initial concerns have been eased, as officers had gained further understanding of the intent of the legislation, that is to provide road managers with the options to add roads 50 kilometres per hour to the network upon considering safety and other criteria in the bill. Footpaths will be permitted under regulations for PMD users, but road managers, under regulations, can install signage to prohibit PMDs from footpaths.

Ms Armitage - The question I asked when the bill states 'roads,' does it mean the entire road including the footpath or just the road? So it means just the road, is that right?

Mrs HISCUTT - It means just the road.

Member for Hobart, are bicycles excluded? Bicycles are excluded from the definition of a personal mobility device (PMD).

Segways and others are already regulated for private operators.

Self-balancing hoverboards, e-skateboards, are included in the PMD as they would likely meet dimension and weight requirements.

The member for Nelson - about the collection of data, the Government is committed to an evaluation of the framework that will permit PMDs in 12 months time. The intention will be to establish a working group and the Government will work closely with councils, including Hobart and Launceston. Evaluation would consider data from crash data that is already collected, data from commercial operators and implementing survey and observational studies.

Evaluation could also consider operating conditions of PMDs, such as visibility and noise of devices, interactions with other road users, noting that e-scooters have a range of safety features including a warning bell, white noise and automated pedestrian detection. The

department has indicated that it will write a letter to COTA to ask them to keep it informed of any incidents. They will consult with them.

Ms Webb - I was not asking them to be kept informed. I was suggesting something more detailed than that, to partner with COTA to monitor older Tasmanians' experiences in some more active way.

Mrs HISCUTT - The department has agreed to look at that in some form.

Ms Webb - Excellent. I would like to encourage that to occur.

Mrs HISCUTT - There was a question about putting an e-scooter on a bus. That is a matter for bus operators. They will need to see if they can be safely secured, noting that PMDs will cover a range of devices such e-skateboards and e-scooters. Tassielink, for example, has buses with storage available in the undercarriage.

Mr Willie - Is there going to be a policy for Metro?

Mrs HISCUTT - Metro will have a look at it. Metro is looking at it now but we are not sure where that is at.

Education program - a 'ride with respect' public education program will communicate the rules that users must follow. It will include digital, radio and newspaper advertising. Posters will also be displayed. Information on the rules will also be available on the Transport Tasmania website. It will begin when the rules commence.

Tasmania Police have been closely consulted and support the legislation and regulations. Safety measures include providing police with the power to seize e-scooters if a rider is flouting the road skills and riding dangerously. To aid enforcement an additional rule is included that specifies people must not ride e-scooters without due care and attention or reasonable consideration for others. This will assist in incidents where, for example, an e-scooter user rides in a manner that is unsafe to pedestrians, even though they are complying with the speed limit.

Bill read the second time.

TRAFFIC AMENDMENT (PERSONAL MOBILITY DEVICES) BILL 2021 (No. 57)

In Committee

Clauses 1, 2 and 3 agreed to.

Clause 4 -
Section 41B amended (Power of police officer to temporarily confiscate personal mobility devices, wheeled recreational devices and wheeled toys)

Mr VALENTINE - I did not catch the definition when it was being read out, was it at least one wheel or two? There are unicycles that can be electrically powered. The issue in the definition, apart from that, is that normal scooters that are not motorised do not seem to be covered by this. I want to clarify that, because if you have people using non-motorised scooters

is it not going to be very confusing as to where they are and are not allowed to go? We could end up with regulations handling just a portion of the personal mobility devices. I have not seen one around for a while, but rollerblades, for instance, un-motorised scooters and skateboards. We have a plethora of regulations for the operations of those in cities already and we want to make sure we are not further confusing members of the public who use these devices. It is important to understand whether electric unicycles are included and whether non-motorised scooters, rollerblades and skateboards have to follow the same regulations.

Mrs HISCUTT - I will read the definitions again, but yes, unicycles are included. It is amazing, the member for McIntyre and I went out for a walk the other morning and I saw a funny looking thing going down the road with a gentleman on it and it was a unicycle. It is only about this long and this high and I thought, 'wow.' I pointed that out to you, member for McIntyre.

Ms Rattray - You did, Leader.

Mrs HISCUTT - I will read out the list again:

> Consequently, the Tasmanian Government is currently progressing amendments to the road rules to identify the PMD as a device that has at least one wheel; and is designed to be used by one person; and is propelled by an electric motor, or motors; and when propelled only by the motor, or motors is not capable of travelling over 25 kms per hour on level ground; and is fitted with an effective stopping system, controlled by using brakes, gears or motor control; and is not more than 1250 mm in length, by 700 mm in width, by 1350 mm in height; and when the device is not carrying a person, or other load, it is 45 kgs in weight but does not include a bicycle, a motorised scooter, a motorised wheelchair, or wheeled recreational device.

Mr Valentine - It does not include a motorised scooter?

Mrs HISCUTT -

> Non-motorised scooters are wheeled recreational devices. PMD framework closely aligns to regulatory framework for wheeled recreational devices.

Mr VALENTINE - You just said it does not include non-motorised scooters, correct?

Mrs Hiscutt - While the member is on his feet:

> Does not include a bicycle, a motorised scooter, a motorised wheelchair, or a wheeled recreational device.

Mr VALENTINE - Does not include a motorised scooter, okay. There was one other question I wanted to put to the Leader but I have lost my train of thought.

Mrs HISCUTT - A motorised scooter has another definition in the road rules for motorised scooters. I know that it is not part of this bill. My adviser is racing through another bill to find it, we cannot find the part. Motorised scooters have another definition in the road rules for -

Mr Valentine - You are not talking about an e-scooter, you are talking about a motorised scooter and there is a difference?

Mrs HISCUTT - Yes, there is. Are you happy with that?

Mr VALENTINE - That clarifies it, thank you. I am bemused by it but I am happy with it. The other question I wanted to ask, you indicated that segways were not included in this and that they are dealt with in a different way. Why are segways not included in this? People have them. Tourism operations have groups of segways. Why not include segways in this to broaden it and put them under the same regulations?

Mrs HISCUTT - If they meet the definition of a PMD that I just read out, yes they would be. Most segways are usually bigger, heavier devices.

Mr Valentine - Heavier than 45 kilograms?

Mrs HISCUTT - Yes. Essentially a motorised scooter is a mobility device, a therapeutic device rather than a recreational device.

Clause 4 agreed to.

Clause 5 agreed to.

Clause 6 agreed to.

Title agreed to.

Bill reported without amendment.

GAMING CONTROL AMENDMENT (FUTURE GAMING MARKET) BILL 2021 (No. 45)

In Committee

Continued from 17 November 2021 (page 77).

Ms WEBB - Madam Chair, I have one amendment to move to this clause in my name. Members know it is the first amendment that was circulated for this clause. I will read it in.

Clause 69 -
Section 44 amended (Amendment of licensed premises gaming licence and conditions)

Page 98, paragraph (c), after proposed new subsection (3A).

Insert the following subsection

(X) If a request is made under subsection (2), to amend a venue licence for licensed premises so the licence is endorsed with one or more gaming machine authorities, and gaming machines have

operated at the licensed premises in the 6-month period immediately before the request, the Commission -

(a) must have regard to the community interest in considering that request; and

(b) must not amend the venue licence so that it is endorsed with one or more gaming machine authorities if the Commission considers that to do so would not be in the community interest.

This amendment relates to situations where a venue might look to increase its gaming machine authorities and it applies to the commission to do so. They already have gaming machines or have had them in the previous six months. The amendment seeks to insert a requirement that the community interest is considered in the commission's consideration.

We have already recognised that the community interest should be part of considerations about gaming machines. We have tasked the commission to do this in formal ways, through the community interest test for new licences. This is different, but it aligns with the expectation that the commission - as our independent experts when it comes to endorsements of gaming machines licences and gaming machine authorities - would have regard to the community interest. This amendment explicitly makes that the case in these instances.

I believe it aligns with the community view that this would be the case. It has been called for by many stakeholders in relation to this bill. No doubt, in discussing this amendment, we will have some discussion of another clause that we will come to later in the bill, clause 139, relating to the minister and directions for the commission and the matter of community interest. We will discuss that when we come to that clause. I believe that clause 139 does not do the same job as the amendment I am proposing. The Government, in their response to this, may suggest that we have covered off on the consideration of community interest through the power given to the minister in clause 139. I refute that, before it is even suggested. They are two quite distinct situations. When we get to clause 139 we will have an interesting discussion about the merits of that clause and the powers it gives to the minister.

This amendment is about our expectation of what the commission gives consideration to, and making explicit that community interest would be part of their determination. I am happy to respond to questions. I encourage members to support this. It is a very appropriate amendment and, I suggest, would have community support.

Mrs HISCUTT - The commission has powers to determine whether it is appropriate to allow for additional authorities. Decisions will be made in the context of the objects of the act. We note that there is already a cap set for venues as to how many EGMs can already be there. As venues already operate EGMs, the existing community interest test requirements in the act would not apply to those applications. Therefore, it is not considered necessary for the commission to consider the community interest again. Therefore, the Government will be opposing the amendment.

Mr VALENTINE - Is it not the case that some of these venues will never have had a community interest test? It might be an increase in the number of machines at that particular venue. What the member seems to seek through her amendment - and the member can correct

me if I am wrong - is to try and limit the number of machines in that particular municipality because of the disadvantage that might exist there, because of the damage that it might be doing to individuals in that community. This is an opportunity for the community to have a bit of input as to whether gaming machines should exist at that venue, or at least that the number of gaming machines should be limited.

I can see the reasoning behind it. I hope I have that right. If that is the intent, then yes, I support it. At the moment, I will just listen to the debate.

Ms RATTRAY - I have a question to the member who has proposed the amendment. This amendment would allow for any venues that are proposing to apply for additional EGMs. You are saying that the only way that the community interest test can be used as it is now, is if it is a new venue. This would apply to existing venues. I want to get that completely clear. I am interested in how that will affect the current venues. I heard what the member for Hobart said in his contribution, that the commission will have to take into consideration the community interest and whether there is an issue around the demographic of the particular area and the like.

Can you clarify that this community interest test, or community interest aspect, cannot be considered by the commission for existing venues, and that is why the member has proposed this amendment?

Ms WEBB - Thank you to the members for Hobart and McIntyre for asking questions and engaging with the amendment, I appreciate it. To pick up on the member for Hobart's comments about my intent, I do not have an explicit intent with this amendment to have any specific input or outcome on venues or numbers of machines in venues. It is about process. It is not with an aim to limit numbers. It is with an aim to say explicitly in the legislation that, under the circumstances where a current venue is applying for additional EGM authorities, the commission takes community interest into account in making that consideration or determination. I am not anticipating what the outcome of that would be, one way or the other. It does not direct the commission on how to do that. My intent is to insert what is an appropriate, explicit acknowledgement in a process that community interest be considered by the authority engaged in that process.

Thank you, member for McIntyre, for your questions. The amendment is not proposing the official community interest test be applied. It is just indicating that, in this process, the commission must have regard to, give consideration to, community interest. It is in relation to venues that want to increase the number of EGMs they have. In terms of how it would affect current venues, I do not know because I am not anticipating what every outcome might be of the commission making that determination. As I said to the member for Hobart, the intent is to insert an explicit acknowledgement of community interest within that determination by that appropriate independent authority, the commission, without directing them where they are going to land on that.

Ultimately, the potential outcomes may be that the decision about whether or how many additional authorities to grant might be affected by the commission taking community interest into account. We have to remember that many venues already have their maximum number. As the Leader said in her contribution, we have a cap on venue numbers and many venues are already at that cap, so they will not be going through this process anyway. No current venues have gone through the official community interest test for new licences because they were all

there before we brought that in 2016. This is not applying that official test, it is a way to give some consideration to community interest by the official body undertaking a process related to increasing numbers in a particular venue.

Madam CHAIR - You all have other calls. Let the member continue and other questions can be put through the chair to the member when she has finished this response.

Ms WEBB - I have provided as much information as I can at the outset in response to those questions. I am happy to take follow-up questions, so I know where to direct more information.

Ms RATTRAY - I was mindful the member had used her calls, but I respect your ruling.

Madam CHAIR - We need to direct questions and comments through the Chair.

Ms RATTRAY - In reference to the six-month period gaming machine authorities and gaming machines have operated at the licensed premises in the six-month period immediately before the request. I would like some explanation on that. I am happy to wait until your final call.

Mr GAFFNEY - One of the things that came through clearly in the 2017 committee inquiry was the density of machines in certain areas. The Government were quite pleased they came up with the community interest test for any new venues. There is a good intention for the Government to make certain they do not put extra machines into those areas that may not want or need them, as expressed by councils which sent us letters or whatever.

Is your intention here, if there is an opportunity for a venue to take on more machines - then surely if the Government's intention of introducing the community interest test in the first place was to make sure there was no more capacity for harm, then you are contending it makes sense if they are new machines they should be able to put the community interest over that before the commission makes a judgment? At the moment, there is no requirement for this for venues that already have machines in them. The Government wants to do the right thing here and we have to allow that in legislation and say, yes. If you are going to ask for more machines then the community interest test must go back through the whole gambit. Allow the community to have that and it has not been tested, especially when the Government says we are decreasing the numbers by 150 and we know there were not 150 in the wider community anyway. This is a legitimate way for the legislation to say, yes, and if there are going to be more machines there is a requirement or the capacity for the commission to assess that using the community interest as part of its criteria to say if there is going to be increased harm.

I would like the member to say if I have assessed that correctly.

Mr VALENTINE - My final question to the member for Nelson - is it envisaged that the number of gaming machines a venue is applying for will be reduced by the commission? I do not believe it is, but need to know whether that it is something this amendment countenances.

Dr SEIDEL - I seek some clarifications. The member for Nelson believes her concerns are not being addressed even considering that in subsection (3B) it states the commission must not amend the venue licence, et cetera, unless satisfied it is specified under section 38 in the

primary act. Then section 38 refers to 36(2A), again, the member for Nelson believes the provision under clause 69 does not address her concerns.

Madam CHAIR - To clarify the calls, the member for Nelson has taken one call on the clause to move her amendment. She has had one call on the amendment and has two more calls on the amendment. When we go back to the clause, whether amended or not, you have used one call there.

Ms WEBB - Members, thank you for engaging with the amendment and the discussion on it.

The member for McIntyre asked about the six-month period there. The six-month period is relevant to the formal community interest test already in the act, because the community interest test in the act comes into play either when you are a completely fresh venue applying to have poker machines, to have EGMs, or if you were a venue that had previously had poker machines, but not in the six-month period prior to when you are applying and there had been a gap. In those circumstances that formal community interest test comes into play. What this does is say if you are a venue that has already got poker machines or at least has had them in the last six months, in that close window, and you are applying to increase the number then this amendment comes into play to say - the commission in making determination takes into consideration community interest. I hope that clarifies that for the member. Thank you to the member for Mersey for those comments. Yes, the way that you have described that is the case. I think that is well identified, that it is aligned with the intent of the original insertion of a community interest test in 2016. The reality is many venues are at their cap already and this will not apply to many venues. None of the current venues went through that community interest test. This allows consideration of community interest to come into play at some of the only available opportunities we have left to us to do that, when venues are seeking to increase the number.

I feel it is a light touch. It is not putting a formal process in. It is saying that within the process of authorising those additional gaming machine authorities we explicitly articulate that community interest will be taken into account by the commission as the decision-maker. It is aligned with the Government intent and it is a light-touch alignment.

The member for Hobart asked would it allow for the commission to reduce the number that are already existing in the venue? My understanding is no. There is not a mechanism in this bill or in the proposed amendments where we would be seeking to take machines away from venues that currently have them. None of my amendments have sought to do that.

With some amendments we have already dealt with earlier in debate, with this and some coming amendments, I have turned my mind to how, without impacting and taking away anything that is currently there for venues, we could look ahead at opportunities where there might be increases in things and see how we could moderate those processes to have the community view and sentiment represented. I am looking for positive opportunities to do that that do not diminish venues' current arrangements. I hope it is recognised that that is my intent. I am doing that quite mindfully. I am often accused of being anti these businesses, or anti this industry. That is not the case. I am looking for ways to positively bring in community opportunity to have a say, not to take away from what is already there.

Correct me if I am wrong and did not understand this, the member for Huon asked did I feel that the intent of this amendment was already sorted out in the principal act in those earlier parts that are referenced? No. If the member for Huon felt that it is I would have been interested to hear more from the member on the specifics you thought did already cover it. I put this amendment because I feel it is not captured in those earlier parts. This inserts it explicitly into this process. Is that enough of an answer to that question?

I am mindful it is my third -

Madam CHAIR - You have one more.

Mrs HISCUTT - I would like to add that the commission will set the process for allocation of surplus authorities and may include guidance relevant to community interest, noting that there is also the opportunity for the minister to set directions on the allocation of surplus authorities, which may include restrictions on new authorities in particular areas.

We feel that this amendment is unnecessary, members, and we urge you to vote against the amendment.

Ms WEBB - Thank you, Leader, for that response. While it may be able to be done under current arrangements, the commission does not have to do that. In the bill it is not set out that community interest would be given regard to in this decision process.

Mrs Hiscutt - It does say, 'must'.

Ms WEBB - In my amendment? That is what I am saying. The intent is to make it explicit and clear, so that it does not become a matter of discretion or something that the commission is perhaps doing, or not doing. We will speak about the minister and the directions regarding community interest that come into play in clause 139. I do not believe that covers this same area.

If the Government thinks it is unnecessary and that is the best reason they can give not to do this, then I would say, why not do it? If there is no harm in doing this, it is a positive thing to include. If it is something that may occur anyway of the commission's own volition, there is no detriment to us as legislators inserting in this bill an explicit understanding that that will occur on behalf of our communities, and to give effect to that principle of communities being able to have their interests considered. I encourage members to not look for a reason not to support the amendment, if the only reason is the Government thinks it is not necessary. If there is no harm to it and it does something positive and adds our community into this bill in a respectful and positive way, I think that is a good reason to support it.

Mr GAFFNEY - I would also like to ask the Government if the only reason is that they believe it is not necessary. I think we dealt with an amendment yesterday from the member for Rumney about how the whistleblower is in other legislation. It was highlighted then. If we put it in this bill that is where you would find the information. If this has no impact other than it specifically says to the commission to follow through with it, it is the same premise. This gives guidance to the commission, but there is an expectation that the community wants you to do that and must do it.

As the honourable member said, this is not going to happen very often. It is not going to be an intensive time-consuming task, other than the fact the community gets the chance to have input into it. This goes back to the object of the bill, which is to help communities minimise the harm it could cause and to ascertain that the commission has looked at it and said, 'Yes, you can have some more machines because there is no harm in it'.

It is affirmation to the community that there has been proper and required assessment of each community whenever we are looking at EGMs and other gaming machines. I would thank the member for bringing it on. Hopefully the Government will think more carefully and closely and accept this amendment.

Mrs HISCUTT - The commission is bound by the objects of the act in all its decision-making. The objects were discussed at length. They have been improved. We do not need it in the bill. It is totally unnecessary. The Government will be voting against the amendment.

Ms ARMITAGE - I have a question. It is hard for the member as she has already used her three speaks. When the member was prosecuting her argument she said they would not have to do a formal community interest test. What guidelines would they have? If they are not being required to do a formal community interest test, are there any guidelines for community interest? Are there other ways they can simply consider? I am trying to understand what the requirement would be for the commission if it did not need to do a formal community interest test? Would they just look at numbers?

Madam CHAIR - Perhaps the Leader could describe how the community interest is considered. Are you asking how the community interest is assessed? Is that the question?

Ms ARMITAGE - I am and I am not. The member said in her amendment for clause 69, when it says 'must' they are not being required to do a formal community interest test, which is obviously a set of guidelines for the formal community interest test. They simply must have regard to the community interest. What guidelines would that require? Is it someone actually looking and seeing how many of them are in the area if you are not being required to do a formalised actual community interest test, as at the moment?

Madam CHAIR - I remind members while you are on your feet that I clearly outlined how the calls work in this place. I urged members yesterday, and again today, if you have questions with amendments, to get up while they have still calls left. This makes it very difficult for the member who has the amendment.

Ms ARMITAGE - That may be the case, but if you come up with a question after the member has sat down, that actually is not my problem. I have a question and if I was standing on my feet and she would like to answer it -

Madam CHAIR - If the member can give a very brief explanation I will allow it but I am not going to keep allowing this. People need to respect the rules of this House and the way it is designed to operate.

Ms WEBB - You are right. It is not the formal interest test, as I said. It would be for a further commission to determine how it would give regard to community interest. That is something that it would be doing in other instances also. It is something that exists within their function already. There are other instances in the bill where community interest has to be given

regard to and same thing there. It is left relatively broad for that entity to determine how to do that.

Madam CHAIR - The question is that the amendment be agreed to.

The Committee divided -

AYES 5	**NOES 6**
Ms Armitage	Mr Duigan
Mr Gaffney (Teller)	Mrs Hiscutt
Dr Seidel	Ms Howlett (Teller)
Mr Valentine	Ms Lovell
Ms Webb	Ms Palmer
	Mr Willie

PAIRS

Ms Rattray	Ms Siejka

Amendment negatived.

Clause 69 agreed to.

Clause 70 agreed to.

Clause 71 agreed to.

Clause 72 -
Section 48 substituted

Madam CHAIR - Before you start your contribution, to try to ensure we give ample opportunity to address concerns and questions, can you be very clear in fully explaining the purpose of the amendment, including the provisions within it. Then, hopefully, members will have questions straight-up. People need to listen to your explanation in the first instance and address matters through the Chair.

Ms WEBB - I will do my best. It is a fine balance between explaining enough and people thinking you are going on. I will try to find it. This is clause 72. The amendments I will be moving on the amendment circulated, so you are aware, are the first and the third amendment. They are linked together with similar intent. I will move them as the first and second, but on the paper you are looking at they will be the first and third.

Madam Chair, I move -

> That clause 72, proposed new section 48A, after subsection (4) be amended by inserting the following subsection -

(Z) If an application is made to transfer gaming machine authorities under this section and gaming machines have operated at the secondary premises at any time in the 6-month period immediately before the application was made, the Commission -

(a) must have regard to the community interest in considering that application; and

(b) must not grant the application if the Commission considers that granting the application would not be in the community interest.

I will read the second amendment, page 107, proposed new section 48B -

Madam CHAIR - Order. This is a different subsection in the bill. Do you need to deal with the first amendment first?

Ms WEBB - I think because they cover the same intent we can probably deal with them together. I am thinking of expediting the process.

Madam CHAIR - Okay. If you are happy to do that, it is your call.

Ms WEBB - Thank you. We will do them separately then. That way none of us will become confused about what we are talking about. In the interests of clarity of questions. I will begin with the first amendment in the first instance.

This is very similar to the conversation we had about the previous amendment. It is asking the commission to do the same thing, to have regard to community interest. The circumstances this time relate to when the commission is determining an application to transfer gaming machine authorities.

This situation occurs because, under this legislation, under this bill, if there are venues of common ownership and, for example, the owner of the two venues would like to move poker machines between venues - they may have their full complement in one venue and not in another venue and feel they would like to transfer some from the first venue to the second because it might generate a better return. There might be other reasons and this bill allows them to do that with permission, with authority granted by the commission.

They have to apply to the commission for example if they would like to move five EGM authorities from this venue they own to this other venue they own. There is already restraint in the bill about the conditions for that, you cannot exceed the venue cap and so on. My amendment inserts an explicit acknowledgement in that process, that when the commission is determining whether to approve that transfer, the commission takes into account or has regard to community interest.

The rationale is very similar to what we discussed in the previous amendment. It is aligned with the previous intent of having a community interest test applied to new licences. It is aligned with the intent communities can have their views and wishes considered as part of decision-making. It is aligned with the objects of the act. It is not detrimental in that it does not actively take anything away from any of the players involved. It simply explicitly inserts

community interest as a consideration without anticipating what the result of that might be in terms of the commission's decision-making.

Having regard to community interest is something that crops up in legislation. To speak to the questions raised by the member for Launceston in the previous amendment, regard to community interest is not an uncommon thing to see in legislation and it would be the commission that would decide how it would go about doing that. I am happy to answer questions on it, but from our previous discussion, it is relatively clear what this amendment is trying to do. It is just the circumstances that are different and hope I have explained those in terms of the transfer possibility under this bill.

Mrs HISCUTT - The same principles apply to this amendment as the previous amendment, in that they seek to apply the community interest to a different scenario, where a venue may increase authorities. For the same reasons articulated for the previous amendment, this amendment is also not supported. To repeat, the commission has the power to decide the appropriateness of any transfer and will operate within the objects of the act.

Mr VALENTINE - This is giving the commission the opportunity to consider that. If we are expressing it explicitly through legislation, it is considered. It is not a technical community interest test, it is simply gauging. There are a number of ways that may be undertaken. As I supported the last amendment, I consider this amendment is certainly not going to be detrimental to the owner because they are not having their gaming machine numbers reduced. They may not be able to transfer if, for some reason, it is considered there is too much harm where they want to place them and that has been expressed through gauging community interest, but it is not going to reduce the owner's income -

Ms Rattray - Well it actually it could.

Mr VALENTINE - No, I do not think it does. If for instance, if they were told, 'well no, you cannot do that transfer for x, y and z reasons', they have still the same number of machines in the locations that they were in and it is not going to affect their income in that regard. It might fetter their opportunity to increase their income, I agree there, but it is taking into account the possible impact of doing so and there needs to be that opportunity to gauge the acceptance of the community in that.

Ms RATTRAY - I certainly appreciate the opportunity to think this one through, but I do see a difference in this. This is like one owner, two venues and by passing this one, we effectively could be impacting on their opportunity. The last one was about increasing. This one is about the status quo in numbers. It is moving them from one venue to another. I do see this as a little bit different than the previous one, but I am interested in other member's thoughts on that. The member proposing the amendment will have some comment as well and I hope so.

Ms ARMITAGE - I am in a bit of quandary with this one because I can see two sides. I can see the side that the member for McIntyre has just said but I can also see a side if an operator has two venues, one in an area where the machines are getting very little use and one in an area - it might be a considerable distance.

Ms Rattray - There is still a cap on the numbers.

Ms ARMITAGE - There is a cap but it is whether more machines coming into the vulnerable area, even if it is under the cap, causes more grief. I understand where you are coming from. I am not too sure whether I am supporting this one or not at the moment. I was hoping that more people might speak on this one. I will listen to more, but I do have a quandary and concern.

Mr GAFFNEY - Hopefully I have got this correct and I am sure I will be corrected. If an owner of a venue in town A and a venue in town B, they have not got their caps, so they are under what they are allowed. This one over here is a community that has socio-economic issues and it is more harmful, perhaps cannot afford it, but they are taking more money out of here, not enough out of here. Under the present arrangements, they can take 10 of their machines that are not taking in much revenue and put them over to here, to take that up, where people are using them more. Therefore, they are compounding the problem, even though they have not increased or changed the number of machines they had. I have an issue with that, that there is not a community interest test from taking these from here, putting them over here into another community that does not want them because their local council has said, there is more harm and it is taking a lot of money out.

I am not sure if I have assessed that correctly but we should be avoiding that situation where an entity, or an owner, could have various gaming places across the state and think, 'Well I am not taking as much now from that one. I still have another 10 up there I can throw over there for another six months because that is the season that more tourists are there, or that is when the locals' - I think there is an issue. There should be a community interest test placed on the ability and the capacity to move machines around your venues. We know that one or two players are owners of machines in a number of venues. This could have impacts on those communities and therefore there should be an interest test.

Ms FORREST - It is an interesting concept. What we need to realise in this debate on this particular amendment is that the pubs or the venues that are in low socio-economic areas like the Top of the Town Hotel, the Elwick Hotel, they are in the top performing pubs. They have 30 machines already. They cannot have anymore. All power to them if they want to move some of those machines to some other area that does not fit in a low socio-economic area - yes, they might get some people playing in those areas. Seriously, they will not move them from these areas where they are making a motza. Under this bill it is proposed they will make a massive motza.

The reality is that the pubs that are really profitable already, under our current arrangements, will be extremely profitable under the model that we are dealing with. To my mind, this amendment will have very little effect because the community interest test has not been done in these pubs where they are now. They are located in low socio-economic areas, the majority of the machines. I doubt very much that any pub owner will want to move them from those areas to an area where they are not going to get the same returns.

There are pubs without the 30 machine cap. Most of those are out in our regions, in our smaller communities. Those pubs are done over in this bill in the returns they will get. I will speak to that more fully later. Ultimately, whether this amendment is supported or not, I do not think it is going to have a huge effect in that any sensible businessperson would have moved their machines away from a high-performing pub, those pubs sadly being in a low socio-economic area already.

The reality is that it requires a community interest consideration to be given. I note the member for Nelson's comments on the previous amendment that she moved on what that means. I note the Leader's comments that the commission already does this sort of work anyway. In terms of having the community interest assessed if a pub owner decided to move them, that probably should occur - and probably will occur, according to the Leader - in any event. In many respects whether this amendment is supported or not, I do not think it will have a big impact but I see no reason not to support it.

Ms WEBB - I thank the members for their contributions and for some questions and engaging with the amendment. I will try to make my way through some of those to clarify a few matters.

In the first instance, let me pick up on the Leader's claim that the commission can already do this. The Government can potentially make it very explicit, one way or another, but at this present time in my reading there is nothing in our legislation here that says the commission could make a decision, for example, not to grant a transfer or to grant less of a transfer than was requested. So, not say 10 machines but actually five machines. As it is written, the commission cannot choose to do that on the basis that it is in the community interest.

While the Leader says that the commission can take the community interest into consideration, there is not a legal basis on which the consideration of community interest can be the reason or a clear explicit reason for their decision one way or another. There is no legal standing to community interest being considered and having a bearing on the decision in the legislation as it stands, on my reading.

If the Government would like to correct that, one way or another, I would like to hear them do that. I would like to hear the Government explain how, if the commission can currently take community interest into account when making this decision, how could that then be shown to be a reason for the outcome of the decision to either not grant or grant a varied lesser amount of transfer? That is the first thing I would like to hear from the Government. Where in the bill does it allow the commission to do that, and for that to be written? My reading is that the only reason the commission cannot grant the transfer is if the venue cap was to be exceeded. Maybe I have misread it. Let me just double check subclause (7):

> The Commission must not grant an application under this section if …
>
> (a) the granting of the application will result in the number of gaming machine authorities endorsed on the venue licence for the secondary premises exceeding the maximum number permitted under … [the cap]; or
>
> (b) the granting of the application is not in accordance with any direction given by the Minister …

They are the only reasons the commission must not grant the application. There does not seem to be a legal basis for the commission to say in its process it can give regard to the community interest because it decided to, therefore it is not going to grant the transfer on the basis of its assessment of community interest. I think this amendment gives them the ability to do that. We might get clarity from the Government on that. That picks up on the member for Murchison's point that there is a material outcome to the amendment if the commission

otherwise could not have a legal basis to bring community interest in as a factor for the outcome of its decision.

The member for Hobart wondered whether it would affect income. It does not take anything away from the current arrangements for a business. As others discussed, the motivation to seek to transfer machines is because it would be deemed to be more profitable for them. The member for McIntyre expressed concern about the impact on that opportunity. We are always weighing up what we will give importance and consideration to, and whose interests are we putting here?

If the commission were to make certain decisions by being given this opportunity it may impact on an opportunity to achieve greater profit. It does not guarantee it will, it may. Weighed against that is why am I seeking to put this amendment in. It is to make it explicit.

The member for Mersey said this transfer is likely to be done on the basis that you will move machines from somewhere where they are earning less to somewhere they could earn more. We know that the places where machines earn more are in low socio-economic areas. That is also where more harm occurs. That is even more reasons for us to explicitly insert the requirement that community interest is given regard to in that decision.

That brings me to a response linked to comments from the member for Launceston and the member for Murchison. The member for Murchison seemed to suggest that this will not happen because people would not move machines from areas of high profitability to other areas. That is not what would be expected to happen. We are talking about moving machines from areas of lower profitability to areas of higher profitability. The member for Murchison is right, that will not include Glenorchy because all venues there are at their maximum. It will not include, for example, Devonport, which has the third highest monthly losses in the state. I believe every venue in Devonport LGA is at its maximum.

It includes Launceston LGA. Not every venue in the Launceston area is at its maximum. When I did a back-of-the-envelope tally recently as part of investigations about this bill, I identified room for a 10 per cent increase in machines in the Launceston area.

Ms Armitage - Maybe more in the member for Windermere's area.

Ms WEBB - Potentially. Maybe I am thinking Greater Launceston, but when I did a quick look through the venue list and the number of machines, there is spare room in numerous venues in and around Launceston. The bill allows owners of venues with spare capacity in the Launceston or Windermere areas who also own venues where the profitability is, perhaps, lower, to look to transfer machines from that venue into the Launceston area venue they own.

I am not disrupting this, all I am doing is saying that in authorising that transfer the commission is to give regard to community interest. I have not looked at other area, say the north-west coast, to see if there is spare capacity there. We do not yet know where venues may close and new venues open or what might happen in future. We will not know what transfer may occur there.

What I know is based on the situation now. Launceston LGA, I think, has the second-highest monthly losses in the state behind Glenorchy. If we were to tip another 10 per cent more machines into that area through this transfer mechanism and applied that

10 per cent increase to the losses, Launceston would become the new golden mile. Launceston becomes the LGA with the highest losses in the state over Glenorchy.

Explicitly inserting community interest into the consideration given still allows for the process, it still allows for our independent, expert body to be making the decision. It simply states that it must take community interest into regard. In doing so it provides the commission with a reason to justify and explain a decision it might make. That decision, I am not pre-empting it, might be to fully grant the transfer, it might be to partially grant the transfer or it might be to not grant the transfer. Any of those decisions could happen, but community interest through this amendment becomes something that can be used as the basis for it.

Even though, as the member for Murchison asserted, there may be very little material effect from this amendment, it is an important one for us to consider and include because of what it says about how we regard the interests of our community and the need for those to be considered in decision-making on this matter.

Mrs HISCUTT - The member for Nelson asked me to clarify the commission's powers. So, 48A(5) says:

> The Commission may grant an application or refuse to grant an application under this section.

The reason would be a matter for the commission based on the circumstances of that application.

So 48A(7) sets out where the commission must not grant and 48A(5) allows the commission more discretion than in 48A(7). The commission obviously has the discretion and the powers in that subclause as it is.

Ms WEBB - I refute that it allows the commission to refuse to grant an application on the basis that it has considered community interest. Yes, 48A(5) says, 'The Commission may grant an application or refuse to grant'. If the commission is going to refuse to grant an application, it will have to be able to justify that. There are some explicit reasons for them to do that, and they are outlined in 48A (7), as you said. However, I do not believe they would have standing to refuse it without it explicitly being put in through this amendment that community interest can become a factor in that decision. If the Government asserts that it can already be done, it takes nothing away to put it in here and make sure that it can be done.

Mr GAFFNEY - Picking up on that last point, it seems to me, if this section says the commission cannot refuse a venue because of the numbers of EGMs in venues, and it cannot do this because of the community interest test, why is it we only put one into legislation, and the other one remains non-existent? Otherwise, there is only going to be the one reason. I consider there is a valid reason to put it into the act, and then the commission says they have the power and the right, because there are too many machines, so not going to go in; or because it is the community interest here. At the moment, somebody who is denied or an owner who might say, you cannot have that many machines, if they are above the limit they can say there is no appeal right there because they are above the limit.

If there is nothing over here they could say, why? If there is no legislation, they could say because there is no community interest. They will say, it is not part of the legislation. The

only reason you cannot allow me this is because the numbers of machines in the venue are too high. There is no other legislation. They could appeal that decision, based on nothing at the moment. There is no legislative requirement for the commission to give a decision based on the community interest - although the Government has said they really want to make sure the community is not harmed. I do not understand why the Government is not allowing this to happen. I hope that in listening to the debate, the Labor Party here takes on board some of that as well, and that they say, that makes sense, it should be there. The venue numbers and the community interest should be in this legislation.

Madam CHAIR - The question is that the amendment to the amendment be agreed to.

The Committee divided -

AYES 5	**NOES 8**
Ms Forrest	Ms Armitage
Mr Gaffney (Teller)	Mr Duigan
Dr Seidel	Mrs Hiscutt
Mr Valentine	Ms Howlett (Teller)
Ms Webb	Ms Lovell
	Ms Palmer
	Ms Rattray
	Mr Willie

Amendment negatived.

Ms WEBB - I rise to move a further amendment to clause 72. For your reference, this amendment is called the third amendment in your hard copy, but I am going to read it in as the second amendment in my name on this clause.

Second amendment
Page 107, proposed new section 48B, after subsection (2).

Insert the following subsection:

(X) The Commission -

(a) must have regard to the community interest in considering an application under subsection (1) to increase the number of gaming machine authorities endorsed on a venue licence; and

(b) must not grant an application under subsection (3) if the Commission considers that granting the application would not be in the community interest.

This is a similar theme to the previous two amendments. I do not need to go into it in great detail, other than to explain the specific circumstance this applies to.

Anyone with a venue licence will initially have had endorsed on that licence the number of poker machines they have been authorised to have. That will be a specified condition of their licence. This is when a venue might apply to the commission to increase the number allowed on the conditions of their licence. In the same way the previous two amendments attempted, this is to insert in the decision-making process the commission is to give regard to community interest. I do not need to explain that more because it builds on the previous rationale presented in the other amendments for this slightly different circumstance.

I do have other calls on the amendment, so if there are questions about that circumstance people would like to put to me, I am very happy to go into more detail. I encourage members to consider this amendment as a way of explicitly inserting community interest into the process, as an explicit consideration.

Recognition of Visitors

Madam CHAIR - Honourable members, I welcome to the Chamber grades 5 and 6 students from South Hobart Primary School. It is lovely to see you here. We are debating a bill about gaming legislation, about pokie machines. You have probably seen or heard a bit about that. In this stage, everyone except the President is in the Chamber. The President has to watch from outside, in case I need him to come and help me, as the Chair of Committees, to make a ruling or something similar. The member for Nelson has moved a change to the law the Government has brought in and members are now going to debate it and decide whether that should be included or not. The Leader for the Government sitting here will respond first to say whether the Government will support it or not and the other members will speak. Welcome. I hope you enjoy your time here.

Members - Hear, hear.

Mrs HISCUTT - As Madam Chair has indicated, I am going to speak on behalf of the Government and the Government will not be supporting this amendment. This amendment is similar to the previous two amendments. The reasons why the Government does not support this amendment have been detailed, so I will not go into it again.

Madam CHAIR - The member for Hobart, whose electorate covers South Hobart Primary School, has the call.

Mr VALENTINE - Indeed, they are in my electorate. I support the amendment, along similar lines to the previous amendment. It is an opportunity to have some community input.

Madam CHAIR - To explain to the young people up the back, when we have a vote like this, the bells ring, everyone has to come into the Chamber. One member is away, so another member has left the Chamber to even that up. The doors are locked, so no-one can come in or out, including you, at the moment. The vote will be taken and the doors will be unlocked again.

The question is that the amendment be agreed to.

The Committee divided -

AYES 6	NOES 6
Ms Armitage	Mr Duigan
Ms Forrest	Mrs Hiscutt
Mr Gaffney	Ms Howlett
Dr Seidel	Ms Lovell (Teller)
Mr Valentine	Ms Palmer
Ms Webb (Teller)	Mr Willie

PAIRS

Ms Rattray	Ms Siejka

Amendment negatived.

Clause 72 agreed to.

Madam CHAIR - Clause 73 is a very long clause with many sub-parts. We will call a group of sub-parts to give members time to ask questions about the various sections of clause 73 and we will try to do it efficiently.

Clause 73 Part 4, Division 2A inserted.

Subclauses 48D, 48E, 48F agreed to.

Subclause 48G -
Minister may invite expressions of interest for initial monitoring operator's licence

Ms RATTRAY - I have a question for clarification from the briefing:

> The Minister may call for tender applications from persons interested in being granted the initial monitoring operator's licence and may select the most suitable tender.

What does this actually do? We were told it provides a head of power and I wrote that down through the briefing process. For clarification, a brief explanation on providing that head of power because calling for expressions of interest is a really important function. Some thoughts or if there is something on what will be included in that calling for expressions of interest for that operator's licence.

Mrs HISCUTT - This inserts provisions that enables the minister to call for tender applications for the initial monitoring operator's licence, with the minister able to select the most suitable tender. It gives the minister the ability to cause all such investigations and enquiries considered necessary to be carried out to endorse the tender application to be properly considered. If a suitable tender is selected the minister is to direct the commission to issue the initial monitoring operator's licence and advise the commission of any terms and conditions to be included in the licence.

I note that there is some more information that is coming. I will seek that. To add to that, the tender will ensure that tenderers have the capacity and experience to deliver the

functions of the operator, that they are fit and proper and pass financial and probity tests and that their proposed solution is secure, reliable and cost-effective.

Ms RATTRAY - Is it envisaged that there will only be one LMO? What if there are two virtually identical tenders? What process is put in place, or will be put in place, to assess and I note in the amendment that it talks about the minister will, or may:

> The Minister may cause to be carried out all such investigations and inquiries as the Minister considers necessary to enable the Minister to consider the application properly.

How might that work? Investigations and inquiries, obviously you do a character check, you do a police check, an industry check, I presume. If you have two tenderers, virtually the same quantum of dollars and they virtually stack up, how does the minister make that decision? Is there some defining aspect that is going to be who wins and who misses out?

Recognition of Visitors

Madam CHAIR - While the Leader is preparing her answer, I will welcome a second group of students from South Hobart Primary School. We are in the Committee stage of a bill looking at the pokies legislation, as it is called sometimes. It is called the gaming legislation. The member for Hobart, sitting in the back corner there, or close to you, is your local member. The Leader of the Government sitting at the table here is going to respond to the questions asked by a member about the bill we are debating.

We are looking at it clause by clause. It is quite a big bill and we will go through each clause. The Leader of the Government will respond on behalf of the Government. Welcome and I hope you enjoy your time here. The last group got locked in. It may not happen to you.

Members - Hear, hear.

Mrs HISCUTT - The process is if there is more than one there is an independent tender panel and that will be judged according to the Treasurer's Instructions for tenderers. There is a process for that and there will be a clear selection criteria in the tender by which the panel, assisted by the experts, as required, will assess the tenders and recommend the best tenderer.

That is done through a Treasurer's Instruction on how to deal with tenders.

Ms WEBB - I wanted more information about that. Because it is phrased as 'may' this will become relevant, I suppose, to the next clause when we get to that as well, 48H. Maybe you can just clarify it here for both, 48G is about the initial monitoring operator's licence, 48H over the page is for subsequent monitoring operator's licences. In both instances the minister may call for tender applications. I want clarity. Is there a circumstance under which there would not be a tender process utilised to grant that licence? Then it would be the minister's choice and discretion to do the granting, either for this initial one, or when we come to it in the next clause, the subsequent licences. I would like to understand.

You cannot imagine that that might happen but is it able to happen under the legislation? If it is, why would we not put something in there to ensure that it could not, that a very appropriate open tender process occurs?

Mrs HISCUTT - As usual the same debate took place between the 'must' and the 'may'. This enables the minister to do what he needs to do and the process. He has made a commitment to do that so it will happen. We have had argument here in this House many times about 'must' and 'may'. It is an OPC drafting style. What is in the bill as it stands is correct.

Ms Webb - While the Leader is on her feet, the question specifically was, does it allow for something other than a tender process? Is that actually left open that that could be the case? That was my question.

Mrs HISCUTT - No, not for the initial one. This is about the tender.

Ms WEBB - I just want to be very clear, you are saying notwithstanding that the minister has said that this initial offer will be done under a tender and you are expecting that to happen, legally it does not have to happen? That is what I am saying according to this clause of the bill. I need clarity on that.

Mrs HISCUTT - It is the Government's understanding from the advisers here that there is no other process for the tender. This is the way it will happen.

Subclause 48G agreed to.

Subclause 48H -
Application for subsequent monitoring operator's licence

Mr VALENTINE - Is there is any direction in the act as to how the minister is to gauge public interest? If there is not, how does he gauge that?

Mrs HISCUTT - It is based on the common understanding of public interest which is a well understood concept.

Mr GAFFNEY - Where it says it has been cancelled, (1)(a), what circumstances would lead the LMO to have their licence cancelled?

Mrs HISCUTT - One of the reasons it may be cancelled is it could be a contract breach or a disciplinary action by the commissioner or something like that.

Mr GAFFNEY - Thank you. In my second reading speech I did mention a number of things the licensing monitoring operator would have to do with new deeds and contracts and connecting with communication networks. Would that would be part of the tender application with time lines for when things would have to be completed? Because there are some time constraints on this piece of legislation when it should be all up and running, and if the LMO did not manage to address those time lines, would that be reason for a cancellation, because they could not fulfil the actual tender obligations? Will the tender documents be available for the public in an open and transparent way?

Mrs HISCUTT - The tender documents will be available, yes. It depends on what happens and why as to what decision is made. It is a bit hypothetical at the minute but if something goes wrong, it will have to depend on what it is and what decisions are made to address that whether it is a breach of contract or whatever it is.

Mr GAFFNEY - Thank you. As I elaborated in my second reading speech, there are some concerns raised about how any LMO could get this up and running within such a short period of time. It then might come back to these were the things we had to do. We just could not possibly get those all done in that time. It is hypothetical, but I am concerned - is that seen as a breach of contract or an impossible way of putting out a tender because the modelling of the policy document has not been completed to state these are things you have to get done in time?

The Victorian experience took three-and-a-half years and we are expecting this to get done. A successful LMO might be working really hard, but finds there is no way they can stick to the tender. If the Government is then going to say we need another 18 months or whatever, I would like it on the record what the intention is.

Mrs HISCUTT - The tenderers will need to demonstrate how they will meet the time frame prior to being awarded a tender. Note there is an additional 12 months for the existing operator to continue if required. Notwithstanding the Victorian experience, New South Wales completed a tender process well within the time frames available to them.

Mr Gaffney - While you are on your feet, can I ask a supplementary question?

Madam DEPUTY CHAIR - A very brief one, only because I am here for a few minutes. The Leader needs to stand.

Mr Gaffney - Regarding the LMO tender, can a gaming machine licensed operator also be appointed as the LMO?

Mrs HISCUTT - The LMO needs to be a separate entity to a gaming licence holder, but could conceivably be in the same group of companies, provided it could demonstrate appropriate separation.

Ms FORREST - I have a question about the Leader's response to a question from the member for Mersey, about the tender documents being made public. I need to be sure about your response and what we are actually talking about here. Regarding the tender documents, are you referring to the documents we put out calling for tender? I assume they will be made public? I thought your answer referred to the submissions to that tender, which I would expect not to be made public because they would contain commercially sensitive information. Can you make it very clear, in this place, that only the call for tender documents is to be made public, not the others?

Mrs HISCUTT - Thank you for pointing that out, member for Murchison. What you have said is absolutely true. It is the call for tender process that is put out. The actual tenders that come in are commercial-in-confidence.

Ms WEBB - I have some questions on subclause 48H, application for subsequent monitoring operator's licence:

(1) The Minister may, if satisfied that it is in the public interest to do so, call for applications for a monitoring operator's licence …

If the minister may do that, could there be circumstances where the minister might not? So, with these subsequent licenses there might not be a call for applications? Is there another method by which applications might be made, or invited, or brought forward that might result in subsequent licenses being considered and granted, other than the call from the minister for applications?

Mrs HISCUTT - This clause provides the minister with the choice to call for applications or tenders and the applications would then be assessed by the commission.

Ms WEBB - It clearly provides for the minister to call for applications; that is literally what it says on the page. I did not need clarity on that. I asked whether there is another way that applications could be brought forward, to then be considered by the commission - which is not what this particular one is about, we will get to the consideration part in the coming clauses. This is about how applications are brought forward through, as it says here, a call for applications from the minister. Are there other ways that applications could be brought forward or brought to be considered by the commission through the process, other than the minister's call as is stated here? That was my original question, and it is the same now.

Mrs HISCUTT - If the LMO is not continuing, the minister could call for applications but, as an application renewal, that could go directly to the commission.

Ms WEBB - Third and final try at the self-same question. I understand quite clearly that this is a situation where we are talking about subsequent licences; not the first one. It may be that the original licence holder is no longer in the picture. This is to provide a subsequent new licence to the LMO. This clause clearly says that the minister may call for applications for that, which would then go into the consideration process. A call for applications is expressed here.

My question is, because it is 'may', is there another way that applications could be brought forward to be considered? Let me try to be as explicit as possible about that. Could it be that the minister did not call for applications for this licence in a public way, but that someone approached the minister and said, I am quite interested, I would like to slip an application in to be considered, and the minister said, yes, you can, go right ahead; and that application went in and through the process without there being a call that might generate multiple applications.

I am trying to establish whether that is possible. Are there other ways that applications can enter into consideration? My particular interest is through non-competitive means.

Mrs Hiscutt - We understand that and clarified it.

Ms WEBB - Oh, my goodness. It was utterly clear from the first time I asked it.

Madam CHAIR - Order.

Mrs HISCUTT - I shall seek some advice.

Sitting suspended from 1 p.m. to 2.30 p.m.

RECOGNITION OF VISITORS

[2.30 p.m.]

Mr PRESIDENT - Honourable members, before I call on questions without notice, I would like to welcome to the President's Reserve today Inspector Jim Semmens, who is with the COVID-19 Coordination Centre of Tasmania Police. I know that Jim has assisted members in this Chamber with constituent-related inquiries. He is here today as a guest of members. I am sure all members would join me in welcoming you here today and thanking you for the work that you and your colleagues have done during these trying times.

Members - Hear, hear.

QUESTIONS

Basslink Gas and Energy Security

Ms ARMITAGE question to DEPUTY LEADER of the GOVERNMENT in the LEGISLATIVE COUNCIL, Ms PALMER

[2.31 p.m.]

Mr President, my questions are:

(1) Given the ongoing concerns regarding energy security in Tasmania, especially in light of Basslink being placed into administration, can the Government guarantee, under the new gas transport agreement, there will be enough gas to run the combined-cycle gas turbine at the Bell Bay Power Station?

(2) Can the Government further guarantee that there will continue to be enough staff employed at the Bell Bay Power Station to ensure the combined-cycle gas turbine power station will be operated at full capacity?

(3) During the last energy crisis the Bell Bay Power Station took a number of months to be brought up to specification to operate at full capacity because parts of the plant were being repaired or were decommissioned. Given the concerns regarding Basslink and energy security, particularly for the industries which are dependent upon gas, can the Government guarantee that all units at the Bell Bay Power Station will be kept on a minimum of two weeks standby?

ANSWER

Mr President, I thank the member for her question. In answer, Tasmania's renewable energy future has never been more secure. Tasmania's energy security is underpinned by our Hydro storage levels which, as of Monday 15 November, sit at a healthy 52.3 per cent.

The Energy Security Risk Response Framework, which this Government put in place in legislation by way of amendments to the Energy Co-ordination and Planning Act 1995, is working effectively. The Government takes seriously the 2017 Tasmanian Energy Security Taskforce recommendation regarding retaining the Tamar Valley Power Station, and

committed to retaining it at the state election in May this year. Since that recommendation, Tasmania's energy profile has also significantly changed.

Wind farms that have become operational, like Cattle Hill and Granville Harbour, inject an additional 260 megawatts of capacity into the power system. This has helped Tasmania reach 100 per cent self-sufficiency in renewable electricity, well ahead of our 2022 target.

To further build on this momentum, the Government has legislated a world-leading 200 per cent Tasmanian Renewable Energy Target. Further wind development is in the pipeline. The Tasmanian Energy Security Risk Response Framework requires Hydro Tasmania to hold a minimum level of energy in storage at all times. This amount of storage is called the high reliability level, based on having enough water to run Tasmania through a six-month interconnector outage in dry conditions. On top of that, there is the prudent storage level, an operational energy in storage profile under average supply and demand conditions set such that storage remains at or above the HRL profile following an historically low three-month inflow sequence.

Our current storage level of 52.3 per cent is well above the prudent storage level for this time of year which is 40.3 per cent.

Ms Armitage - With respect, I asked about gas not about the water.

Ms PALMER - I am reading as fast as I can, member. With regard to the recent announcement that Basslink Pty Ltd (BPL) has entered receivership, it is the Government's expectation that Basslink will continue to operate as normal and Tasmania's energy security will not be impacted. The Basslink contracts contain provisions which enable the Basslink Interconnector to continue to operate through this process, connecting Tasmania to the National Electricity Market. Basslink's receivers, KPMG Australia, have supported this position publicly with Peter Gothard, Restructuring Services Partner from KPMG Australia stating on 12 November.

> I want to reassure our stakeholders and the community that Basslink's business will continue to operate as usual and there will be no disruption to the operations of the interconnector or communications as a result of this appointment.
>
> The Basslink interconnector will continue to operate as usual during the receivership process, providing an efficient and reliable connection to the national electricity market.

The Australian Energy Market Operator (AEMO) has also noted that the Basslink cable remains in operation and it is in close contact with the receivers. The Government will continue to work constructively with all parties, including the receiver and BPL's financers to ensure that the state's interests are protected.

Regarding the Tamar Valley Power Station, it should be noted that this consists of five generation units. In addition to the 208-megawatt combined-cycle gas turbine, the four open cycle units are able to provide up to 178 megawatts of capacity. The combined-cycle unit last operated during the 2018-19 summer while the open cycle units continue to run intermittently in response to wholesale electricity price signals and gas prices. The unit has not been

decommissioned and there are no plans to do so. The availability of this unit does not impact the availability of gas for other industrial, commercial or domestic users of gas.

The current gas transportation connects between Hydro Tasmania and the Tasmanian Gas Pipeline and are occurring at arm's length from government, as is appropriate. It would, therefore, be inappropriate for the Government to disclose or comment on the details of these negotiations while they are underway.

Our Energy Security Risk Response Framework ensures that Hydro storages are actively monitored and early action will be taken should any threat to Tasmania's energy security emerge. Tasmanians can be reassured that our energy security is not under threat from developments with Basslink or the gas transportation negotiations. Any suggestions to the contrary are incorrect.

Ms Armitage - It was a very long answer but there are parts of my questions that were not answered. Perhaps, I could re-put it and send it back to the Government again?

Ms PALMER - Yes, thank you very much.

LEAVE OF ABSENCE

[2.38 p.m.]

Mrs HISCUTT (Montgomery - Leader of the Government in the Legislative Council) (by leave) - Mr President, I move -

> That the member for Pembroke, Ms Seijka, be granted leave of absence from the service of the Council for the remainder of this day's sitting.

Leave granted.

GAMING CONTROL AMENDMENT (FUTURE GAMING MARKET) BILL 2021 (No. 45)

In Committee

Resumed from above.

Subclause 48H -
Application for subsequent monitoring operator's licence

Mrs HISCUTT - I was answering a question for the member for Nelson. As previously advised, the subsequent monitoring operator's licence can be granted through a renewal process or the process outlined in section 48H. The minister of the day will have the ability, if it is in the public interest, to call for applications in the manner they see fit. That is the only process in this circumstance. Any application would then be required to be assessed and approved by the commission, prior to the minister granting. It is important to note that the minister can only act under this section in the public interest, which is defined in the act -

public interest or ***interest of the public*** means public interest or interest of the public having regard to the creation and maintenance of public confidence and trust in the credibility, integrity and stability of the conduct of gaming.

The actions taken under the act, including issuing a licence, must be in accordance with the objects of the act, meaning that it ensures gambling, including the monitoring activity, is conducted in a fair, honest and transparent way and is free from criminal influence. The provision simply provides a future minister with the ability to decide not to renew a current licence, but to call for applications and determine the most appropriate way for this to occur. I apologise for being remiss in not having said that before.

Subclause 48H agreed to.

Subclause 48I -
Matters to be considered in determining application

Ms WEBB - I have some questions that connect with what we have already discussed in the previous subclauses. Subclause 48I, as members will readily see when looking at it, lays out what the commission is to consider and be satisfied with when an application is put forward for this subsequent monitoring operator's licence.

If members look through the pages that make up 48I, they will see the matters the commission is to consider are fairly much based on probity and practical matters, such as suitable person, suitable premises, the right systems in place, fit and proper, sound financial background, financial resources to operate a business, things like that across two-and-a-half pages or so. Given those are the matters in this subclause the commission must consider in determining the application, where in the process is best value for the state considered? Given the minister calls for applications, the commission determines things against those practical and probity matters. Then the minister has to approve the granting of their licence, which the commission then grants. In the first instance with this first LMO licence, we have a tender process and tender advisory panel - we have eyes and expertise brought to bear around value in that first instance. But, for this subsequent application process, I cannot see it specified here, where is the consideration of value?

If there were two competing applications being assessed, whose responsibility is it and at what point in the process is best value for the state considered?

Mrs HISCUTT - At the point of subsequent applications, the call monitoring fee and regulated fees will have been set. Any variation would need to be done through regulation at that point. Any value consideration could be considered at that point.

We note also the minister may choose to test the market at this point.

Ms WEBB - To clarify, the minister may call for applications. There might be numerous applications made, which the commission assesses against those probity and practical matters, then the actual decision sits with the minister in terms of who to grant the licence to. It is not specified in legislation or elsewhere their criteria or the matters of which the minister has to reach or justify that decision. Just checking on that.

Mrs HISCUTT - Bearing in mind the objects of the act and the public interest, the minister has to abide by that. But yes, in these subsequent applications, as I have just read out, it is up to the minister.

Subclause 48I agreed to.

Clause 73 Subclauses, 48J, 48K, 48L, 48M and 48N agreed to.

Subclauses 48O, 48P and 48Q -

Ms RATTRAY - In relation to 48O(6) on page 122, it says:

> The monitoring operator must not hold any other prescribed licence, other than a listing on the Roll that authorises the provision of ancillary gaming services.

We know what the Roll is because we went there yesterday. I am interested in further detail on 'must not hold any other prescribed licence'. What might that look like?

Mrs HISCUTT - The network operator is not generally allowed other licences that may be listed to provide ancillary services. This would allow, for example, the LMO to provide network services to a casino, also for any new services to be licensed on the Roll. In all cases the commission would need to approve the ancillary service.

Subclause 48O, 48P and 48Q agreed to.

Subclause 48R -
Commission to define monitoring operator's premises

Mr VALENTINE - Sorry, I think I have misplaced that. Mine is to do with the expiry of the licence. I think I have gone one too early, sorry.

Subclause 48R agreed to.

Subclause 48S agreed to.

Subclause 48T -
Duration of monitoring operator's licence

Ms WEBB - I am interested to understand the choice of the length of the licence period against the objects of the bill and how it was arrived at. How does that length of time meet the objects of the bill best compared to other options that may have been considered?

Mrs HISCUTT - That particular period of time was decided upon after discussion with the industry. It was a policy decision. It provides certainty for the venues for a licenced particular period. It provides certainty for borrowing. A transition period to a new operator is very onerous. It provides certainty.

Ms Webb - Are you answering in relation to the monitoring operator's licence?

Mrs HISCUTT - I think that is where we are, yes, 48T, yes.

We were talking about the operator. Consistency in the operator provides certainty to venues, and a suitable period avoids unnecessary cost to the operator of venues, provides certainty to the operator and returns on the significant investment they have to make.

Mr VALENTINE - My question was going to be on 48S, but I have missed that. Turning to subclause 48T, duration of monitoring operator's licence; if the monitoring operator dies, I cannot see that there is capacity for the licence to cease. It has to continue for 20 years but I cannot find where there is capacity for the minister to declare that to cease and provide it to a new operator.

Mrs HISCUTT - We are talking about an investment of up to $20 million, so it is almost certain that it will be a company, not an individual.

Dr SEIDEL - The 20 years is an interesting duration. Can the Government advise whether there is any precedent from other jurisdictions, noting that Victoria has a 15-year licence, not 20? In terms of scale of investment, it is a different story altogether. Where is that figure coming from, and are there any other examples from any other states where 20 years has also been legislated?

Mrs HISCUTT - The current arrangement in Tasmania, which is the most recent, is already 20 years. New South Wales and Victoria have 15 years. I will not go through the reasons why because we already have them in *Hansard.*

Mr VALENTINE - The previous answer to me about the monitoring operator's licence was that it was likely to be a corporation; however, it could be a person. Under subsection 48O, the commission is to issue a monitoring operator's licence to a person, although it most likely would be to a company. In the case that it is a person, there still seems to be no way the licence can be prematurely cancelled. I would like that clarified, as to which subclause would enable the minister to do that.

Mrs HISCUTT - Section 48V, on page 127, provides the minister with step-in provisions.

Dr SEIDEL - I will follow up on my earlier questions. There are reasons for granting a 20-year licence, rather than a 15-year licence, as legislated in Victoria and in New South Wales. Why would the government not disclose those reasons and put them on the record? The member just said there are reasons and she would not go into it. Why not? Is there not a rationale? There has to be a reasonable explanation why you are granting a 20-year licence, compared to the accepted common practice in the larger states in Australia - Victoria and New South Wales - that decided a 15-year licence is entirely appropriate for their purposes. There are reasons, as the Government has already stated. What are the reasons? If you cannot disclose the reasons, why not?

Mrs HISCUTT - I had disclosed them in an earlier question but I may go through them again, with your permission, Madam Chair, because it is repetition. There was a policy decision made. It is to line up with the venue licence and it is to provide opportunities for operators to have certainty and to get a return. It provides certainty, it provides certainty for borrowing. The transition to a new operator is very onerous. There was a policy decision

made, bearing in mind the investment is quite significant. It is repetition of what we have already said. There is nothing to hide.

Ms WEBB - That is interesting, because it is nothing to do with the venue operators and them needing certainty, or them needing their borrowing period of a particular length. This licence is not related to them and does not have a bearing on their certainty, or those arrangements. It relates to the LMO, the monitoring operator.

In the larger states, Victoria and New South Wales, where the investment would certainly be greatly in excess of the investment required in this state, it is deemed that 15 years is sufficient. That is the standard set in those larger states. It seems extraordinary to think that the investment required for our considerably smaller state would require an extra one-third above in time, going from 15 to 20 years, to give certainty for the investment required in Tasmania. It seems absolutely bizarre.

What I heard was that this is a policy decision and that it was requested by industry.

Mrs Hiscutt - I did not say it was requested.

Ms WEBB - I believe it was requested by industry.

Mrs Hiscutt - I did not say that. That is your words, okay.

Ms WEBB - I would like the Government to confirm -

Madam CHAIR - Order. Order. You need to ask questions rather than make assertions.

Ms WEBB - I would like the Government to confirm whether that licence period was requested by industry. If that is the basis on which the policy decision was taken, to set a licence term considerably longer than we find in other jurisdictions as being sufficient, I think that is a fairly clear indication of who is driving this.

My other question, which I started with on my first speak, which also has not been answered by the Government is, given this is a policy decision, I would like to hear the Government's justification for that policy decision against the objects of this act. Why does this length of time - 20 years - best meet the objects of the act compared to a different policy choice, for example, like 15 years as in the other jurisdictions of Victoria and New South Wales?

I do not think it is good enough for us to put on the public record that this is simply a policy decision without justifying that against the objects of this act so that it is clearly understood that the Government has acted in alignment with the objects of the act to set this period of time.

Mrs HISCUTT - I will point out that I added a lot more to the reasons other than just the policy decision -

Ms Webb - And I discounted them.

Madam CHAIR - Order.

Mrs HISCUTT - New South Wales and Victoria are both much larger jurisdictions with many more EGMs and greater opportunity for returns. The investment required in Tasmania requires the same equipment for a much smaller number of EGMs

Ms Webb - The other questions?

Madam CHAIR - You still have one more call, member for Nelson.

Ms Webb - Have I?

Madam CHAIR - Yes, it is your last call.

Ms WEBB - It is a shame when I have to repeat the questions on calls because they are blatantly not answered by the Government when they are put.

Madam CHAIR - Just put your question, please.

Ms WEBB - I will repeat, was the period of 20 years requested by industry for this licence? It is as simple as that. The second unanswered question, can the Government explain the policy decision to set this licence period of 20 years and how that best meets the objects of this act?

Mrs HISCUTT - I have put a lot on the record and I am not going to repeat it all again except to say that we consulted with industry and the 20 years was determined by the Government after consultation.

Subclause 48T agreed to.

Subclause 48U agreed to.

Subclause 48V -
Suspension or cancellation of monitoring operator's licence in extraordinary circumstances

Ms RATTRAY - This is more of a general question and I have picked this particular clause to ask it but I have noticed as we have been going through the clauses that the penalties are all over the shop. There are 2500 penalty units in 48O and then when you get to this one, 48V, the penalty units are not exceeding 10 000 penalty units. Then when you get a little bit further over when it talks about the special employees and if somebody is not complying, the fine or the penalty is not exceeding 50 penalty units.

I want to have some understanding of where these figures have been plucked from and how they have been arrived at, like 2500 penalty units, 10 000 penalty units. For special employees being licensed - I would have thought that was a reasonably significant compliance requirement - the penalty is not exceeding 50 penalty units. I would like some explanation about how they were arrived at. There must be some consideration that this is really serious, this is not so serious, and this is exceptionally serious.

Mrs HISCUTT - Penalties are set according to the impact of a breach and the importance of the section to the integrity of gaming. Penalties will also be generally less when applied to individuals such as a special employee. For example, 48V is where there is a stepping provision

so there needs to be a big stick if breached as the industry may not be able to operate. These are maximum penalties. The actual will be determined by the courts.

Dr SEIDEL - An entirely reasonable question by the member for McIntyre. My question is, did the Government discuss and consult with the industry with regard to the fines and penalty units? If so, why? If not, are you sure? The second question is, did the Government compare the proposed penalty units in this bill with existing penalty units in other jurisdictions, in particular New South Wales and Victoria? If not, why not? If yes, why is there a difference?

Mrs HISCUTT - Your inference in the first part of your question, no, the penalties were not discussed with industry. Treasury took a review through their compliance areas and they put the fees where they were suited with what they deemed was approriate based on the compliance they did and relative to current fees.

Ms RATTRAY - Thank you for the explanation. They are still significantly varied, but I will talk about that again a little later. I would like to focus on 48V(7), around the suspension or cancellation of an LMO licence in extraordinary circumstances. This reference says:

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

When you go back to 5(a), that says:

> … is, for a period of 6 months, to be considered to be the holder of a monitoring operator's licence granted on the same terms and subject to the same conditions as the former licence (as in force immediately before its cancellation or suspension) with such modifications as the Minister may specify in the agreement.

What period is it likely to need past the six-month period as the minister might see fit? If it needs to go through a whole tender process, that extension may need to be 18 months, or even up to two years, for an LMO in these extraordinary circumstances. Is this aimed to cover a whole new tendering process? Is it simply, for example, we might have to extend for another six months while we get organised? It would need to go out to tender again. How will this work and what is the Leader expecting that extension period, as the minister sees fit, likely to look like?

Mrs HISCUTT - It might cover circumstances or problems with the operator, which could be resolved, but then it might go all the way through to a new tender needing to be issued.

Ms Rattray - Exactly as I outlined, a new tender process could be up to two years.

Mrs HISCUTT - Yes.

Ms WEBB - Why would there be a new tender, when we heard before that, in terms of subsequent monitoring operator licences being determined and granted, it is unlikely to involve a tender. We have just gone through the clauses that cover that process - the minister may call for applications, the commission determines certain matters of probity and practicality, the minister does the approval of who gets it in the end. That is the process we are talking about here, that might have to be applied in circumstances that have cropped up unexpectedly.

I would have expected we would have a pretty clear understanding about what the likely parameters of time would be around that process rolling out. I fully understand you could put something in place immediately to bridge the gap for six months, but to then give the minister completely unconstrained power to extend that when that full process has not been undertaken to put that licensing operator in place, seems a fairly extraordinary discretion to give the minister without putting say, up to two years or something reasonable. Is it the same process being dealt with here? Is it the same application and approval process we have just gone through on subsequent licences that would be undertaken during this period of time, when this temporary arrangement has been approved? If so, what is the expected time frame for that process to occur?

Mrs HISCUTT - The last answer was in response to the member for McIntyre who mentioned all the way through to a tender, so that may, but it is very unlikely. It is mainly there to cover problems with the operator along the way. I am advised the tendering process would be the last straw. The minister would more than likely call for applications at that point. But it really is designed to look at problems from the operator along the way. It is a bit like saying how long is a piece of string? I just cannot say how long that would take.

Ms WEBB - I will go slowly so you can note down the actual questions I ask and provide answers to those, this time.

I did acknowledge what we would likely to be talking about here, and you have confirmed, is that same call for applications process and determination. That is the process we are likely talking about.

My questions were. Acknowledging that is the process we are likely talking about here and 48V relates to suspension or cancellation in extraordinary circumstances, a temporary arrangement that is put in place, which (5)(a) allows for, is an immediate approval for six months for the temporary arrangement. Excellent. Covers our gap.

What we are talking about though is paragraph (7), which allows then the minister, with no constraint, to extend that period for as long as he or she sees fit.

So, the question I asked and that I will repeat carefully for you, is given we are understood to be talking about the application process and determination process to determine their licence for a new operator - yes there would be some variation, potentially in how long that might take. But, there would also be an expectation it could be conducted within a particular period of time with some leeway. So, why would we not constrain the minister's discretion here by putting an ultimate maximum on the amount of time that discretion can be exercised without that proper process having taken place, say up to two years? Surely, we would not be imaging this call for applications, investigation by the commission and ultimate granting of a licence takes longer than two years. We are certainly not expecting it to take that long in the first instance when there is a tender involved, which is even more complex. Unless the member for Mersey's fears play out and everything takes longer than has been claimed.

But, given we are not expecting it to in the Government's estimation, why would we not constrain the minister's powers here as a responsible legislative approach? This gives an extraordinary opportunity for the minister to grant something in a quick way without the proper process, the full process of consideration by the commission et cetera and leaves no end point on that discretion.

Surely, we would ultimately know. I am asking you, how long would this process take at maximum and why have we not put that in there as a constraint in terms of a time frame?

Mrs HISCUTT - The period needs to cover all manner of scenarios. The minister may give the operator a period to resolve the issue, maybe six months, maybe two months, then subsequently after that period choose to go to applications or indeed to tender. It may not be possible to identify a new operator on the first round. As we have previously discussed, the minister is bound to operate within the objects of the act and there are constraints under 48V(1).

Mr GAFFNEY - Madam Chair, I thought this was where I would have had to raise an amendment, but I have missed 48I. Could we resubmit or do I raise the issue here?

Madam CHAIR - You need to deal with the question before the Chair.

Mr GAFFNEY - Well, the question before the Chair is, should I be raising it here or later, or do I miss the call altogether?

Madam CHAIR - You will need to seek leave to report progress for the purposes of reinstating that subclause. When we deal with this subclause I will make some statements about that.

Subclause 48V agreed to.

Madam CHAIR - By way of explanation, members would have on their seats a draft amendment from the member for Mersey with regard to subclause 48I of clause 73. The Committee has agreed to subclause 48I already. We are still in clause 73. We have given that leeway here to consider clause 73 in small parts because there were so many parts to it. The normal process would be that a whole clause would need to be resubmitted. These are unusual circumstances. It is not something that I want to see considered as a way of dropping an amendment at a future time because that is completely out of order.

The member will need to seek leave to report progress, to sit again to consider the recommittal of subclause 48I. This is not an ideal way of doing things. I accept that the member for Mersey has made the comment that he thought it was going to be in 48V, where we have just been. OPC have drafted an amendment that relates to 48I. When the member moves to report progress, you can speak on that request for leave to report progress as to whether you think that is a reasonable option.

Mr GAFFNEY - Madam Chair, I move -

> To seek leave to report progress for the purpose of resubmitting subclause 48I of clause 73.

Leave granted.

Progress reported.

GAMING CONTROL AMENDMENT (FUTURE GAMING MARKET) BILL 2021 (No. 45)

Recommittal of Clause 73, Subclause 48I

[3.37 p.m.]

Ms FORREST (Murchison) - I would like to speak about seeking leave to resubmit a clause. I made some comments from the Chair, Mr President. It is really important that members are aware that this is an unusual process, and that it should not be done lightly, particularly as members have only just had a very short time to review an amendment that has been circulated. I know the member for Mersey talked about an amendment to a different clause with a similar provision earlier in the debate, when the member for Rumney moved the amendment.

It is really important that we understand that this is a significant decision for the Committee. Once the Committee has agreed to a provision within the bill as we move through, we do not do this lightly. We need to be sure that we are happy to do that. I am not saying we should not do it, I am just making the point that we should be happy that we do recommit a clause once we have already agreed to it.

Leave granted.

GAMING CONTROL AMENDMENT (FUTURE GAMING MARKET) BILL 2021 (No. 45)

In Committee

Resumed from above.

Clause 73
Recommitted Subclause 48I -
Matters to be considered in determining application

Mr GAFFNEY - Thank you, Madam Chair. By way of explanation this would have been in clause 48V. I was incorrect, it is 48I. I will read it in.

Page 116, proposed new section 48I, subsection (2), after paragraph (g).

Insert the following paragraphs:

(ga) the applicant has a history of not complying with a law of any jurisdiction in Australia relating to industrial relations or workplace safety; and

(gc) the applicant will have appropriate systems and processes in place to ensure that each person who is engaged, or employed, by the applicant, is not subject to discrimination, harassment or other adverse action by the applicant, or by a

person engaged or employed by the applicant, if the person provides the information relating to -

(i) the compliance of the applicant with the requirements of this Act; or

(ii) conduct of the applicant; and

By way of explanation, when I saw the clause that we put in last night from the member for Rumney regarding the casinos and the Keno, I then tabled that we would probably be doing that again as a new clause regarding the pubs and clubs. I believe it is appropriate with another entity involved in this, the LMOs, that they also have the same guidelines and clauses about the appropriateness of the applicant complying with the law both in Australia and in other systems. This makes it very clear-cut to everybody that all of the people or entities involved in the gaming bill will have the same expectations of them.

Ms RATTRAY - Yes, it is an unusual process and I acknowledge that the member who has proposed the amendment thought that it would be in 48V. I am wondering whether you will need it for 48V for the other extraordinary licence - the next one - as well, the one that we are at now. That will be something for you contemplate while I make my offering.

On the member for Rumney's amendment yesterday, I said I was not sure whether this was something that we needed to be putting into the legislation. I asked how many times do you have to have been noncompliant? What if you have a frivolous or vexatious claim against you, which we know can happen as well? You are reported, you go through a process, it may be found that you were compliant as a company - that sort of process.

I am quite uncomfortable with doing this. I did not oppose the amendment last night because the Government said they supported it and I thought what is my voice going to do? The more that I look at this, the more I am thinking, would not all of these things be covered when the LMO is being considered anyway? Would all these be the usual part of choosing an LMO to undertake its work, roles and functions when they were applying for a tender?

I am interested in listening to others. The Government supported a similar amendment put forward by the member for Rumney yesterday and they may well support it again.

Madam CHAIR - They did not oppose it. I am not sure they supported it.

Ms RATTRAY - They did not oppose it. They did not speak up when it was time to vote. The member for Hobart stood at the same time and also said, wouldn't this be a matter of course? At the time it might have been getting late and we may have thought that if the Government supports it, two lone voices are going to be a waste of time at that hour of the night. I am interested in other members' contributions. Perhaps the Government has reflected overnight, perhaps not. I appreciate the opportunity but I am not entirely convinced it is necessary.

Madam CHAIR - It is a weed.

Mrs HISCUTT - You took the words right out of my mouth. This was something that seemed important to members before when we were speaking about it. You do make a very

good point. Having said that, the principle was agreed to yesterday. Members did make a fair point of it yesterday. The Government will not be opposing it but I certainly take your points, and it brings us back to weeds.

Mr VALENTINE - My comment yesterday was, should not it be de rigueur in industrial relations?

Ms Rattray - Which I thought was valid.

Mr VALENTINE - I am also told that our industrial relations laws are not perfect, something to that effect. If we have put it in one place, we have to make sure we have the same strictures associated with other aspects of this legislation. I am not going to oppose it. I accepted the one last night and I will accept this one. If there is another to go into 48V, I will accept that as well.

Ms LOVELL - I support this amendment. This is sensible, considering that the other conditions that are being applied to LMOs are similar to or the same as what was being applied in the application for licences we debated last night. It would make sense to include this and have it be consistent. I take the point from the members for McIntyre and Hobart as to whether it is necessary.

I reiterate what I said last night, it is important that we make it very explicit, particularly in this instance. This is something that needs to be considered and needs to have close attention paid to it because of the nature of this industry and the licences we are dealing with. Thank you to the member for Mersey for putting this forward and I am happy to support it.

Ms WEBB - I also had questions when we first debated this in the other circumstance, for our casino and Keno licences. They remain, but I supported that amendment at that time. I will also support this one. Thank you to the member for Mersey for bringing it. We have now applied the intent of this and these particular provisions to casino and Keno licences, and now with this to the LMO licence. The other key area of licensing we are creating anew in this bill is venue operator licences.

Madam CHAIR - He is doing that later, a new clause. He spoke to it yesterday.

Ms WEBB - That was my question, thank you. I am seeking confirmation at this point, that we are applying it to all and that is being done comprehensively through the rest of the bill.

Mr GAFFNEY - It is a new clause. First of all, I thought this was going to be a new clause until it was pointed out to me that it is not. It is in this one. That is why I do apologise for the delay in getting it to the table. Thank you, members.

Subclause 48I, as amended, agreed to.

Subclause 48W -
Amendment of conditions

Ms WEBB - I have questions about the amendment of conditions for the monitoring operator's licence. I am looking at page 132(5). I am interested to read this, you would imagine, because subclause 48W(5) says:

> An amendment proposed by the Commission must be in the public interest or for the proper conduct of gaming.

Imagine my surprise that the Government has drafted such a part in here, when we have heard in other clauses when I have tried to put these sorts of things into this act that we do not need to explicitly put this in, because it is covered by the objects of the act and the commission would have to give due consideration to public interest and consider the proper conduct of gaming when it is making decisions on things. That has been the Government's rationale for rejecting a number of propositions put forward on this bill; and yet, here we find explicitly put into this spot the same kind of part that the commission must look at an amendment 'in the public interest, or for the proper conduct of gaming'.

I ask the Government to explain, if it is directly related to the objects of the act, why have you explicitly put it in in this clause and not in others; or used that as a reason for not accepting it, or as a rationale to reject amendments, on the basis that it is not necessary to explicitly put it in?

Mrs HISCUTT - This is a specific occasion where the commissioner is the one who is proposing that.

Dr SEIDEL - It is a bit of a follow-up from what the member for Nelson said, but I have a slightly different angle. Subclause 48W(5) states -

> An amendment proposed by the Commission must be in the public interest or for the proper conduct of gaming.

In clause 3 - Interpretation, the principal act defines - specifically for the act - that proper conduct of gaming is the public interest. It is defined in there as the public interest:

> ***public interest*** or ***interest of the public*** means public interest or interest of the public having regard to the creation and maintenance of public confidence and trust in the credibility, integrity and stability of the conduct of gaming; …

There is no other definition of public interest for this act. When the member for Hobart earlier asked, 'what does public interest mean', the answer from the Government was, 'well it is public interest'. It is not; it is defined in the act. Public interest in this act can mean something completely different to what public interest means in other legislation.

When I read in subclause (5):

> An amendment proposed by the Commission must be in the public interest or for the proper conduct of gaming;

I became reasonably concerned. Is there now a completely different definition, because otherwise it will be redundant. Subclause (5) could just say, 'must be in the public interest.' Or, you could say, 'for the proper conduct of gaming.' Can the Government please advise whether we are now using a different definition of public interest for this subclause 48W(5), compared to what is specified in the principal act, under clause 3, Interpretation.

Mrs HISCUTT - The section is a duplicate of the current provisions for major licence types - for example, section 14 in the principal act. OPC has chosen to duplicate that for the LMO provisions. It does not derogate from anything stated previously about the public interest.

Ms WEBB - To confirm, subclause 48W(5) basically says the commission must abide by the objects of the act in this instance - which we know, ipso facto, it must do. I would like the Government to confirm that this is not a necessary inclusion in the act, just as they argued that other things were not necessary inclusions in the act, for that very reason.

Mrs HISCUTT - The Government has stated its case, Madam Chair.

Subclause 48W agreed to.

Subclause 48X -
Rights associated with, and control of, electronic monitoring system information

Ms WEBB - I had some questions and was looking for clarification on this subclause, in particular looking at 48X(3) on page 133, which reads:

> The 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.

I take that to allow the LMO to be able to share data collected about a venue with the venue operator. Will a minimum stats report be provided to venue operators from the LMO's operating system? If so, is there a fee attached? Is that part of core functions or regulated fee functions or commercial fee functions of the LMO? Is a minimum dataset provided and then a more elaborate, more expensive dataset available for purchase if you were the venue operator?

Mrs HISCUTT - Minimum information would be addressed through the tender process, but such reporting to the venue is part of the core monitoring fee.

Subclause 48X agreed to.

Subclauses 48Y and 48Z agreed to.

Clause 73, as amended, agreed to.

Clause 74 agreed to.

Clause 75 -
Section 50 amended (Special employees to be licensed)

Ms WEBB - Madam Chair, I have two amendments to this clause. I move -

First amendment

That paragraph (b) be amended by omitting 'subsection' and inserting instead 'subsections'.

Second amendment

And that the following subsections be inserted after proposed new subsection (3) -

(4) A casino operator, venue operator, keno operator, monitoring operator, licensed provider or minor gaming operator must not allow a special employee employed by the operator or provider to perform any functions of a special employee unless that special employee holds a certificate of completion for an approved training course.

Penalty: Fine not exceeding 50 penalty units.

(5) A special employee must not perform any functions of a special employee unless that special employee holds a certificate of completion for an approved training course.

Penalty: Fine not exceeding 50 penalty units.

(6) Subsections (4) and (5) do not apply in relation to a special employee until the end of the 6-month period after the Commission has approved a training course under section 56B.

(7) In this section -

'**approved training course**' means a training course approved by the Commission under section 56B;

'**certificate of completion**' means a certificate issued by the provider of an approved training course certifying that the special employee has completed the approved training course.

Clause 75 in our amendment bill changes clause 50 in the principal act and removes sections that relate to special employees needing a certificate of competence. That concerns me because what is put in place instead is:

> A casino operator, venue operator, keno operator, monitoring operator, licensed provider or minor gaming operator must not allow a special employee employed by the operator or provider to carry out any duties … unless that employee has demonstrated to the relevant operator or provider that the employee is competent …

We have changed what had previously been a certificate of competence to an assessment by the operator that the employee is competent. I do not believe that is necessarily the appropriate level of rigour that we need to apply to this case. I think the requirement that a

special employee would hold a certificate of completion from an approved training course is a reasonable one. It meets the objects of the act to have that as a requirement. I do not believe it presents an impediment because we would expect special employees in the industry to have training in a formal sense and training that is assessed not just through their employer as competent but in a more formal way.

Trained staff in venues are the front line of harm minimisation and have the capacity to either assist substantially with successful harm minimisation. If they are not acting in a well-trained and responsive way, they can let us down as a community in terms of harm minimisation. We want those staff to be equipped as best as possible to undertake that role and that we would have a high expectation about what that minimum training and certified competency would look like. That is the intent of the amendment. I am happy to engage further with members if they would like to ask questions.

Mr VALENTINE - I have concerns about staff who have to intervene. I am not saying that this amendment should not go through. If we had mechanisms within the machines that applied to all we would not need these special people. They are doing the hard yards for the community. There is something about these positions that does not sit well with me. Somebody sitting down at a machine may well be having issues and concerns. How are they going to interact with the person who is having those issues? How effective can this be? The training is going to be super important so they know how to approach somebody and say, 'Do you think it is about time you thought about finishing up or taking a break?' It cannot be easy.

Ms Rattray - It is often people they might know.

Mr VALENTINE - It could be in a small town, more particularly, and the person in this circumstance feels even more vulnerable because they are being looked upon as having a problem. The fact they exist, they really do need to be well trained. They need to be almost social workers, having had experience of dealing with people who have problems and issues with compulsion and those sorts of things. I agree with this amendment but, by the same token, I wish we did not have to have them and the machines were not so harmful.

Mrs HISCUTT - This clause of the bill does not remove the requirement for responsible conduct of gaming training. It simply puts the onus on venues to ensure staff can use the equipment, like the right Keno ticket. This training is currently mostly provided by the network operator.

With respect to the Responsible Conduct of Gambling training, in accordance with the responsible gaming mandatory code of practice in Tasmania, venue operators must ensure all special employees are trained in the Responsible Conduct of Gambling. This training assists staff to recognise and deal with people with gambling problems and people who are at risk of developing problems.

It is also a condition of every special employee's licence that the special employee must undertake an RCG approved by the Tasmanian Liquor and Gaming Commission. The commission will only recognise courses that deliver the national competency, SITHGAM001, Provide responsible gambling services, or its earlier version of SITHGAM201, conducted by an approved registered training organisation.

The RCG course includes obtaining a thorough knowledge of the Tasmanian Gambling Exclusion Scheme. The course covers how to respond to problem gambling behaviour and deal courteously and discreetly with customers; identify potential problem gamblers; apply appropriate solutions within the scope of the special employee's responsibility and identify when to seek assistance from appropriate colleagues. The course also covers the appropriate reporting and recording of gambling-related incidents by staff. We oppose the amendment in front of us because the Government is comfortable that already exists.

Ms WEBB - Thank you to the member for Hobart for your contribution. The answer on the responsible service of gambling is a different area to this. Certainly, the Leader's response just now provided some information about the training that does occur. My concern was more in terms of this section 75, that what we were removing from the principal act was leaving us with a lesser requirement of showing competency, demonstrating that from staff. The intent of the amendment was to keep that as a higher bar for demonstrating that.

Thank you to the Government for the response. I acknowledge responsible service of gambling training, as described, is there and I have other matters that interact with that through some new clauses. In this instance, I still feel the amendment is warranted to keep that bar high regarding the competency. I accept the Government does not agree with me, but I am bringing the amendment and we will see how the Chamber feels about it.

Madam CHAIR - The question is that the amendments to subclause 75(b) be agreed to.

The Committee divided -

AYES 4	**NOES 8**
Mr Gaffney	Ms Armitage
Dr Seidel	Mr Duigan (Teller)
Mr Valentine	Mrs Hiscutt
Ms Webb (Teller)	Ms Howlett
	Ms Lovell
	Ms Palmer
	Ms Rattray
	Mr Willie

Amendments negatived.

[4.19 p.m.]

Ms RATTRAY - Following my earlier queries about the penalties for noncompliance, I note the Leader in her response said, 'the lower penalties are around individuals,' well this particular one is a casino operator, a venue operator, a Keno operator, a monitoring operator and license provider, or a gaming operator 'must not allow a special employee,' and it goes on to say the penalty for noncompliance is only 50 penalty points. That is still reasonable. That is not an individual. A casino operator can be someone quite substantial. I am curious about the inconsistencies with the penalties. You might assure me that they have been thoroughly considered. These are big entities we are talking about. This is not about fining the person, the special employee. This is about noncompliance by those significant parts of the industry: casino operator, venue operator, Keno operator et cetera.

Mrs HISCUTT - I will not go through the whole answer before but it depends on the impact of the breach. This could be a lower impact.

Clause 75 agreed to.

Clauses 76, 77, 78 and 79 agreed to.

Clause 80 agreed to.

Clause 81 -
Section 68 amended (Application of Division 3)

Mr VALENTINE - Why is section 51(1)(c) being taken out? Section 68 of the principal act - it is stopping it being an exception, I am assuming. So, section 51(1) reads:

> Application for special employee's licence
>
> (1) An application for a special employee's licence must be in a form approved by the Commission and must be accompanied by -

In effect, it is putting it back in, if I am reading that correctly -

> (c) 'where relevant, a certificate by the venue operator, gaming operator or licensed provider who employs or is proposing to employ the applicant' …

Can you tell me the effect of that? It is taking away the exceptions so that in fact that still stands, if I am not to be mistaken.

Mrs HISCUTT - It is consequential to what we have just talked about with the certificate. It takes the requirement out of the certificate.

Mr VALENTINE - It takes the exception out? That is what I am trying to clarify. Where it says 'by omitting "(except section 51(1)(c))"', section 51(1)(c) is no longer being excepted. I am just clarifying that. In other words it has to be considered. Double negative.

Mrs HISCUTT - Section 76 of this bill, says section 51 is amended. So it is taken out because it is not relevant because it has been dealt with in section 76.

Section 51 is there. It is taken out because it is no longer relevant because it has been dealt with in 76.

Clause 81 agreed to.

Clause 82 agreed to.

Clause 83 -
Section 69B inserted

Ms RATTRAY - In regard to clause 83, section 69B(2) talks about:

(2) However, a person whose name is listed on the Roll is not authorised under this section to sell or supply gaming equipment to prescribed licence holders unless -

(a) the gaming equipment has been approved by the Commission under section 48Y, 76ZZG, 80 or 81; or

and it talks about four sections there, or

(b) the person has the written authority of the Commission to do so.

In what circumstances would the commission give written authority for a person to sell or supply gaming equipment that has not been approved by the commission? I need to understand why that clause is there and in what circumstance would the commission do that?

Mrs HISCUTT - This covers rare circumstances where the commission may approve, for example, demonstration equipment to be trialled, not on consumers, but prior to it being approved, or a minor component of a game that is not approved in and of itself by an existing authority.

Ms WEBB - A couple of questions in relation to the Roll. I cannot recall whether this was addressed yesterday when the member for McIntyre had some questions on the Roll and I apologise if it was.

Ms Rattray - The Leader read out the Roll, because I was told by the Chair I was a tad early.

Ms WEBB - Yes, my mind was not directed at the time to the Roll, so I may not have taken in and if it was answered yesterday, you can direct me to look back to the answers. Given the change of model proposed in the bill, what is the expected change in terms of who populates the Roll, between now and as we move into the new model and that becomes established? What degree of expansion might we see in terms of who is on the Roll, or how many, how substantial the Roll is? My question related to that is, if we are expecting it to expand and become a longer list, effectively, what are the compliance implications? How is the Roll audited? I presume it is audited in some sense by the commission in the branch and will that require additional processes in place to ensure a more extensive roll is maintained as compliant? Where does the responsibility lie for ensuring under the new model that those on the Roll are providing reasonable and equivalent services to venues across the state?

Mrs HISCUTT - There is no significant change expected. Some small number of ancillary services may be defined by the commission, but that is not known at this stage. We do not anticipate the material change to compliance resource requirements. The services and charges by persons on the Roll are market-driven. Audit is through the up-front licence approval. All equipment is approved along the way. They are monitored to ensure they continue to be suitable and breaches, et cetera, are all recorded.

That is the Government's response, Madam Chair. I was gauging the Chamber's feel as to whether you would like a five-minute break or a comfort stop.

Madam CHAIR - I think all members and staff need that because they are not breaking until 6.30 p.m. for dinner. I am speaking for myself, but other members may wish to comment.

[4.38 p.m.]

Mrs HISCUTT - Madam Chair, I move -

That we report progress and seek leave to sit again.

Progress reported.

SUSPENSION OF SITTING

Mrs HISCUTT (Montgomery - Leader of the Government in the Legislative Council) - Madam Chair, I move -

That the sitting be suspended until the ringing of the division bells.

Motion agreed to.

Sitting suspended from 4.39 p.m. to 4.57 p.m.

GAMING CONTROL AMENDMENT (FUTURE GAMING MARKET) BILL 2021 (No. 45)

In Committee

Resumed from above.

Clause 83 -
Section 69B inserted

Clause 83 agreed to.

Clauses 84, 85 and 86 agreed to.

Clauses 87, 88, 89 and 90 agreed to.

Clauses 91, 92 and 93 agreed to.

Clause 94 -
Section 79 amended (Approval of keno rules)

Ms WEBB - I had a question about this clause. It relates to section 79 of the principal act, approval of Keno rules. I wanted some broad understanding of what is covered in the Keno rules that are the subject of this clause. In particular, does that cover matters like features of the game or presentation of the game, or is it other technical aspects of the conduct of the game?

Mrs HISCUTT - This clause 94 is not stating, changing or doing anything to the Keno rules. It is merely replacing terminology. The question that the member asks is not really

related to the section. However, to help the member, if you go to www.gaming.tas.gov.au and then onto Keno rules, you will be able to find what you are looking for. It covers things like definitions, applications of the rules, jackpots, Keno runners, settlement, schedules and loss or multiple receipt tickets. It is all there on the website if you care to go there.

Clause 94 agreed to.

Clause 95 -
Section 80 amended (Approval of machine types and machine games)

Ms WEBB - Sorry, they must be on my other sheet.

Madam CHAIR - We have got some amendments in your name. I am not sure whether you are planning to move them. I was giving you the opportunity to speak. It relates to the fully automated table games.

Ms WEBB - Sorry, that one is consequential to one we dealt with much earlier.

Clause 95 agreed to.

Clauses 96 and 97 agreed to.

Clause 98 -
Section 83 amended (Withdrawal of approval)

Ms WEBB - Again, that is a consequential one that we dealt with earlier. It is no longer relevant.

Clause 98 agreed to.

Clause 99 -
Section 84 amended (Approval of jackpots and linked jackpot arrangements)

Ms RATTRAY - Madam Chair, I am back on my hobby horse, if you like. Clause 99, section 84 amended, subclause (3)(d) -

> by omitting from the penalty under subsection (4) "100" and substituting "1 000";

I am interested in an explanation of this change. I have already been told that the penalties have been set. I would just like some explanation on that particular increase as it is so significantly different to the original bill. Has there been a reason for that? Has it been used?

Mrs HISCUTT - It signifies the change in responsibilities under the model. It is similar risks to activities around jackpots. Some of these jackpots can be quite substantial, so if anything goes wrong there needs to be a significant fine to discourage people from doing the wrong thing.

Ms RATTRAY - I also asked had there been any breaches around this particular issue that has prompted the significant increase or is it just in anticipation that the jackpots are going to get bigger?

Mrs HISCUTT - We believe it was a little bit low originally. It is designed to bring it into line with similar breaches. There have not been any breaches that we know of. Hopefully this is a bigger deterrent for anyone even thinking about it.

Ms WEBB - Many parts of this clause relate to changes in terminology or wording. Some other parts substitute in more substantial parts. Could you explain if there is a material change to the approval process for jackpots and linked jackpots made by these changes? What is the rationale for the change of the process if that is what is described by these amendments?

Mrs HISCUTT - The only big material change is that the commission needs to publish any changes to approved jackpot rules. The reason it is there is because there will be many more new licensees.

Clause 99 agreed to.

Clause 100 -
Sections 85 and 86 substituted

Mr VALENTINE - Section 86 talks about gaming prohibited on unprotected devices and a number of other aspects. Are the licensed technicians that repair these machines an employee of the gaming operator? What guarantees are there that they cannot change the firmware or software operating systems?

Mrs HISCUTT - The technicians have to be licensed and there are many controls to make sure that the machines are not tampered with. For example, if a seal is broken an automatic report is sent. They have to be licensed, which means they have to be trained, a bit like an electrician. You have to be licensed to do your job. Does that stop corruption? No, of course it does not. Does it stop an electrician from doing the wrong thing, or short-circuiting, that they have to be licensed? You would anticipate that they are tradespeople who do their job properly.

Mr Valentine - Are they employed by the -

Mrs HISCUTT - They may be, depending on who employs them. They may be, they may not be. The machines have controls on them and if they are tampered with, or a seal is broken in the wrong spot, it sends an automatic report.

Mr VALENTINE - Who does that report go to and who monitors these things? What are the processes around that? How are they brought to account?

Mrs HISCUTT - It goes to the commission's compliance staff, who then investigate.

Clause 100 agreed to.

Clause 101 agreed to.

Clauses 102 agreed to.

Clause 103
Section 89 substituted

Ms WEBB - I am looking to understand this clause better and note it is to do with section 89 in the principal act, which is being repealed and replaced by the proposed new section here. When I look to the principal act, section 89 is Access to gaming machines and in the principal act currently it is about:

> A person must not, in relation to a gaming machine in an approved venue, remove gaming tokens from the cabinet or drop box of gaming machine unless the person is -
>
> (a) the gaming operator of the approved venue; or
>
> (b) the venue operator of the approved venue; or
>
> (c) a special employee at the approved venue … ; or
>
> (d) a licensed technician in the performance of his or her duties.

There is a penalty of 50 units.

That is the one that is being replaced, that will no longer be section 89 and we are replacing it with this one here which is now called 89 - Profits from Gaming Machines, and it says:

> A venue operator must not allow a person to participate in any profits derived from gaming machines operated at the licensed premises unless that person is the venue operator or an associate of the venue operator.

The penalty here is a fine not exceeding 5000 penalty units. Why are we repealing the previous section 89 and why is that no longer necessary? Even in some adjusted form for terminology, and the rationale for substituting in this one, particularly, as a lay person, I do not necessarily understand what this might mean to be allowing 'a person to participate in any profits derived'.

Mrs HISCUTT - The principal act, section 89, has moved to regulations. It is still needed. The new section, S89, OPC have decided to use the vacated section. A person who participates in profits should be an associate approved by the commission. This section avoids profits being funnelled off to, for example, a criminal enterprise or something like. It is a safeguard.

Clauses 103 agreed to.

Clauses 104 to 109 agreed to.

Clause 110 -
Section 97A inserted

Ms WEBB - This clause 110 relates to section 97A inserted into the principal act. It relates to complaints regarding gaming and gaming equipment. To clarify, there does not

appear to have been a complaint section in the principal act. Could you confirm if it is newly introduced, moved from somewhere else like regulations into legislation or was there not an articulated document processed prior? That is my first part of the question.

Then, in a more particular way I am interested, on page 166, where this is describing the process that needs to be followed in regard to complaints. It says:

(3) A complaint under subsection (1) must -

(a) state the complainant's name and address;

It then goes on to say 'give details of the complaint'. My questions are on the requirement a complainant's name and address be provided. I note from the earlier part from subclauses (1) and (2) the complainant might, in the first instance, be making a complaint to the casino operator or the venue operator. They have the option of making a complaint directly to the venue or casino operator or to the commission.

Why is it a legal requirement for the complainant to provide their name and address, particularly to the business? It seems a potentially exposing thing for an individual to do, if they are making a complaint about that venue to have to provide their address to the venue too. Why not name and other contact details that do not identify where you live, such as name and email address, or name and some form of contact that does not necessarily identify your address?

Mrs Hiscutt - While the member is on her feet, are you concerned that someone might come around to their house and harass them, or what is your concern?

Ms WEBB - My concern more relates to, not an expectation that something untoward would happen, but that it actually might put somebody off making a complaint if they felt they had to give their home address as part of making the complaint to the venue, rather than another form of contact that did not identify where they live. That was the motivation for the question.

Mrs HISCUTT - The name and address are so the person can be contacted or a letter written. But having said that, this is in addition to the existing complaints clause, which is section 132, where a person can go directly to the commissioner and bypass this bit.

Ms Webb - Of the principal act?

Mrs HISCUTT - In the principal act, yes, it is.

Clause 110 agreed to.

Clause 111 agreed to.

Clauses 112 and 113 agreed to.

Clauses 114, 115 and 116 agreed to.

Clause 117 -
Section 101D inserted

Ms WEBB - Madam Chair, I have some amendments on clause 117. I will move them as a set because they are all connected.

First amendment
Page 173, proposed new section 101D, subsection (2).

Leave out "587".

Insert instead "361".

Second amendment
Same page, same proposed new section, subsection (3).

Leave out "than 587".

Insert instead "than 361".

Third amendment
Same page, same proposed new section, same subsection.

Leave out "exceeds 587".

Insert instead "exceeds 361".

Fourth amendment
Page 174, same proposed new section, subsection (4).

Leave out "than 587".

Insert instead "than 361".

Fifth amendment
Page 174, same proposed new section, same subsection.

Leave out "exceeds 587".

Insert instead "exceeds 361".

Mrs Hiscutt - Is this right?

Madam CHAIR - There is a fifth on the page that was circulated. I think there may have been an omission in that list you've got, Leader.

Mrs Hiscutt - I do not know.

Madam CHAIR - This was circulated. Can we recirculate these amendments so that members have the correct version?

Ms Rattray - I have had the correct version right up until now but I just do not have the fifth now.

Madam CHAIR - In the version I have at the table here there is a fifth amendment. These ones were circulated on Tuesday, according to the Deputy Clerk. Could the Leader's staff email the correct version so that way people will have an electronic copy at least.

Mr Valentine - The second amendment says 'than 361'? It does not in here.

Madam CHAIR - Are all members happy they have the correct version now?

Mr VALENTINE - Point of order. It is just that the amendment - say the second amendment says to leave out 'than 587' -

Madam CHAIR - Let us just let the member speak to it. If there are any errors, they can be discussed in speaking on the amendment.

Ms Webb - Subsection (3) does have that.

Mr Valentine - Right. Okay. Sorry.

Madam CHAIR - As you were.

Mr Valentine - I am with you.

Madam CHAIR - The member for Nelson might like to speak to her amendment.

Ms WEBB - Thank you for that. It is essentially a fairly straightforward set of amendments in what they do throughout this clause. It just changes one number to another number but let me talk through the rationale behind that and why I am bringing the amendment.

Members will be aware that in the bill the Government has chosen to put a limit on a total number of gaming machine authorities that can be owned by a venue operator or associated venue operators as an upper limit. The figure chosen by the Government in the bill is 587 and that is about 25 per cent of the total number that would be available. What I am proposing with this amendment is that it is very sensible to put a maximum allowable aggregation of gaming machine authorities to one owner or associated owners. That is sensible. There is an expectation that under our new individual venue licensing model, we will see aggregation of ownership. All stakeholders on all sides of this would acknowledge that is an expectation that is likely to come about and there would be broad acknowledgement that there are potentially some risks in that.

We certainly would not necessarily want to undergo a process that saw us arriving back at even a single owner for all gaming machine authorities in the state having just gone to this trouble to move away from that model. The figure of 587 is 25 per cent of the market and my assertion would be that that is too high to allow. If what we are celebrating - and certainly what the Government is celebrating in this new model - is a move away from a monopoly and a dominance by one player, if we allow that maximum cap to sit at 25 per cent we could see occurring a dominance by four players. It would not be unreasonable to expect that because other states that have individual venue licensing models have seen aggregating of ownerships in their markets. There tend to be a small number of very dominant players.

My amendment suggests that we pitch that maximum at about the 15 per cent of the market level. There is no disadvantage to this in the sense that my understanding is 361 is more machines than any venue operator or any owner or aggregate, like associate of venue owners, have at this time. We are not setting it below a current number of owned poker machines or operator machines. It allows for there to remain a vibrant market of more than potentially only four players. That is beneficial to us in this state in market dominance, in influence that comes about with a large aggregated ownership of EGM authorities.

It does not interrupt the structural changes being made in the bill. It does not interrupt the implementation of those structural changes. It does not negatively impact on any current owners and is protective of our state in a way that is aligned with the Government's intent in moving to individual venue ownership. Also, in thinking to protect us to some extent from aggregation of ownership through the imposition of a cap, it is a very aligned and supportive amendment that just pitches that at a more appropriate level to be about 15 per cent of the market level.

Hopefully I have explained that sufficiently. I am very happy to engage with other questions that members may have in relation to it but it is a fairly straightforward proposition for members to consider. I encourage you to give good consideration to the benefits that it could bring for us.

Mrs HISCUTT - The 25 per cent limit ensures that one operator does not dominate the market. The only other market with a limit is Victoria, with a 35 per cent limit. The Government felt that was too high. The Government is comfortable that this is an appropriate figure and it stops any monopoly ownership without overly restricting the market. So, for that reason the Government opposes the amendment.

Madam CHAIR - The question is that the amendment be agreed to.

The Committee divided -

AYES 3	**NOES 9**
Dr Seidel	Ms Armitage
Mr Valentine (Teller)	Mr Duigan
Ms Webb	Mr Gaffney
	Mrs Hiscutt
	Ms Howlett
	Ms Lovell (Teller)
	Ms Palmer
	Ms Rattray
	Mr Willie

Amendments negatived.

Clause 117 agreed to.

Clauses 118 and 119 agreed to.

Clauses 120, 121 and 122 agreed to.

Clauses 123, 124, 125 and 126 agreed to.

Clauses 127, 128 and 129 agreed to.

Clauses 130 and 131 agreed to.

Clauses 132 and 133 agreed to.

Clause 134 -
Section 112U amended (Suspension of prescribed licence without opportunity to be heard)

Ms RATTRAY - In regard to clause 134's section 112U(1A) it says:

> The Commission may also suspend a prescribed licence by notice in writing if the prescribed licence holder fails to pay any fee, taxation, levy or other amount payable under this Act for that licence -
>
> (a) within one month of it becoming payable; or
>
> (b) by any later date to which the person to whom the fee, taxation, levy or other amount is payable may agree.

Can venues make a progress payment or do they have to have the full amount available within that one month of it becoming payable? I am interested in what provisions there are for smaller venues that might not be able to lay their hands on whatever licence fee, taxation or levy is due in the time frame?

Mrs HISCUTT - We are talking overdue debts here, so it is expected that people should be able to and will be able to pay their fees as and when they are due. We all know that at some times it is a little bit harder than others. Licence holders can apply to the commission for an arrangement that the commission finds acceptable and agreeable to pay their debt.

Ms RATTRAY - Would that be something like over a three-month period? Has that occurred in the past? Obviously they do not have individual venue licences and now they will. What arrangements does the commission have, or has it been discussed that the commission is willing to grant a three-month period if you wanted to negotiate something?

Mrs HISCUTT - You would have to talk to the commission to start with and demonstrate a need for a different arrangement. I cannot say the commission will say, 'pay it in three months time'. You may have a big debt owing in two days time and can afford to pay it two days overdue. The venue operator can talk to the commission and discuss the needs, wants and ability. The decision will be made by the commission.

Ms RATTRAY - Is there an appeal process if the commission says no? The outcome if you cannot pay is a suspension of your licence. It is a significant impost on a venue or licence holder. Is there an appeal process available under that scenario?

Mrs HISCUTT - That could end up being a civil matter and go to the courts. You would think if someone cannot afford this debt, there are a lot of other debts that they cannot pay, and I imagine that would be escalated up to whatever the courts may determine.

Ms Rattray - The answer is no?

Mrs HISCUTT - Not in this process.

Clause 134 agreed to.

Clauses 135 and 136 agreed to.

Clause 137 -
Section 121 repealed

Mr VALENTINE - I cannot understand why we would want to remove signage. The principal act, section 121 provides that venue operators must erect warning notices. Why are we not trying to warn people about an area that they are about to go into and who may or may not enter and all of those sorts of things? Why are we taking that out?

Mrs HISCUTT - The intention is for the regulations to continue to require that venue operators must erect warning signs. These requirements are being moved to regulations for flexibility and the ability to react to future issues in a timelier manner; so, for futureproofing.

Moving this to regulations allows the commission to be more agile and responsive to change in its circumstances.

Dr SEIDEL - Thank you very much for your answer, but what issues do we anticipate? Warning signs are probably here to stay, so what issues do you anticipate that you felt required flexibility by putting them into regulations rather than ensuring legislative certainty?

Mrs HISCUTT - For example, work is currently being done nationally on responsible gaming messaging, so moving into regulations would allow the commission to consider and respond to the outcomes of this work as appropriate and not have to come back to legislation every time.

Dr SEIDEL - Thank you; but again, section 121 of the principal act is not dealing with educational material at all. It is not an educational issue. It gives notice about the minimum age at which a person may enter and remain in a restricted gaming area. I would anticipate that is not going to change. It provides for maximum penalties for entering or remaining in a restricted area, but I do not think that is going to change either. It specifies the penalty when the venue operator fails to comply. There is nothing about education at all. It is about penalties and it is about ensuring that people know when you are under a certain age you cannot enter the premises. It is straightforward.

Mrs HISCUTT - Nothing is changing; it is just moving from the legislation to the regulations. It just makes it more flexible.

Ms WEBB - It does not, and I will explain why. Section 121 of the principal act, as it currently stands, is not exclusionary. It does not say these are the only warning notices that

may be erected in venues. It does not say these are the only matters that the commission could require to be put in warning notices in venues. As the member for Huon said, it simply sets a fairly basic list of things that warning notices must say. Even then, it gives the commission discretion. Subsection (2) states:

> The notice must state such of the following information as the Commission may determine:

Then it gives that list, as the member for Huon said - the minimum age, person being under that age would have to provide proof of age, et cetera; very basic things.

Those things stated there will neither change over time, nor require flexibility. They will remain as things we would expect to see on warning signs. In no way does that section prevent the commission, in regulations, also determining other things that might be required to be displayed on warning signs. From my reading, that is entirely available right now, with this section remaining in the principal act. I am all for more information on warning signs. I have a new clause to that effect. I would like to see at least one more thing mandated here in section 121 of the principal act as the minimum to go on a warning sign - that electronic gaming machines are an addictive product. I believe that is a very standard thing that will also not be changing and belongs on a warning sign.

As the Leader says, there are many other things that we might come to expect to be on warning signs about this product. Contemporary public education messaging would help us determine those. We have every availability to put them in regulations and to keep them contemporary and up to date and accurate in that spot. The matters here, that we propose to take out through this bill, are not going to change. That requirement will not change about minimum age and the things around that. Legislative certainty, as the member for Huon said, is delivered to us by putting these minimums here in the act, rather than in regulations, where they have less legislative certainty in the sense that they can be more readily changed.

I believe this should stay here. I would encourage members to vote against this clause that removes section 121, and retain section 121 in the principal act. There is no detriment to doing so, no detriment to leaving that there as it is. We lose nothing in flexibility for the commission to do other matters in regulation relating to warning signs et cetera. It is not necessary to take this out. It weakens our very strong legislative foundation to set this minimum about warning notices here.

Mrs HISCUTT - This is consistent with the commissioner's own advice to Government. The provisions in the act that are too prescriptive are better located in a different piece of law, that being regulations. In determining what changes to the Gaming Control Act would be needed to best accommodate the future gaming market arrangements, the Government sought the views of the Tasmanian Liquor and Gaming Commission, the independent body responsible for administering the act. It was the commission's own advice to Government, through Treasury, that the act was highly detailed and prescriptive; it did not provide sufficient flexibility to effectively adjust for changes in the future environment; and that changing the act provided a rare opportunity to contemporise and streamline the legislative framework. Key to this as the commission's view was amending the focus of the act to high-level outcomes and principles, with procedural and machinery requirements into the regulations.

Dr SEIDEL - I do not consider that is a valid argument. For example, the Liquor Licensing Act from 1990, section 60 it is quite specific: 'Licensee to display notice prohibiting or restricting entry of young people'. Since 1990 in the legislation it has not changed at all. I do not think there is any motivation or drive to actually change that act to allow more flexibility. There is no need for more flexibility about displaying that when you are under a certain age you cannot enter a restricted area. It has worked really well, enshrined in legislation in the Liquor Licensing Act 1990. There is no plausible explanation why we need to change it now, in particular considering that we have an omnibus amendment act of 180 clauses and a principal act of 240 pages or so. We are not scaling things down to a 50-page act with a comprehensive regulatory framework.

We are not going to do this. We are just amending it. We are amending it quite extensively. The Government has tried to fix a problem which does not exist and the argument is a non-valid one because we have legislation here, the Liquor Licensing Act from 1990 where the display for age restrictions is really enshrined in legislation, not regulations. I do not think it is a valid argument by the Government.

Ms WEBB - Obviously the Government is not going to respond to the member for Huon's third call.

Dr Seidel - Not surprising.

Ms WEBB - I take it on faith that the advice provided by the commission to government in relation to the bill was highlighting that there are opportunities broadly for some streamlining and for some matters to be taken in detail out of the bill and put into regulations. I have no doubt that advice was given. I question section 121 of the principal act. Did the commission specifically point to that clause as one of these opportunities to do so?

The Government is invoking the advice of the commission to justify this. Unless you can confirm that the commission did point to this clause and not just broad advice across the whole bill, then we cannot take that to be the rationale for the removal of this clause with the imprimatur of the commission.

This clause does nothing to diminish the flexibility available to the commission to put other matters relating to warning signs into regulation. It merely sets a very basic standard that is then firmly enshrined in legislation on matters that will not change over time. I do not hear the Government making the argument that they would. We are in agreement on that. Those matters, in 121, will not change so they do not require flexibility.

There is no need to remove this clause of the original bill and doing so lessens the legislative certainty. Unless the Government points to this and says that the commission specifically said, 'remove section 121' as part of that advice, I am going to set aside the Government's invocation of the commission imprimatur on this as not being relevant to our consideration - because it was broad advice about the whole bill - and go with the fact that this does no harm by being there. It assists us to deliver legislative certainty and it in no way constrains the flexibility going forward.

Mr VALENTINE - For a lot of us, we are really concerned about harm minimisation. This sort of signage is very positive in preventing people from entering those sorts of gaming areas that could cause harm to them. I believe that having it in the act as opposed to in the

regulations means that it is there for all to see. If there is a need to change it then it comes to the parliament and the parliament can change that if there is a really good reason why. If it is in regulation it goes to the Subordinate Legislation Committee, where there are four or five members of parliament. Quite often it is a very pressured environment. I am not saying that they do not do their job, because they do and I have been on that committee and I know what it is like. It can get quite pressured and things can go under the radar. These are really important aspects to legislation that need to be here and we should not repeal that. That is my personal opinion.

Ms WEBB - I take it from the Leader remaining seated that the question I put in my last call is not going to be answered. That related to whether there was specific advice from the commission to remove clause 121. I will reiterate that now and perhaps it will remain unanswered.

Mrs HISCUTT - The Government has delivered all they want to put on this amendment. Thank you.

Ms WEBB - No answer.

Madam CHAIR - She put on the record all that she has.

Ms ARMITAGE - I am inclined to agree with the members for Hobart and Nelson because when you go back to the principal act and you look at 121, I really cannot see any reason to take it out or even if it is in regs. It is purely just saying about erecting notices and obviously it has a penalty and I am assuming that the regs would have a similar penalty as well for not erecting them.

Mrs Hiscutt - It will be the same.

Ms ARMITAGE - I cannot see a problem with having it in two different areas if it is going to be much the same. It is still about a person suspected of being under the minimum age. A person under the minimum age is not entitled to winnings. I would assume it would be very similar. I understand that you are saying it gives the opportunity for some change, if need be, maybe some additions, but I would not have thought that any of the warning notices that are here would actually disappear. I am inclined to support the member for Nelson on this one.

Ms RATTRAY - I am going to vote against this clause because I also agree that having it in the principal piece of legislation cannot do any harm. We have talked a lot about harm minimisation through this entire debate. If we are genuine in our intentions to support what measures there are relating to harm minimisation, if those signs are there for people to see and they are in the principal piece of legislation, I do not see any difference in supporting this and not voting to remove it from the principal act at this point in time. Yes, regulations are certainly the subordinate part of a bill and we understand that. However, they still have to be made and go through that process. If this is in the legislation as it passes here, whenever that might be, then that can only reinforce the message to the community that this House is committed to harm minimisation measures. I will be voting against removing it.

Mr GAFFNEY - I like the regulations in the act because it is not as easy to change or return to the act unless you come back to both Houses of parliament. It is saying that if you do need to change the act further down because you have an amendment, you have to come back

and there is a process to go through. In the regulations there is a process and I understand that if they were to go there, but it is not as broad or as widely known as it would be if it had to go through an amendment to the act. In light of that, I still think that there might be some things in here with different aspects of gaming over the next 20 years that they might be able to deal with in the regs but for the purpose of this process, once every 20 years, I think that I would prefer this to stay in the act the way it is. I will not be supporting the amendment.

Ms FORREST - I have listened to the debate on both arguments being put here and as members know, I have been on the Subordinate Legislation Committee for a long time and I do understand the process very well. One of the things that the Subordinate Legislation Committee looks at when we examine a regulation is whether the provision or the regulation - I have not got the bill in front of me but it is along the lines of 'would more rightly be in the act'. Okay. A regulation can be disallowed, or it can recommend disallowance, through the Subordinate Legislation Committee process, if the committee is of the view that it fits more in the act. I am just putting that for context. That is one of the tests that the Subordinate Legislation Committee does, in terms of reviewing the regulations that come before it, which is every regulation.

I also acknowledge and respect that the bill - the principal act is a pretty static provision. This is it. To change it requires drafting of legislation and going through a process of going through both Houses of parliament and I respect the Leader's views, that she is saying that regulations are more nimble and it is better not to be too prescriptive in the bill because that is where the rubber hits the road, in the real detail, and the prescription - that is why they are called prescribed matters - should be in the regulations.

The question I have for the Leader is, if members seek to vote against this clause and so this stays in the bill, there is still capacity to make regulations under it. I am just concerned that if this stays in, by voting against the clause, it is a bit of a double negative here, if we end up with this remaining in the act, that it will limit in some ways the signage that will be put up. I am just putting that out there because I think it was the member for Nelson or the member from Hobart that said, 'Technology changes, things happen. We may need new signage around matters not noted in the principal act.' It does not mean regulations cannot be made to pick up some of those other things that may need to be subject to the notification. Like it has been said, by people that notice - just reading from the principal act:

> (2) The notice must state such of the following information as the Commission may determine:
>
> (a) the minimum age at which a person may enter …
>
> (b) that a person suspected of being under the minimum age …
>
> (c) a person under the minimum age is not entitled to any winnings …
>
> (d) the maximum penalties for entering or remaining in the restricted gaming area …

That is only part of the wording. I did not read the whole provisions there. That is pretty clear about one aspect or a couple of aspects of the signs that needs to be there. This provision

in the bill, if we leave it in there, are we limiting ourselves to that and not providing for the flexibility and the additional factors that signage, probably quite rightly, should be put up, like,'These machines are designed to be addictive,' for example.

I do not know if the commission will agree to that but maybe they will. After this they probably should.

Ms Webb - I have got a new clause for that.

Ms FORREST - Yes. But that is the question I have. I need to go to the regulation-making power to make sure they can make regulations about this because the section as it stands - and maybe I do need to go to the regulations in the principal act - do not actually say to prescribe other matters. It just limits it to that. So, I think we need to be cautious that we are limiting the signage that can be put into a venue. I am just going to the principal regulations. The regulations are naturally fairly broad so I would imagine that does not actually limit you entirely, but I do not know if that has been considered to ensure that it picks it up. It probably is in the bill, which I have not got in front of me because I have got the principal act, but obviously in the bill there are provisions for regulations to remain in this because that is why this is being removed. I just want the Leader to speak to this and to inform me - are we limiting ourselves if we oppose this clause and leave this section in the principal act? When I read this, I thought this is moving that provision into the regulations to enable some more flexibility around it, to expand the scope of it, and if that is the case, that is a more positive aspect.

Anyway, I think I have made the point. It is a bit of double negative and I am talking about it in double negatives here, which is a little bit confusing. To me, highly prescriptive matters do sit better in regs, and of course the regs have to be made, and the reason the regs have to be made is because there are a hell of a lot of regs that remain with this before it comes into place. I think there are probably other matters that the commission should be considering in terms of signage beyond most of just the underage-related matters and those sorts of things. We have seen signs in the pubs, if you go into them, on the back of toilet doors, to other matters that relate to support people who are being harmed by gambling. I make those points.

Mrs HISCUTT - With regard to your signage, on page 229 in the regulations part, as you correctly pointed out, (ja) particularly talks about signage and advertising at approved venues. It is the Government's view that leaving that part in this amendment bill will limit flexibility. We do not know what sort of advertising may happen in the future. Heaven knows what signage will be. It will still be there, members. The commission - I could read it all again, no, it is repetition. I have put it in there once and I have just said what I have said. The Government's view is that it will limit flexibility. It is best off in the regs.

Ms ARMITAGE - Just one last comment. I personally do not see how it can limit when section 121 states:

> The notice must state such of the following as the Commission may determine:

It obviously does not limit, it is an extra. I really cannot see how having it here and in regulation can be a problem, because obviously other areas can go into regulation but obviously

the decision has been made, but I will be supporting the suggestion of the member for Nelson, because I do not see, when it says:

> … must state such of the following as the commission may determine:

Not 'must' determine but 'may' determine of the following.

Mr GAFFNEY - If you look at the section 121(1):

> A venue operator must cause a notice, in a form approved by the Commission, to be erected …

At the front or at a prominent position at each entrance.

So, if a venue says, 'I want to have the form like this', does the commission have the right then to say, 'yes, as long as it goes in a prominent position'? I do not think it is limiting what type of sign that people might put up. It is just saying there has to be a sign and does give the commission some flexibility. I think the other, as noticed by the member for Launceston, is it does say, 'as the Commission may determine.' So, there is some flexibility.

I take the point of the member for Murchison, there might be something else they have to put in there, but if that is the case they can still go through the regulations and if that is appropriate, or, they come back with an amendment to the act. I still think that we downplay the importance of these harm minimisation requirements if we take them out of the act and just leave them to the regulatory body. It is not taking anything from the regulatory body but it is saying the act itself needs to be fairly strong. So, I say that we reject the amendment.

Mr VALENTINE - The commission could state whatever is necessary when even approving an application for licensed premises. Section 121 in the act says what must appear, such of these things. The commissioner, surely, has the opportunity to add to those things that must appear as they see fit when they are granting the licence to the premises. I am sure when we went through that section, from section 57 or thereabouts, the commissioner had quite a range of what they may or may not approve. Surely, signage would be one of those aspects the commissioner may decide to stipulate. Correct me if I am wrong, but the commissioner has quite a wide opportunity there.

Madam CHAIR - The question is that clause 137 be agreed to.

The Committee divided -

AYES 7	**NOES 5**
Mr Duigan	Ms Armitage
Ms Forrest	Mr Gaffney
Mrs Hiscutt	Dr Seidel
Ms Howlett (Teller)	Mr Valentine (Teller)
Ms Lovell	Ms Webb
Ms Palmer	
Mr Willie	

PAIRS

Ms Siejka	Ms Rattray

Clause 137 agreed to.

Clause 138 agreed to.

Madam CHAIR - In seeking some guidance from the Leader, with the next clause with the amendment, clause 139, I believe there may be significant debate. However, it is only to divide against the clause so we can commence and report progress. There is no other question before the Chair so we can commence and then break for dinner. It would also give the advisers the dinner break to prepare any responses to matters raised through this.

Mrs HISCUTT - That is a good idea, Madam Chair.

Madam CHAIR - If we can commence this clause but if we find it is going to take some time to get answers, then I would encourage the Leader to consider that process.

Clause 139 -
Section 127 amended (Minister may give Commission directions)

Ms WEBB - This clause is amending section 127 of the principal act. Section 127 of the principal act is about the powers of the minister to give directions to the commission. That section in the principal act outlines the constraints and the circumstances around which these directions can be given by the minister. In section 127(1):

> The Minister may give to the Commission any direction that the Minister considers to be necessary or desirable with respect to the performance or exercise by the Commission of its functions or powers ...

Section 127(2) is that it must be given in writing and signed.

Section 127(3) is an important one and says:

> The power conferred on the Minister by subsection (1) must not be exercised so as -
>
> (a) to require the Commission to do anything that it is not empowered to do by this Act or any other Act; or
>
> (b) to prevent the Commission from performing any function that is expressly required by this Act or any other Act to perform, whether conditionally or unconditionally; or
>
> (c) to interfere with the formation of the Commission of any opinion or belief in relation to any matter that is to be determined as a prerequisite to the performance or exercise by the Commission of any of its functions or powers under this Act or any other Act.

This is saying the minister cannot give a direction that tells the commission to do things it is not allowed to do or not empowered to do or interferes with a decision that it is making.

Section 127(4) says:

> Subsection (1) does not authorize the Minister to give a direction to the Commission preventing it from -
>
> (a) granting or refusing to grant; or
>
> (b) exercising its power under this Act or any other Act to cancel, revoke or suspend -
>
> any licence, approval or other authority that it may grant or issue under this Act.

This brings us to this amendment bill and clause 139, which is saying that after section 127(4) in the principal act we are inserting a clause which says this:

> Section 127 of the Principal Act is amended by inserting after subsection (4) the following subsection:
>
> (4A) Nothing in subsection (3) or (4) prevents or limits the exercise of the power conferred on the Minister by subsection (1) to give a direction to the Commission with respect to the endorsement of gaming machine authorities on venue licences by the Commission if such a direction is in the community interest

Having said, in section 127(3) and 127(4) of the principal act that the minister cannot interfere by issuing a direction that tells the commission to do something other than what it is empowered to do and cannot interfere by giving a direction about the granting or refusing or exercising powers to do with granting authority, we now have said the minister can do that if the minister thinks it is in the community interest. We are empowering the minister to direct the commission on the endorsement of gaming machine authorities.

I would encourage members to regard this as an inappropriate power to give the minister, because it inserts the minister into a determination being made about the endorsement of gaming machine authorities in a way that I believe sections 127(3) and 127(4) of the principal act had sought to explicitly exclude, particularly section 127(4). The Government may point to the aspect of this proposed amendment in clause 139, which says that this is to be done if such a direction is in the community interest. I challenge that that moderates conferring this power on the minister sufficiently to have us feel okay about it. We know from our other discussions on previous clauses that the commission already takes into account community interest to some extent.

The Government confirmed that when it refused to support my amendments that wanted to expressly put it in there. The Government said it is already there in what the commission must do. The commission already gives regard to community interest, the Government said. Why are we giving extra power unfettered to the minister to decide community interest over and above the commission and be able to issue a direction about gaming machine authorities

to be granted? Are we saying that the minister is in a better and more accountable position to determine community interest when it comes to this sort of decision? We have an independent expert body which is already tasked to do it and which the Government says explicitly considers community interest. I think we would all have confidence it would be done in a way that is impartial and appropriate because it is the expert independent body tasked to do that. While we would never assert that the minister might not make a decision that was appropriate, it is not appropriate for us to give this power unfettered to the minister to do that. It would not be accountable. It would not be something that we can readily know to have confidence in because it relates to granting a gaming machine authority. That is a substantial benefit to be granting to a venue operator or an owner. It has financial implications.

If we are to consider matters of probity and integrity and think about risks to appropriate decision-making when considering the application of a business for something which will be of financial gain to them, and we think about protecting against the risk that there could even be a perception that influence might come to bear in that decision, I believe we can negate any perceptions most readily by having that decision made by the independent expert commission. It will give it consideration under the law and with community interest in mind as opposed to the perceptions there may be around a decision that can be made by the minister of the day and the influence that could be perceived to be brought to bear in that circumstance.

That is my first contribution on this. I am going to strongly encourage members to vote against this clause to give this power to the minister which I think is unfettered. Does the minister even have to explain to anyone why such a direction given under this power is in the community interest? Even if the minister did have to explain that, if it is not accountable and able to be challenged then it is not appropriate.

I strongly encourage members to vote against clause 139. It is not necessary. It opens us up to the perception that influence could be brought to bear in these decisions. It is inappropriate to override the intent of section 127 of the principal act, which was to ensure that ministerial directions would not be perceived to be influencing decisions.

Mrs HISCUTT - I will give a quick response to that. We were listening for questions that we might have been able to sort out over the dinner break but I did not hear any questions. I have heard a lot of allegations but not a lot of questions.

In response, under the future model, the commission will have the power to make a determination with regard to the allocation of EGM authorities. Imagine a scenario where, for example, on the 1 July 2023 or a later date there is a surplus of unallocated EGM authorities which are available which have not been taken up to the new cap. Regulations will be established that provide for the commission to institute a process for determining the suitability between two or more applicants for the EGM authorities. That is the scenario that this provision has been written about. This is an opportunity for the minister to be restrictive on the allocation of those EGMs.

It is in the best interests of the community that the minister would have the power to issue a direction to the commission in relation to the future issuing of EGM authorities. I have been given an example and this may include a direction to not issue EGM authorities, for example, in a low socio-economic area or to not allow surplus EGM authorities to be issued.

The commission has asked for a range of powers to be moved from the act into regulations so there is more adaptability and flexibility as their needs change. It is a very slow process for those changes to be reflected in outdated legislation and it is much better for the commission to be able to have improvements, changes, for example, for advertising or other matters that need to be dealt with like warning messages, to be able to be reflected in regulations. That is the way the law works best.

That is my advice, that is the opportunity for the way in which those surplus arrangements can be settled and I have already discussed how the regulations will now be established when there are two or more applicants for EGM authorities. That is the advice I have, Madam Deputy Chair.

Ms FORREST - Some of the response the Leader just gave related to the previous vote against the clause related to regulations, as opposed to having some of those prescriptive mechanisms in the bill. This section, I agree with what the member for Nelson has said, basically gives the minister unfettered power to interfere in the decision of the commission when the minister determines that the endorsement of gaming machine authorities on venue licences is in the community interest.

As the member for Nelson has rightly said the commission's job is to make the assessment about the community interest. We have heard, read, been told and we know that there is a whole principal act that describes that as well. I heard the Leader give the example of the changeover day if there are some unallocated gaming machine authorities the commission would suddenly want to put in a really low socio-economic area. That just beggar's belief because the commission has strict and well prescribed requirements about the work they do to determine the community interest where machines should go, if they go anywhere. If there are unallocated ones I cannot see from the bill and the principal act the commission would say we have to put these somewhere. That is not how it works.

What we could see is the minister interfere in that with this power to say the commission believes there are some unallocated gaming machine authorities, so we will pop them down at Elwick, find a pub that has not got their 30 machines max number. The commission just cannot do that. The commission is tasked with assessing the community interest as we have heard from the Leader rejecting some of the member for Nelson's amendments and other discussions along the way. When you look at the principal act you simply do not need this power. It seems completely contrary to the overall intent of independent community-focused assessment undertaken by the commission to determine where these machines could go.

I want to go to section 127, and as the member for Nelson pointed out, this amendment the Leader is proposing is that nothing in subsections (3) or (4) prevents or limits the exercise of power conferred on the minister to give a direction to the commission with respect of endorsing a game machine authority on venue licences by the commission if such direction is in the community interest. These powers are limited in subsections (3) and (4), as follows:

> The power conferred on the Minister by subsection (1) must not be exercised so as -
>
> (a) to require the Commission to do anything that it is not empowered to do by this Act or any other Act; or

The commission is only empowered to make decisions with regard to the public interest and the community benefit or the community interest. Also:

> (b) to prevent the Commission from performing any function that is expressly required by this Act or any other Act to perform, whether conditionally or unconditionally; or
>
> (c) to interfere with the formation by the Commission of any opinion or belief in relation to any matter that is to be determined as a prerequisite to the performance or exercise by the Commission of any of its functions or powers under this Act or any other Act.

The power is limited there to prevent the minister getting involved in the work of the commission, which is right and proper. There should be a separation. The commission is an independent body tasked with this important work, with experts sitting on the commission to do so.

Mr Valentine - It is diametrically opposed.

Ms FORREST - Yes. So, to say the minister can then suddenly come in and give a direction to the commission to enable gaming machine authorities to be added, effectively endorsed, on venue licenses by the commission, if the minister determines it is in the community interest - the minister may have a different view of the community interest than what the commission does because the commission has very specific and fairly rigorous requirements around that.

My question to the Leader is, why was this inserted? In the example you gave me, I do not know if it actually fully described why the minister would need such a power for the minister to say, 'No, gaming commission, you cannot put them there.' Maybe, but I would start to question the commission's work then because the commission is suggesting they be put somewhere not in the community interest. They have failed to do their duty. I cannot see the need for this. I cannot see that the example the Leader gave is really legitimate. You are basically saying the minister understands and can assess the community interest above and beyond the commission - the commission that is tasked with that very job. Unless the Leader can absolutely convince me there is a need to and a very legitimate reason for it, I will be voting against the clause.

Mrs HISCUTT - Madam Deputy Chair, I move -

> That we do report progress, and seek leave to sit again.

Leave granted.

Progress reported; Committee to sit again.

SUSPENSION OF SITTING

[6.43 p.m.]

Mrs HISCUTT (Montgomery - Leader of the Government in the Legislative Council) - Mr President, I move -

That the sitting be suspended until the ringing of the division bells.

This is for the purposes of a dinner break. Members, I do not think it will be more than an hour, maybe quarter to, we will come back.

Motion agreed to.

Sitting suspended from 6.43 p.m. to 7.47 p.m.

GAMING CONTROL AMENDMENT (FUTURE GAMING MARKET) BILL 2021 (No. 45)

In Committee

Resumed from above.

Clause 139 -
Section 127 amended (Minister may give Commission directions)

Mrs HISCUTT - This seeks to deal with surplus authorities that might be granted, noting that EGM authorities remain the property of the state. It will not affect current licences and entitlements already granted by the commission. The power is not unfettered. A valid direction must be in the community interest. It must be gazetted and the minister must operate according to the objects of the act. The minister is not interfering with the decision being made by the commission or directing the commission on a particular decision. He is simply providing a direction as to any broad restrictions on the future allocation of any surplus EGM authorities that the commission must take account of in making their decision. In the absence of a direction, the future disbursement of authorities will occur according to guidelines set by the commission; however, the commission is not a policy-making body.

I gave the example where a future government wishes to ensure that no more surplus authorities could be issued at all; that is, they had a policy to reduce the number of EGMs in the community. This power allows the Government to do that. The commission would need to assess applications for surplus authorities as they are made. The commission is not empowered to make broad decisions not to consider applications if surplus authorities exist. This is a positive measure that does allow the policies of the Government of the day to be implemented, and to provide broader rules than the commission can apply in the allocation of future authorities.

In the absence of something like this, applicants may waste time and resources applying, and the community may waste time and resources responding, only for the commission to determine the application is not in the community's interest, particularly in circumstances where the Government may have provided a blanket direction that surplus authorities not be

allowed in such an area. Such a problem could be avoided by use of the Government's power under this clause.

I reiterate, the minister already has direction powers under the act and they have been used to implement other harm minimisation measures, such as directing the commission to not approve EGM games which take bets above five dollars.

Mr VALENTINE - With all of the opprobrium that has been going on about elections and about interference and funding and all of those sorts of things, I cannot understand why any minister - not just the current minister, but a minister of any political colour - would want to be anywhere near this. I cannot understand why it is needed.

Dr SEIDEL - I am inclined to support the amendment from the member for Nelson because I think the answer from the Government is not credible. As if the Minister for Finance would give direction to reduce the number of EGMs in the community. It would be a benevolent Minister for Finance; and by definition, that is simply not the case. They want to increase revenue, tax revenue in particular. That is their job.

If the Government wishes to reduce the number of EGMs in the community, they can do that and if they want to legislate that -

Ms Webb - I provided some options.

Dr SEIDEL - Some options were provided. There is also the option to consider an amendment bill in future years. I support the amendment from the member for Nelson. I have to say that in my view, the response from the Government on why this is necessary is simply not credible.

Ms Rattray - It is just an invitation to vote against the clause.

Ms Webb -Yes. It is not an amendment.

Dr SEIDEL - Yes, I am sorry about that.

Ms Rattray - That is all right.

Ms WEBB - I will make a couple more comments about this, and add my view, shared with the member for Huon, that it is not at all credible for the Government to claim that this has been included here to provide a future option purely for the potential benefit of a future government wanting to reduce EGM numbers in the community. There are myriad ways we could have provided for that eventuality in this bill. I have moved amendments and have new clauses that provide some of those in a way that does not increase the power of the minister to be directive in inserting him or herself into the functions of the commission. In light touch ways they allow for community interest to be considered and even for communities to express an aspiration about maximum numbers they would like to see without any impediment on current arrangements. I have provided those options and the Government has rejected them all.

The Government could have come up with all kinds of ways to provide future governments with this option should they wish it. What they claim to have done here is to

provide this option for a future Government to benevolently want to reduce EGM numbers. They have done it in such a way that is not clearly targeted to that. It broadly provides a power to the minister that overrides the intent in the principal act in section 127. Section 127 clearly intends to ensure that directions from a minister do not become involved in decisions about licensing or approval or authorities such as the one that this then empowers the minister to get involved with.

This is explicitly going against the intent of the principal act in section 127 about directions. It is immaterial for the Government to mention, correctly, that at times the powers for a minister to give directions to the commission have been used for good purpose. It is immaterial to the extension of those powers its proposed in this clause.

Voting against this clause does not diminish the powers that are in the principal act for the minister to give directions to the commission, to achieve good outcomes such as has happened at times in the past. That is still there if we vote against this clause.

There are a number of ways that this bill, through different clauses, has either removed accountability from the minister of the day - for example, the casino licences no longer having to be laid before parliament - or has extended the powers of the minister into spaces that are less accountable, like this clause. That is a disturbing trend to bring to legislation. As responsible legislators, as representatives of our community we are bound to act in the best interests of our community.

We should resist a trend towards less accountability of executive government to the parliament. When there are explicit constraints put in legislation around the powers of the executive, they are there for a reason. We erode them at the peril of our community and our democracy. In the strongest possible terms, I urge members to vote against this clause and every member here who fails to do that needs to think about the message they are giving about power to executive government unfettered and unaccountable. Are you contributing to the erosion of our democracy and the accountability of our Government?

Madam CHAIR - The question is the clause as read stand part of the Bill.

The Committee divided -

AYES 7	**NOES 5**
Ms Armitage	Ms Forrest
Mr Duigan	Mr Gaffney (Teller)
Mrs Hiscutt	Dr Seidel
Ms Howlett	Mr Valentine
Ms Lovell	Ms Webb
Ms Palmer (Teller)	
Mr Willie	

PAIRS

Ms Siejka	Ms Rattray

Clause 139 agreed to.

Clause 140 agreed to.

Clause 141 -
Section 131 amended (Functions of inspectors)

Ms WEBB - I have some questions on clause 141 which is section 131 amended (Functions of Inspectors). There are some changes to wording and phraseology. We spoke yesterday about inspectors and I want to clarify the expected change there might be under the new regime for inspectors fulfilling these functions that this covers. Is it possible to provide that information to me? It might not relate directly to the terminology amendment but it is the topic that it relates to.

Madam CHAIR - Can I just clarify whether the member for Nelson is after the functions and powers of the inspectors? What are you actually asking?

Ms WEBB - I was asking about the changes that are expected in numbers of inspectors and their activity in the new regime. That was all.

Mrs HISCUTT - There is expected to be some increase in activity because of the way the licensing would be set up now. It is expected there may be three or four extra inspectors, not determined of course, but about that and that is because there are more venues to be inspected. Is that the information you were looking for?

Ms Webb - Yes. Will they undertake the same activities that they do now?

Mrs HISCUTT - They will undertake the same activities that they do now and in their role as inspectors they will be making sure everything is in order. If there are extra things they have to inspect, yes, they will be inspecting them.

Clause 141 agreed to.

Clauses 142, 143 and 144 agreed to.

Clause 145 -
Section 136 amended (Calculation of gross profits)

Ms WEBB - I note through clause 145 there are some terminology changes in the latter part that are coming into play. I believe that the first sections there (a)(2) and (2A) and (b) are about a different way of calculating jackpots. I want to understand the rationale behind changing the way we calculate that. What result is expected in losses and revenue to the state?

Mrs HISCUTT - This is being amended to standardise the calculation of gross profits on EGMs across all sectors. Under current arrangements, the casino operator is permitted to off-set the increment for major EGM jackpots from gross profits so that tax is not payable, as this money ultimately is returned to players when the jackpot goes off.

Under the new arrangements, the increment to major EGM jackpots will be included in gross profits in line with the treatment of all other EGM jackpots, with tax payable at the time. When the jackpot is paid out this will decrease gross profits, providing a corresponding tax reduction at that time.

So there will be no change to the profit or the revenue.

Clause 145 agreed to.

Clauses 146, 147 and 148 agreed to.

Clauses 149 and 150 agreed to.

Clause 151 -
Section 142 amended (Audit)

Ms WEBB - A brief question relating to section 142, the principal act amended and audit requirements at the casino, the monitoring, the Keno and licence providers. Does that also include venue operators in these audit requirements in reference to section 142 or are they not included in this section?

Mrs HISCUTT - Small venues are not included; however, the commission can audit if the commission wishes or desires to.

Ms WEBB - To clarify, when you say 'small venues', do you mean all hotel venues or are there large ones of those that may be included, but not small ones? Do you just mean non casinos? Could you specify more?

Mrs HISCUTT - It is pubs and clubs.

Clause 151 agreed to.

Clause 152 agreed to.

Clause 153 -
Section 144 amended (Returns to players)

Ms WEBB - Madam Chair, I move -

That clause 153, page 202, paragraph (c):

Leave out '87%'.

Insert instead '92%'.

That is a fairly straightforward one. It is about return to player rates set as a minimum for gaming machines. I am straightforward in putting this forward as an outright harm minimisation measure, but also toward the object of the act in terms of appropriate sharing. Consumers being one of the groups we are endeavouring to ensure appropriate share is given to under this act, 92 per cent would be a very normal rate of return to player globally in jurisdictions. It is recognised to be a less intense per cent of player rates. My understanding from experts like Dr Charles Livingstone, is that most modern machines in Australia have a range of return-to-player rates that can readily be set between or up to 92 per cent from the late 80s up to the 92 per cent mark. It is not unusual for modern gaming machines to have this as a return-to-player rates and be available for our venues and market to access and implement.

We have time to consider this potentially to come into play. I believe it meets the objects of the act. It brings in fairness to consumers in their share and it adds to - it is not a silver bullet - harm minimisation, one part of that puzzle. I encourage members to consider supporting this amendment to set ourselves in a more globally normal range of things with a higher return to player rate of 92 per cent.

Mrs HISCUTT - I will seek some advice, Madam Chair. The Government has increased the return to player to 87 per cent which is an established rate in other jurisdictions. Only Western Australia has 90 per cent. No other jurisdiction in Australia has over 90 per cent and there is no certainty that games would be available, noting that there are currently hundreds of machines in Tasmania at less than 90 per cent. Therefore we do not support this amendment.

Mr GAFFNEY - My base question before the amendment is, why did the Government go from 85 per cent to 87 per cent? Why do they think 2 per cent? Was it pick a number, or that seemed like a good idea? What impact does that have on the bottom line? How much does that return to the community? They are the questions that may have been asked through a committee inquiry where they could have said to them, 'What's your modelling? Why have you gone from 85 per cent to 87 per cent? If Western Australia is 90 per cent, why haven't you gone to 90 per cent?'

Here the member has gone from 85 per cent to 92 per cent thinking. My question of the member is, what modelling? Why was that happening? I am not sure if it is clear here but that is where I think that sometimes when you start getting figures you do not know what impact that has on the total figures and why did you do it? My question to government is, why change from 85 per cent to 87 per cent? What was the basis when you just told me that WA had 90 per cent. Why did the Government not go to 90 per cent?

Mrs HISCUTT - The Government's advice is that it is a sustainable move. Because of the prevalence of that rate in the ACT and Victorian casinos we believe from an industry impact point of view it would not create a significant new impost noting that for some of those machines it will require recording. As was said earlier, in the absence of that broader industry consultation to know what the impact would be, we were not prepared to go to a different number than what is presented here in the bill.

Mr VALENTINE - I would have thought, given the fact that even smaller venues are going to get quite a significant boost out of this, given the fact that casinos' tax rate is going down, increasing the return to player is a reasonable thing to do, especially when you look at the level of losses we have in our community associated with gaming machines.

It stands to reason we would want to lift the return to reduce the pain.

Mr GAFFNEY - I can remember this Government saying quite often for our last two elections they have had a policy they have mandated to be able to do that. If the Government went out to the community and said, yes, we will raise the revenue from 85 per cent to 92 per cent they would get everybody voting for that and have a mandate to be able to. I am surprised they have not taken it up from 85 per cent to 92 per cent. I am sure if the people of Tasmania voted on this - our recreational gamblers - they would be more than supportive of the 92 per cent return to player. The players would think industry is getting fair share of the revenue. That seems reasonable for me. Perhaps it should be something they think about for the next election.

From 87 per cent with an extra increase of 2 per cent as the member for Hobart mentioned, the rate on casino EGMs is going down, what will our casinos lose in real terms with the return to player rate going up and the return to the casino rates going down? What will our casinos lose, if they do?

Mr Valentine - Compared to what they get now.

Mr GAFFNEY - Yes.

Mrs HISCUTT - It is an arbitrary figure. It will depend on what their return levels are as it is. Plus it would depend on how many people play the game and how many do not. It depends on a lot of things.

Madam Chair, the Government has tabled its response and I do not have a lot more to add to that.

I urge members to vote against this amendment because the Government has it right in the bill.

Dr SEIDEL - I rise and offer my support for the amendment. It is interesting the Leader of the Government just said this is an arbitrary figure.

Mrs Hiscutt - For clarification, the arbitrary figure is how many people play; we do not know that. This figure here, we have looked at that. That was the answer to your question.

Dr SEIDEL - I am grateful the Government did look into it because they should have. They clearly would have seen if you have increased return-to-player rate that would be entirely consistent with the objects of the act, in particular now with the amendments we have introduced.

Having a public health and consumer protection approach to protect people and particularly, the ones who are vulnerable from being - and now it comes - exploited by gaming operators, the Government can demonstrate they are serious about the player by increasing the return to player rate. Why not commit to the gold standard that is set nationally in Western Australia with a strong evidence base? In particular, considering the revenue that is generated through EGMs is still there and still substantial. It still means operators will make a profit. It is still a profitable business, but you would demonstrate you have taken a public health approach to harm reduction seriously, protecting vulnerable Tasmanians from exploitation.

Ms WEBB - Thank you to members for contributing to the discussion on the amendment. I appreciate it.

It is interesting to hear the Leader say the Government has got this right because it makes me wonder did they have it right the first time when it made it 85 per cent, or did they have it right the second time when they amended it to 87 per cent?

I wonder what evidence was used for either of those decisions from the Government. In proposing the amendment and proposing the rate of 92 per cent, I have based that on a more globally normal rate. Members may not be aware but it is usual in other jurisdictions outside of Australia to have much higher return to player rates - 97, 98, 99 per cent return-to-player

rates. Jurisdictions set them that high as a norm elsewhere because that is more reflective of genuine recreational use of this machine, as a recreational product that is safer to use. If we want it to be that, if we are genuinely saying that is what it is, that is where you set the return-to-player rate. You also adjust other features; but here in Australia, we set it abnormally low, from a global perspective. Eighty-seven per cent is an improvement on 85 per cent but it is not good enough. It does not deliver the outcomes that are aligned with the objects of the act, about share appropriately and protection. We can do much better than that. It is normal to be able to access games that have that return-to-player rate, and venues have an opportunity for that to be explored. There could potentially be allowance made for that to happen as machines turn over in a natural cycle. We know these machines have a five to seven-year lifecycle anyway. It could even come into play in a staged way like that. If we were to share that goal of having machines that are more appropriately programmed for their return to player -

Mr Valentine - That is because it is software change.

Ms WEBB - Exactly right; it is a software change. It is straightforward. The Government claims that we would not have access to those machines if we set our rate to 92 per cent. I would like them to provide evidence that is the case, if that is their claim. I do not believe it is a strong argument against this because, as the member for Hobart said by interjection just then, this is a software change. It is something that is readily able to be done and if we are looking ahead to doing it, I believe those arrangements could be made. I will not say too much more on that, other than to encourage members to see this, as the member for Huon rightly pointed out, as very much in line with the objects of the act, in particular with the public health approach that has now been articulated in those objects.

Madam CHAIR - The question is that the clause be agreed to.

The Committee divided -

AYES 4	**NOES 8**
Mr Gaffney	Ms Armitage
Dr Seidel	Mr Duigan
Mr Valentine (Teller)	Mrs Hiscutt
Ms Webb	Ms Howlett
	Ms Lovell (Teller)
	Ms Palmer
	Ms Rattray
	Mr Willie

Amendment negatived.

Clause 153 agreed to.

Clause 154 agreed to.

Clause 155
Sections 146, 147 and 148 substituted

Ms FORREST - Madam Deputy Chair, I propose a request to this clause. The request is for amendment to clause 155, page 204. To explain the context of this before I move it: a request for an amendment is being proposed here because it is a request to introduce a tax or levy that extracts money. This House has no power to do that by amendment or even to introduce a bill to do that. Constitutionally we cannot. It is the same when we deal with money bills and any other tax bill.

The process here is that I ask for the members' consideration that we request the House of Assembly to make an amendment to the legislation. The process by which that happens is that if the request for amendment is agreed to by this place a message is sent to the other place asking the other place to consider that request. They could say no. They probably will, but the reason I am putting this up and asking them to consider this is that this is a much fairer distribution of the profits from the EGMs in pubs.

It meets the objects of the act, in terms of a more appropriate and fair distribution of the profits. That is why it has been done this way. If the House of Assembly were to accept the request they would send the message back to us. This happens before the third reading. It goes by way of message to the House of Assembly with a request. The House of Assembly would consider that request next week when they are back. They would then send the message back saying they either accepted the request and for us to amend the bill, or they would not. It is up to this House to determine whether we would press that request.

That is the process. I just wanted to make that clear for everybody. I will move this request for amendment and then I will speak.

Madam DEPUTY CHAIR - You will move both of them? Just the one?

Ms FORREST - It is one whole request, (X) and (Y), is that what you mean?

Mr Valentine - If this passes, do we then postpone the clause?

Ms FORREST - No, you continue on and a request is sent.

Mr Valentine - We would have to move past this clause would we not?

Ms FORREST - I will let the Deputy Chair provide that advice.

Madam DEPUTY CHAIR - The process is that if the request is agreed to by the House then the message can be sent to the other place, but the clause also needs to be agreed to.

Mr Valentine - Can we continue to deal with clauses?

Madam CHAIR - Yes.

Ms FORREST - The question would then be -

Madam DEPUTY CHAIR - The clause is agreed to subject to the request.

Ms FORREST - That is right. That would be the question that the clause be agreed to subject to request. I hope that is clear to members and members understand the process.

Madam Deputy Chair, I move -

That the House of Assembly be requested to amend Clause 155 by inserting the following subsections, after subsection (1), in the proposed new section 148:

(X) The annual licence fee payable for a gaming machine authority endorsed on a venue licence for licensed premises in any year (the 'relevant year') is -

(a) if, in the 12-month period immediately preceding the relevant year, the average gross profit for the licensed premises for that period is -

(i) less than $20,000 - $1; and

(ii) $20,000 or more but less than $40,000 - $1 plus 10% of each dollar of those average gross profits over $20,000; and

(iii) $40,000 or more but less than $60,000 - $2,001 plus 20% of each dollar of those average gross profits over $40,000; and

(iv) $60,000 or more in the 12-month period immediately preceding the relevant year - $6001 plus 30% of each dollar of those average gross profits over $60,000; and

(b) if there are no average gross profit amounts for the relevant licensed premises for the 12-month period immediately preceding the relevant year, $1,000.

(Y) For the purposes of subsection (X), the ***average gross profit*** for a licensed premises in a 12-month period before any relevant year (within the meaning of that subsection) is calculated by dividing the total gross profit during the 12-month period, that are derived from all gaming machines in the licensed premises, by the maximum number of gaming machines in the licensed premises, at any one time, during the 12-month period.

Before I speak to the rationale behind the provisions, part (b) is basically what is occurring now in the bill. If it is a new venue, for example, and there are no profits from the immediate year, pay $1000. You do not have to worry about the first one because they are not only going to pay $1 because if they are not making at least $20 000 they are out the back door. That is the break-even point.

The average gross profit is calculated in the way it is so that if a venue started off the year with - let us say 10 machines and went down to five during that year they would actually

pay less because at the point of time when they have the most their profits would be less so it is fairer that way.

Nearly a week ago, I sent members some information to support this stepped approach to taxing the player losses or the revenue, the profit from the machines in pubs. Now, I am going to read part of this, but I am also going to seek leave to have it tabled and incorporated into *Hansard*. There are a lot of figures in here. It is the only way to truly reflect what I am putting, but I know all members have copies of this and I know the Government has it as well.

I am seeking to provide more of the super profits back to the Government and thus to the community. In the information that has been provided to the members, there is a table on page 3 that shows the estimations based on the loss figures from the Commonwealth Grants Commission's information and confirmed by other information collected by the member for Mersey's committee in the fixed and variable costs. I explained that very fully in my contribution on the Floor. That is all on the record so I am not going to repeat any of that.

The table shows that in the current model, and even if these figures are slightly out in terms of what the variable or fixed costs are, they will vary the same up or down. It will not actually change the ratios or percentages of what you see here. As you can see, from some of the pubs, the high loss pubs, higher losses that is, the higher profit for the pubs with 30 EGMs, under the current model, if the losses were $100 000 - and this is where we are looking at pubs like the Elwick Hotel, Top of the Town and others in that category.

Under the current arrangement, $100 000 losses per EGM, 30 EGMs, that is $3 million. It is pretty simple to work out. Before any legislation is passed in this place, their current profits equate to $461 535. Under the proposed legislation we are dealing with, those pubs will get $967 500, which is a significant uplift. The super profits there are extraordinary. That is the top of the town, just up the road and over the hill from the Montello Primary School.

Proposed version two, which is what I am putting to you here by way of this request, would see that pub get $479 970, still significantly more than under the current arrangement. No pub is worse off under this arrangement. Some are better off than others but it is less than this bill would give them, no two ways about that and that is the intention. The intention is to claw back some of those super profits.

When you go down to the bottom of that table where you see there are lower losses - and these are some of the pubs they talked about, like in the electorate of McIntyre, in my own electorate, some of these smaller pubs have fewer machines and lower player losses. You will see that these pubs benefit under this model. There is less clawed back because they are less profitable. That is only right, that is only fair. Without my request for amendment these pubs will really struggle to make ends meet. As you can see, those red figures in the bottom of the table show that some of those pubs will not be profitable under the current model. Under my proposed version they will be profitable.

Is it fair that some of these really big pubs make an absolute killing on this, more than double what they are getting now and other little pubs get less, and potentially go under or have to get rid of their pokies and try to survive in other ways? Some might say that is a good outcome. For me, it is not because, as the member for McIntyre will know, some of these little pubs I have down on the west coast and she has on her east coast do rely on it, whether you like the impact or not. That is the cold, harsh reality.

I want to read some of this and seek leave to table the rest. By way of explanation, I have quoted a couple of the figures. This note covers a comparison of current versus proposed versus my proposal, version two. Proposed is as per the FGM proposals in the current bill. When you look at the proposed model, that is what is proposed under the bill we are looking at. Proposed version two, which is what I am proposing:

> … includes a sliding scale/stepped licence fees designed to raise revenue that otherwise would have been raised. In theory, by a properly considered tender system for EGM licences.

That was what was first considered by the Government as the model. The decision was made to do it this way that is now proposed in this bill and we end up with those super profits. Under my proposed version two, the licence fee schedule can be found at the end of this note, which I will table in a moment. In terms of calculating the gaming profits, estimates were made of the fixed and variable costs that relate to EGM gaming operations. Other than licence fees that will vary between venues and are now in both proposed and proposed version two, the other fixed and variable costs are assumed to be the same across all venues.

While this is somewhat unrealistic and leaves the model open to criticism, it does not invalidate the comparison between the current proposed and proposed version two, which is the aim of the exercise.

I will table all those figures so they can sit in amongst that. Going back to those figures I spoke about, there are a couple of pubs that fall into the first category of EGMs with $100 000, probably about eight, of which they have about $85 000 losses. These are the pubs in the Glenorchy local government area, one in the Mersey electorate and one in Pembroke. The state average or mean loss was $50 000 per EGM in 2020-21. That is going from the information that is available through the Gaming Commission.

Because of the skewed distribution of losses - I talked about this in my second reading speech - how it is not an even distribution of player losses. In favour of the better performing venues, the medium loss was approximately $40 000 per EGM.

Federal Hotels 12 Vantage Group pubs would have averaged at least $80 000 in losses for EGM, so quite profitable.

Other multivenue owners, Endeavour Group or ALH, Kalis Group, Dixon Hotel Group and Goodstone Group account for a lot of the pubs where losses per EGM will vary around the state average: around $35 000 to $60 000. Estimated 20 small venues with 300 EGM in total and these losses per EGM were less than $25 000 per annum.

As a result of the bill, the net profits from gaming were more than double, except for those with very low player losses per EGM whose situation will clearly and certainly be made worse.

All the above average pubs are very profitable under the current system. They are profitable now and producing profits far in excess of their colleagues in the food and beverage industry.

The Government here is handing out a massive big uplift for pubs in these high performing pubs competing against pubs that also want to attract customers through their food and beverage services alone and maybe some accommodation in some them, but these pubs are getting a massive uplift. We heard from the industry representatives who briefed us, that they will upgrade their facilities and things like that and are just waiting for the tick. They can still do it under my proposal, they will still get bigger profits, but what it means is they will be distributed more evenly across.

I want to refer briefly to some comments made by the industry players when they briefed us. When we had Ben Carpenter and the Beach Hotel in my electorate and Michael Best from Goodstone Group, they provided a submission about some of the matters they spoke about. In that submission when they spoke to us, they provided this document and it says:

> Interestingly, we were asked to take a short survey across a cross section of gaming venues and the following findings were present. It was noticeably clear, venues that choose to operate gaming, use gaming revenue to assist with the operation of other areas throughout their whole business.

They rely on the gaming sector to assist with the rest of their business.

> Most venues have more than one form of gaming and advise they would use the income from gaming to provide more sponsorship, support their local clubs, associations and communities along with free use of facilities and equipment.

That is fantastic that they can still do that. They can do that even better because they have more money under my proposed version.

What was very apparent in regional venues relying of gaming revenue to employ some staff and operate for longer hours over more days of the week, this provides more hours for staff in those areas and increased wages. For an operator to be able to provide better job certainty with better wages can only serve to provide confidence in the locality. That will still occur even more so, because they will be better off under my proposed version than they are now.

Gaming revenues also assist regional venues to provide better service to the community, same point.

They went a bit further on to say:

> It is also important to note many businesses that have gaming can have high debt levels whereby banks have provided borrowings to operators based on the valuation of their business incorporating the profit contribution from gaming. This means if gaming in the venue is stopped or negatively impacted, the ability of the operator to repay the debt is severely affected and would force tenders to call in the loans. This would have a significant effect on employment, taxation and community expenditure.

> Conversely if any amendment to gaming is positively impacted, valuations will increase and this will enable banks to [inaudible] finances to offer additional capital to operators to enable improvements to their venues.

Clearly very important. That is why we need to get it right in the first place, so their value will still be in their business. Their value will be greater in these businesses. Mr Carpenter will be able to spend money on his venue as he is waiting to do, as he tells us. He will have more money to do it with than he is currently expecting or be getting. This actually creates a fairer return to the community or to the Government who are acting on behalf of the community here. It means it provides a more level and even playing field for all pubs in these little communities and towns where some may have pokies and some may not. All the pubs would like to have a bit of a revenue boost to do some work in their pubs and all would value that.

This spreads that more evenly and makes it a fairer, competitive environment. It does not disadvantage any of the pubs from their current position now. It will probably help some of those smaller hotels with lower player losses. I do urge members to consider, at least giving this the opportunity to be considered by the lower House. They are the house that makes the decisions about supply, money and taxation.

I know this proposal has been brought forward to us. The original position of the Government was to provide a different approach that would have created a model similar to what I am proposing now. They went down a path that created this enormously uneven distribution that will basically flow to those four or five big players: to Federal Group, Goodstone, Kalis Group, Dixon Group and ALH. I ask you, is that what was intended? Is that what the people of Tasmania expected? Is that what they thought was happening?

They thought they were breaking the monopoly and getting rid of the Federal largesse. It does get rid of the Federal largesse in one sector, but it gives it back to them in this. It gives it to a small group of players. I encourage the other players like the Endeavour Group to come in and buy up those poor pubs to reduce their overhead costs, so they can be more profitable. I ask you to really consider asking the lower House to consider this as an alternative option.

Mr Gaffney - Before you sit down, were you going to table something now?

Ms FORREST - Thank you, member for Mersey. I seek leave to table this document and have it incorporated into *Hansard* in my speech on this amendment because it contains a number of tables and figures I cannot really read out for *Hansard* to do justice to.

Leave granted.

See Appendix 1 for incorporated document (page 104).

Mrs HISCUTT - This amendment is not supported. Licence fees have been set in a fixed and progressive manner per machine of between $1000 to $2500 in-line with the Government's policy, with larger venues paying significantly more. The fees have been set at a level that provides for a sustainable industry, recognises the cost of regulation and gives Government an ongoing revenue stream through increased licence fees, rather than a one-off licence fee payment.

Mr GAFFNEY - The Leader said between one and $2500 per machine, was that correct? Yes. Some venues are paying a lot more. Are they paying more because they have more machines or is it they are paying more because the percentage return requests from them? For example, if a venue has 30 and another one has 15, they are paying more but it has no reflection on what their revenue stream is.

Mrs HISCUTT - It is per machine. The licence fees have been set in a fixed and progressive manner per machine of between those figures I have quoted and why you get larger venues paying significantly more.

Mr GAFFNEY - A venue that does very well, might have 30 machines and might be charged at $2500 which would be $75 000 return. Another venue has 30, might still be charged $75 000, they might have a revenue return of $400 000; another one might still be charged the same but they might have revenue return of $200 000. One entity is making a lot more money if the tax rate per machine is the same, where the member for Mersey is saying that it depends on the return revenue. Therefore, that would be a more equitable way for people to make money. In that light it makes sense to request that the alternate model from this place goes back downstairs for them to consider as a better way to spread the funds and returns throughout Tasmania.

Whilst I hear what the Leader is saying, even though that is equitable to a certain extent, I still consider that the suggestion from the member for Murchison is perhaps the way we should be treating this.

Mr VALENTINE - Anything that returns more to the community without harming the businesses is a good thing. I thank the member for Murchison for the work that she has done on this. It is well demonstrated in the document that she sent around. It is a solid piece of work and I support it.

Ms WEBB - I rise to support this request for an amendment to go back to the other place and I thank the member for Murchison for the work that has gone into preparing the material that goes along with it to provide the rationale. This is precisely why it would have been quite useful for PAC to have taken a look at what is proposed in the bill, so we that could develop our understanding of what is proposed in the bill and its rationale and modelling. If we had that information from PAC when we contemplated an amendment of this kind, we would have much more full information available to us on the current bill to then make the consideration, as would the other place, if the request goes back to them. I express my disappointment on our behalf, but also on behalf of the Tasmanian people, that we did not have the opportunity to have PAC give examination and provide us with that information to inform our assessment of things like this amendment.

I find it interesting that the Government makes what really is quite a thin claim to progressivity in its licence fee structure. It is partially correct to describe the Government's licence fee structure as progressive when it is not based on income -it is based on number of machines, and has nothing to do with profitability. It is not at all what we would think of when we use the term, for example, a progressive income tax rate for people - the more you earn the higher proportion you pay. That understanding of progressive cannot be applied to the Government's model because it is not about profitability and income. It is purely about the number of machines, and is only marginally progressive. That has been confirmed through the information that the member for Murchison has provided.

In addition, members will recall that material was presented by Peter Hoult, former gaming commissioner, in our briefings, and an addendum to that was tabled during the second reading. That addendum included comments on the economic and financial aspects of this bill, prepared on advice from persons with relevant qualifications and experience. For professional reasons, those persons were prepared for Peter Hoult to put forward their advice when he came to present to us in the briefings. I am not going to dip into it in detail, but I will highlight one part of that addendum as another independent view that supports the member for Murchison's proposal. It is on page 3 of that addendum and it is the final dot point on that page, the first sentence of which reads:

> The licence fee itself and the maximum of about $77 000 a year for a maximum of 40 EGMs is an insignificant annual fee and the sliding scale of licence charges, while at a progressive rate is wholly inadequate to prevent the earning of super-normal profits.

That is some independent economic advice that was made available to us through the briefings. It identifies and supports the member for Murchison's point that we are failing in this bill - on a number of features, but certainly through the license fee structure arrangements - to adequately return the super-normal profits to the community, which would be appropriate for this product.

As rightly pointed out by the member for Murchison, that leaves the businesses themselves, the industry, with normal profits. It does not leave them with nothing, or leave them worse off. It still leaves them better off, but with normal profits - returning additional super profits to the state where we desperately need them, to be fed through into our services.

I regard this proposal and the results it would deliver to our state as doing two things. It better meets the objects of the act, in terms of the sharing appropriately aspect of those objects. This certainly proposes a more appropriate share of return to the state and the community. I believe that to some extent, it also feeds into the other two objects of the act - the licensing, compliance and supervision aspect and the protection aspect.

We know that with this industry, it is the pursuit of those super-normal profits that often pushes the industry towards non-compliance, and towards environments and practices that are less safe in terms of harm to players through gambling. If we normalise the profits that can be achieved through these products, we are also helping to reduce the inclination towards harmful practices and environments. I believe this meets the object of the act very well. It also answers that clear-as-a-bell question that is before us when we think about this bill, and what it proposes to do in its entirety; and that question is, 'is this the best deal that we can deliver to the Tasmanian people?' When you compare what is being proposed in the bill to what is possible through the request for amendments that have been put forward by the member for Murchison, it is clear that the bill does not comparatively deliver the best deal for our state. We certainly cannot answer in the affirmative for this bill on that question.

I have a couple of questions for the Government about this request for amendment from the member for Murchison, to also assist us in assessing it. In the modelling that has been presented by the member for Murchison, on page 3 of the material she provided, there is a table that shows gaming profits, after direct costs, where the current profits, the proposed profits through this bill, and those proposed through the member for Murchison's varied arrangement. I would like the Government to confirm they believe that is an accurate representation of

current, proposed and what would occur under the proposal the member for Murchison is putting forward, so we can have a clear idea if that aligns with Government's own modelling, for example.

I would like to also hear the Government's articulation of the principles that have underpinned the policy decisions to set the licence fees as they are in the bill, particularly in terms of the principles that underpin those policy decisions aligned with the objects of the bill. We can assess that approach against the approach the member for Murchison has articulated here. Those are two things I would like to hear from the Government.

Mrs HISCUTT - To ask the Government to assess this in five minutes and come back with opinions is an impossible task -

Ms Webb - I am sorry, did the Government not receive this a week-and-a-half ago, like the rest of us did?

Ms Forrest - It was given to all members at the same time. I also -

Mrs HISCUTT - They have not looked at it in that light of modelling to see -

Members interjecting.

Mr DEPUTY CHAIR - Order. Allow the Leader to respond.

Mrs HISCUTT - Venues with higher turnovers pay more tax. The licence fee -

Ms Webb - We are talking about licence fees, not taxes.

Mrs HISCUTT - It is, it is different. The licence fee accounts for the earning potential of machines, not the actual earnings, which are accounted for through taxes. Licence fees are not taxes.

Ms Webb - So we have progressive taxes?

Mrs HISCUTT - The Government has set the tax rate and does not believe that licence fees should be turned into an additional de facto tax. The Government does not support this request.

Ms RATTRAY - I thank the member for Murchison for compiling this extensive piece of work and looking at this modelling. This was exactly the reason I voted to send the bill to the Public Accounts Committee. I felt that I was not in a position to make a judgment about whether this was the right way forward. This was the reason I thought the Public Accounts Committee would be able to look at the proposed modelling and come back with an assessment. I felt the time frame that would take would be a much tighter time frame than sending the whole bill to a committee. That was my rationale behind supporting and voting the way I did.

I understand the tax formula we have before us on behalf of the Government would have been surrounded by a high amount of work and lengthy, detailed discussions and negotiations. I am very uncomfortable with having to decide here and now that this model is the best model

to move forward with. I do not believe the industry has been taken on that journey, so how do I say, and I understand -

Ms Forrest - You are sending it back to the House of Assembly. You are not deciding on it. You are asking them to look at it and do that assessment. They are the people who do it. That is their job.

Ms RATTRAY - Fair enough. We have to make a decision here and now -

Ms Forrest - We are asking them to do that work.

Ms RATTRAY - I certainly do not believe I am well equipped at this time to decide whether this is the appropriate model. I understand the process.

The member for Murchison and whoever has assisted has done an enormous amount of work on that model. Equally, the Government, the future gaming team and Treasury would have done a huge amount of work on that. This is what the industry believes it had signed up for. I found it interesting that this had not been looked at. I know most of us received this on Friday of last week. Is that right?

Ms Forrest - I think it was Friday.

Ms RATTRAY - I am somewhat surprised it has not gone across the desk of the very astute people sitting alongside the Leader. Obviously, that is a decision for the Government, the Treasury and the people here.

I will continue to listen to what other members have to say in regard to this. Speaking to the member for Murchison, I know she has the interest of smaller venues in her view. I represent them as well. Had this been put forward at an earlier time, there possibly could have been time to engage with the industry. It is perhaps unfortunate but the member for Murchison may not have been in a position to provide anything any earlier. She will make a decision.

Ms Forrest - That is because I cannot do it from this place. We have to send it to the other place to do that.

Mr DEPUTY CHAIR - Order, you have another speak.

Ms RATTRAY - That is my offering. I know from the brief conversations I have had since we received this information that there has not been a lot of time. Many of us spend quite a bit of time on the road and we have spent quite a bit of time in this place. There is not a lot of time to engage with all the people we represent who will be affected by this. For me to stand here and say, 'Well, I have had an opportunity to speak to my venue owners', I have not. I have sent this off, got a response back and it was not supportive. However, at this time, I am still listening to the debate.

Mr GAFFNEY - I appreciate the member for McIntyre's honesty in the way that she has approached this. I also, as others have mentioned, think that the PAC work would have been very helpful for us to have explored this further and to have received more information.

My concern is that I had a piece of paper that said it went from 85 per cent to 87 per cent. No real modelling with that; that was the blanket statement on the amendment bill in front of us. We had to look for that. Then the member for Murchison has come up with some modelling that she has done and the Government's model. This model has provided me with more information. I do not have to make a decision now whether I agree with this one or this one because I have not had a chance to talk to the industry about either of them really, although that has been out, so I have.

All I have to decide is whether I think this should go back downstairs and request that the lower House, which has the purview - or the Government has - to look after the tax part of it, to reconsider and have a look at those figures and take that on board. I draw comfort from the fact that I hope this House at least agrees to send it back down stairs. Let them do some work to see when they look at the models whether that is better for Tasmania. The principle of this act is to provide security for the community. The bigger venues may not get as much return for each of their machines either.

Ms Forrest - They are still better off than they are now.

Mr GAFFNEY - Yes, they would be. I am saying that we do not think that just the little venues are not doing very well and the big ones are. It is the return to the machine that is going to be important and what they get in the progressiveness of the model that we have just been presented with. This has not been debated downstairs. Therefore no-one downstairs, Liberal, Labor or the Greens have had the chance -

Ms Rattray - Or the independent.

Mr GAFFNEY - Or the independent, have had a chance to have a good look at this. This should be going back downstairs for them to reassess and then have that debate again.

I again thank the member for Murchison for doing this work. I hope all members of this place see they could have had this information if it had gone through the PAC. It could have come back to us with a report but it has not. Let us put it back downstairs and let the Government of the day and the House of Assembly do their work and really look closely at what is best for this legislation that is going to pass, we know it is going to pass but what is going to be best for Tasmania for the next 20 years?

Mr VALENTINE - I know people are concerned about the operators out there and whether they understand the importance of this. To be honest, when we had the operators before us, there seemed to be not a full understanding of what this was going to deliver anyway. What we are doing is sensible. We could be sending it back down, if it was agreed to. It gives an opportunity for that House to consider it and no doubt Treasury will cast their minds over it. It will be considered. I do not think anyone can argue that this is not a fairer model in what it delivers back to the people of Tasmania without overtly impacting on the venues out there.

Ms Forrest - We are all better off.

Mr VALENTINE - You are quite right, it is super profit. They were not 100 per cent sure anyway. This demonstrates how it could be a more even distribution. There is a lot of merit in that. Given that we were not able to go to the PAC or go to an inquiry, it is the least we can do to put this before the other place and have them consider the merits of this.

Ms WEBB - I will add a few more thoughts on this request for amendment that has been put forward. It has been interesting to listen to the contributions from other members. One thing I would point out that prompts me to be even more confirmed in my support for this request for amendment is that, while on the one hand it could be said that this is not what the industry signed up for, the reality is that nobody has signed up for anything yet.

My assertion would be that what is proposed in the bill in these financial arrangements relating to licence fees and taxation is not what the Tasmanian community signed up for either. They were given to understand that we would be 'breaking the monopoly'. I believe what the community would have expected that to mean - breaking the monopoly - is that rather than the current arrangement where super profits are going to a single licence holder, we would see a greater and appropriate return of those super profits coming to the state. That would be the benefit that the community would have identified as part of a process that was breaking the monopoly.

That is not what they have in this bill. What they have in this bill is super profits continuing to be retained by the industry and not going to a single licence holder but going to a small group of large players, primarily.

I do not think the bill presents us with a situation that the community signed up for and there should be further consideration given to how we might better deliver what I believe the Tasmanian community thought they were getting from the end of a monopoly arrangement.

I note this has come to us from the member for Murchison in recent times as this bill has come to us in recent times. We have only had the final version of the bill for not much longer than we have had this proposition from the member for Murchison.

I have engaged thoroughly with each stage of this policy from the time that it was first written by industry in 2017 and presented to the committee through to now when it is here in a bill. Members have heard me speak many times. I am not going to go into it in detail but I have made the point that this policy was never consulted on with the Tasmanian people.

The member for McIntyre said it was a shame that this was not brought forward earlier. The reality is there was no forum in which proposals such as this were invited by the Government for consideration. There was no stage of consultation earlier on this policy and details like the licence fees by which the member for Murchison, or anyone else, had been invited to bring forward proposals for consideration like this - none. It would have been fantastic to see proposals invited and then considered at an earlier stage, openly assessed, modelled, the merits of it debated and considered but that did not happen.

I know that in March 2020 when the Government consulted on the implementation framework for its policy - not the policy where they specifically said, 'do not comment on the policy' - that a number of people who made submissions to that process did mention things related to financial aspects, and proposals not dissimilar to this were put forward. They actually have been put forward in the public domain, to my knowledge, at least since March 2020. The Government has had these available -

Madam DEPUTY CHAIR - I remind the member that we need to stay focused on the request.

Ms WEBB - While it is a recent request I believe that the intent of it has been available for the Government to consider for some time. I reject any suggestion that this has been put forward too recently to consider. I am more confirmed than ever in the fact that this at least deserves to be sent as a request for consideration in the other place. We need to be doing that in order to give effect to seeking the best outcome for our communities.

Ms FORREST - I want to make some comments in relation to what has been said. I will say at the outset that I hope the Labor Party will speak on this request - not the member for Huon necessarily, even though he is still a Labor Party member. He is not espousing the Labor Party's position on these things at the moment, as we can all clearly see. If Labor Party members in this House just get up without any comment it does not give the people of Tasmania any idea of their thinking on this, whether they are willing to have another model considered. I hope we do hear from a Labor Party member.

I want to reiterate some of the comments that have been made to a degree but not to re-prosecute them. This is a request to send it to the House of Assembly for consideration. I agree with the Deputy Chair's comments, when she was speaking as the member for McIntyre, that it has not had time to be looked at in full. It was not sent to the Public Accounts Committee where it could have had a good light shone on it. That did not occur and we have to try to do it here.

I sent this information out to all members. I sent it the same day to the finance spokesperson for the Labor Party. I also offered to send it to the minister directly and sought an opportunity to discuss that with him, on the same day - actually the day before I sent it to members. I wanted to give the minister and the Opposition spokesperson an earlier heads-up. Whilst sitting in the Chair before dinner break I received a text message from the minister saying, 'sorry about the delay, have not taken up the offer, nice to get the offer, have not taken it up'. He is relying on his staff member, adviser, chief-of-staff, whatever Mr Gillies's title is, to deal with that. Mr Gillies has not reached out either to have a chat about it, disappointingly, because we could have talked about some of this.

I asked the Leader to table the modelling that the Government has done to illustrate the outcomes on the various venues, with their various player losses, to demonstrate what their profits will be. Under the proposed arrangement I have given my estimate of it, as you have seen quite clearly, based on the information publicly available and I ask the Government to do the same. I have shown you mine. You show me yours. I am happy to wait while the Leader gets that and puts it on the table for us so we can have a look and perhaps then we can compare notes. It is a bit hard to do it without that. I gave a heads up over a week ago to both parties. I will expect that before we finish this debate so we can have a proper look.

The current model the Government is proposing is not based on profitability. It is based on number of machines. It has no progressivity of any measure. It just relates to the number of machines. The more machines, you pay more. That is not progressivity. What I am proposing is progressivity. It picks up the super profits or the super normal profits the member for Nelson was referring to them as. Once you get past the break-even point, it is pure cream on top and the further above the break-even point, which I consider to be around $20 000 per machine, then it is absolute cream. There are a few getting lots and lots of cream at the top and there are some down the bottom, small pubs, in our regions that are not.

This version I am proposing to you will return some of the profits to the community while leaving none of the pubs worse off than what they are now. They will all be better off. The smaller pubs will be slightly better off than the bigger pubs, but that is fair because the bigger pubs have less overheads, they are owned by the same people, so it is clearly a much fairer system based on the gross profits. We raise revenue based on gross profit in other areas. They are doing it in other areas of the bill. There are other references to gross profits in the bill. Have a look for them. You will find them there.

At the bottom end of the EGM market, these are the venues that have lower losses and fewer EGMs, situated now in more remote locations. The table clearly reveals that. There are real risks to those venues if we proceed with the model for us. That is why I am asking you, and the Labor Party particularly, to refer this back to the Government to have a look at it, to do the modelling, to see if it is fair, to see if it works and it fits in with the objects of the bill.

We are not asking you to agree with it. Have we asked the Labor Party to agree to it? There is no way I am asking you to agree to it. I am not asking any member here to agree to it. I am asking you to agree to send it back downstairs and get the Government to have a look at it. You show me yours, I have shown you mine.

Mr Gaffney - In the model put on the table, are the examples of that used in other states and jurisdictions or similar?

Ms FORREST - There is other information I have that talks about different tax rates in states and territories. They all use different models, but there are different ones that have levels of progressivity in them. South Australia, for example, this is for state and territory electronic gaming machine taxes, the tax based on annual net gambling revenue in a financial year - the same measure basically - 0 to $75 000 - Nil; $75 001 to $399 000 is 21 per cent of excess for the profits; $399 001 to $945 000 is $68 040 plus 28.5 per cent of excess; and on it goes. There are similar models, yes.

Mr Gaffney - As you have requested, the Government should be able to provide their modelling because they should have looked at all these different examples.

Ms FORREST - Yes, you would have thought so. This was in the ACIL Allen Consulting Report of 2017, the Fourth Social and Economic and Impact Study of Gambling in Tasmania (2017), Volume 1, Industry Trends and Impacts so that is there.

The aim of what I am proposing to be considered by the Government, is to achieve a more appropriate share for the community, to give a helping hand to smaller remote venues and to remove some of the super profits from an already very profitable part of the gaming sector. They are already profitable. The evidence is there under the current arrangements. It is all there in front of you.

Much of the public discussion focuses on the breaking of Federal Hotels monopoly and attention is diverted away from the big existing super profits in the industry. If the industry is to claim extra super profits are needed to upgrade their businesses, they need to show how the super profits earned by them over the last 25 years have been spent. They have been earning certainly well above break even profits and they are also competing with the other pubs in town that do not have these machines. I am sure they would also like a hand-out from the Government to do some upgrades to their facilities and venues.

Thankfully, I have not had a trip-wire set up at the top of the road yet outside the THA offices but I might on the way home tonight. The reality is the THA represents all venues. Why are they not speaking up for these small venues likely to become unprofitable under the proposed model? Why are they not speaking for all the pubs and clubs slogging their guts out relying on food and beverage? When we go back to Mr Carpenter's statement he said here, one quote from the venue operator was:

> Without our gaming business which employs 16 people we would not be profitable.

Ms Webb - That is what I was referring to in my second reading speech.

Ms FORREST - Yes. Another bit of feedback from his survey was:

> Our venue has been able to do $4 million of renovation in the last 10 years.

Do not tell me they are not profitable under the current arrangement. They are going to get more than this under the model I am proposing. Another one:

> We purchased, renovated and built 13 new accommodation units at a cost of $5 million.

That is a nice little profit too. Another comment:

> Unfortunately, bar, bottle shop and food sales would not give us the profit to carry out all these activities.

Clearly, they are saying it is not profitable enough for them to carry out their business upgrade. What about the pub down the road, the ones that THA represent? I am sure the trip-wire is being set up now as we speak.

I want to make it clear that whilst this is newish information, I was hoping it would go to the PAC to have a look at it. It has not. That is fine. We can work through it now, but this is the way to work for it. Send it back to the Government, ask them to have a look at it. Show me your modelling. I have shown you mine. That is the only way we can have a proper debate about this.

I do not expect everyone to trust my figures based on the fact I have given them to you. I stand by them. I do not resile from them. I can verify them and back them, but I believe to be properly looked, the Government should take them back and have a look to see if this model is a much fairer and sensible model that meets every objective of the bill, sees every venue better off and hopefully, will see some of our little pubs and clubs in our region not fall over. Are they not interested in small business? I thought they were. I certainly am, in the small ones in my electorate, I know that.

I urge you not to get tied up on whether we should support this model, but send it back to the Government and let them have a look. I hope the Labor Party will support this because I am not asking them to support this, I am asking them to say yes, give it to the Government, let them have a look. You show me yours, because I have shown you mine.

Ms RATTRAY - This is a really difficult decision to make. I am listening to the member who has put forward the amendment. We are well aware of those small venues we represent. They sent their representatives to the council and said, 'This is what we have agreed on. This is what we want'. It is a really difficult position to be in, I can assure you. I got out of the chair again because I had offered a pair to someone and I always stick to my word. If I need to honour that, then I am in the right place to do so and -

Mr Valentine - I am not quite up there yet.

Ms RATTRAY - I want to take the opportunity to say that I have continued to be engaged with the industry through those small venues that I am fortunate to represent. Perhaps they do not completely understand what they have signed up to or what they are expecting to have in returns for their venues. They have been guaranteed by this Government that they will be no worse off, they will be better off. Yet the modelling that has been put forward by the member for Murchison has some minuses on the bottom of a number of those smaller venues that do not receive as much revenue from their EGMs. The fact that that is on previous information, I wonder whether they still even have EGMs?

In my contribution to the second reading speech I talked about my Westbury venue, which has four machines that do not generate any revenue. When there is a new model in place, they will be out the door. They will be back to wherever they come from. That is a decision the venue owner, who knows his venue extremely well, indicated to me that day. I am continuing to listen but I feel like I am in a very difficult position. I know other members will be feeling the same. I thought I would take the opportunity to put on the record that we do listen to the people who give us the privilege of being here.

Mrs HISCUTT - I might be able to deliver this message and then sit down and take the barrage. I thank members for their contributions but I can confirm to everybody here that the Government will not be supporting this request either in this place or the other place. You do know, of course, in the other place that there is a majority and it will not be entertained. I would just like to make it clear that it will not be supported in this place or the other place by the Government.

Ms Forrest - I asked you to table your modelling. You have not done that.

Mr DEPUTY CHAIR - The question is that the request be agreed to.

The Committee divided -

AYES 5	**NOES 8**
Ms Forrest	Ms Armitage
Mr Gaffney (Teller)	Mr Duigan
Dr Seidel	Mrs Hiscutt
Mr Valentine	Ms Howlett (Teller)
Ms Webb	Ms Lovell
	Ms Palmer
	Ms Rattray
	Mr Willie

Request negatived.

Clause 155 agreed to.

Clauses 156, 157, 158 and 159 agreed to.

Mrs HISCUTT - Madam Chair, I move that we report progress, and seek leave to sit again.

Progress reported; Committee to sit again tomorrow.

Leave granted.

ADJOURNMENT

[9.52 p.m.]

Mrs HISCUTT (Montgomery - Leader of the Government in the Legislative Council) - Mr President, I move -

> That at its rising the Council adjourn until 10 a.m. on Monday 22 November 2021.

Mr President I sent that email around yesterday.

Ms FORREST (Murchison) - Mr President, I have not seen the email. Funny that. It is really hard to keep up with emails, let alone do this work that we are doing.

I appreciate the leave and we have still got some work on this. I was under the impression that we were starting at 11 a.m. I had made other appointments in the morning but when we agreed to sit on Monday, I thought it was the usual sitting time. I am just putting it out there that working as we are in this place, with all the committee work as well as trying to deal with this legislation, briefings coming out our ears about really complex and controversial legislation coming down the line, we arrange to try to fix stakeholder meetings into different times, when the hell are we supposed to do it? Now I will sit down because I would rather do it at 11 a.m. but maybe everyone else is happy with 10 a.m.

Ms RATTRAY (McIntyre) - Mr President, I support the member for Murchison. Some of us have to come the day before to get here to start that early. I have already expressed my concern to the Leader, but at the end of the day the Leader is the Leader. I place on the record that I actually suggested 2.30 p.m. like they did in the good old days but that was not acceptable. The member for Murchison made a couple of really good points and I to support her in that but the Leader is the Leader.

Ms WEBB (Nelson) - Mr President, I support that. We are sitting four days next week. Normal sitting hours would be appropriate and given that members may have made arrangements, with that assumption in mind, I am very supportive of it. We have sat late nights for two weeks already and the next week will be very similar across four days. If that is moderated slightly by normal sitting hours I would be supportive of it.

Mrs HISCUTT (Montgomery - Leader of the Government in the Legislative Council) - Mr President, in light of the conversation and the hard work and the progress that we have made this week, I am happy to amend the motion.

I move -

> That at its rising the Council adjourn to 11.00 a.m. on Monday, 22 November 2021.

Motion agreed to.

The Council adjourned at 9.55 p.m.

Appendix 1

tabled and incorporated into Hansard
R. Forrest
18 NOV 2021

EGM TAXES AND LICENCE FEES

This note covers a comparison of current vs proposed vs proposed V2. Proposed is as per the FGM proposals in the current Bill. Proposed V2 includes a sliding scale/ stepped licence fees designed to raise revenue that otherwise would have been raised , in theory, by a properly designed tender system for EGM licences. The proposed V2 licence fee schedule can be found at the end of this note.

The comparisons are based on 2020/21 EGM player losses in pubs and clubs of $117 million. Net profits from gaming are then presented for different venues where player losses per EGM vary from $20,000 pa to $100,000 pa and the number of EGMs per venue varies from 10 to 30.

To calculate gaming profits, estimates are made of fixed and variable costs that relate to EGM gaming operations. Other than licence fees that will vary between venues and are known (both proposed and proposed V2), the other fixed and variable cost are assumed to be the same across all venues. Whilst this is somewhat unrealistic and leaves the models open to criticism, it does not invalidate the comparison between current, proposed and proposed V2, which is the aim of the exercise. Further comment on this point is made later in this note.

CURRENT ARRANGEMENTS ($Million)			
Venue share (commission)		$35.1	million
Less: Fixed costs	$10.4		
Variable costs	$11.7		
License fees	$0.3		
		$22.3	million
Gaming profits after direct costs		$12.8	million
Share to government			
Gaming taxes	$30.3		
CSL	$4.7		
Licence fees	$0.3		
Total share to government		$35.2	million

The FGM proposals with licences at the pub level will result in the following, based on 20/21 EGM player losses.

PROPOSED ARRANGEMENTS ($Million)			
Venue share (total losses)		$117.0	million
Less: GST	$10.6		
Gaming taxes & CSL	$45.5		
		$56.2	million
Venue revenue after tax		$60.8	million

Less: Fixed costs	$18.4		
Variable costs	$11.7		
Licence fees	$3.7		
		$33.8	million
Gaming profits after direct costs		$27.0	million
Share to government			
Gaming taxes & CSL	$45.5		
License fees	$3.7		
Total share to government		$49.2	million
NB An increase of gaming profits of		**$14.3**	**million**
An increase in government revenue of		**$14.0**	**million**
(to be offset against fall in revenue from casino EGMs)			

The increase in gaming profits will be $14.3 million. The increase in government revenue from pubs will largely disappear if the reduction in tax rates that is proposed for casino EGMs is approved.

With a system of stepped rates to apply to licence fees based on prior year's turnover rather than on the number of EGMs, the following will occur:

PROPOSED V2 ARRANGEMENTS			
($Million)			
Venue share (total losses)		$117.0	million
Less: GST	$10.6		
Gaming taxes & CSL	$45.5		
		$56.2	million
Venue revenue after tax		$60.8	million
Less: Fixed costs	$18.4		
Variable costs	$11.7		
Licence fees	$11.7		
		$41.8	million
Gaming profits after direct costs		$19.0	million
Share to government			
Gaming taxes & CSL	$45.5		
License fees	$11.7		
Total share to government		$57.2	million
NB An increase of gaming profits compared to current situation		**$6.3**	**million**
Extra licence fees raised		**$8.0**	**Million**

There are minor differences in the tax and CSL that applies to clubs. This hasn't been factored into the above calculations The six clubs are treated as pubs. The effects are negligible.

The proposed V2 changes will raise higher licence fees mainly from the pubs with higher losses. All pubs in the following examples will be better off than under the current system. Some pubs with a lower level of losses per EGM and fewer EGMs will even be better off than under the FGM proposals.

Losses per EGM $	No EGMs	Total venue losses $	Gaming profits after direct costs $		
			Current	Proposed	Proposed V2
$100,000	30	$3,000,000	$461,535	$967,500	$479,970
$85,000	30	$2,550,000	$371,535	$778,500	$425,970
$75,000	30	$2,250,000	$311,535	$652,500	$389,970
$65,000	30	$1,950,000	$251,535	$526,500	$353,970
$55,000	30	$1,650,000	$191,535	$400,500	$302,970
$50,000	30	$1,500,000	$161,535	$337,500	$269,970
$45,000	30	$1,350,000	$131,535	$274,500	$236,970
$35,000	30	$1,050,000	$71,535	$148,500	$140,970
$35,000	20	$700,000	$47,690	$99,000	$103,980
$30,000	30	$900,000	$41,535	$85,500	$107,970
$30,000	20	$600,000	$27,690	$63,000	$71,980
$25,000	20	$500,000	$7,690	$21,000	$39,980
$25,000	10	$250,000	$3,845	$13,500	$19,990
$20,000	20	$400,000	-$12,310	-$21,000	$7,980
$20,000	10	$200,000	-$6,155	-$7,500	$3,990

There's a couple of pubs that fall into the first category with EGM losses of $100,000, probably about eight or so which have $85,000 of losses (the pubs in the Glenorchy LGA, one in the Mersey electoral division, one in Pembroke). The State average (mean) loss was $50,000 per EGM in 2020/21. Because of the skewed distribution of losses in favour of the better performing venues, the median loss was approximately $40,000 per EGM. Federal Hotels' twelve Vantage Group pubs would have averaged at least $80,000 in losses per EGM. Other multi venue owners (Endeavour Group (ALH), Kalis Group, Dixon Hotel Group, Goodstone Group) account for a lot of the pubs where losses per EGM will vary around the State average, from $35,000 to $65,000. There are an estimated 20 small venues with 300 EGM in total where losses per EGM are less than $25,000 pa.

As a result of the Bill, net profits from gaming will more than double except for those with very low player losses per EGM whose situation will almost certainly worsen. All above average pubs are very profitable under the current system, producing profits far in excess of their colleagues in the food and beverage industry. Proposal V2 will return some of the profits to the community whilst leaving none worse off than the current system. At the bottom end of the EGM market, venues have lower EGM losses and fewer EGMs and are situated in more remote locations. The table reveals that with losses of $20,000 per EGM, venues make gaming losses under the current system. This will worsen under the Bill proposals. Proposal V2 will assist these venues with lower licence fees rather than forcing them out of business. Those with EGM losses of up to $35,000 will be better off.

On the matter of costs, as indicated above, the same level of variable costs as a % of player losses was assumed for all pubs. It is likely the pubs with higher player losses have a lower level of variable costs and to that extent gaming profits for larger venues are understated and profits for smaller venues overstated. But this does not invalidate the comparisons which are the aim of the exercise.

In the case of venues' fixed costs which include core monitoring, regulated fee functions, market-based functions and machine finance costs it is certain that these costs will be lower per EGM for larger venues particularly those with common ownership. For the Vantage Group the advantages are even more manifest. Network Gaming and Odyssey Gaming are stablemates in the Federal Group. From an internal group management viewpoint, the costs of many of these functions will be the marginal cost to provide the services by these associated companies already established to perform the necessary tasks. This means the costs faced by the Vantage Group will be considerably less than those faced by other operators, even those with multiple venues, and certainly much less than the smaller single owner operations. Hence by assuming a similar level of fixed costs across all venues, the gaming profits in the above table are likely to be understated for larger venues, particularly those in multiple ownership, and possibly overstated for the smaller venues.

Again, however this does not invalidate the comparisons. The comparable differences for any venue won't change if costs vary.

The aim of Proposal V2 is to achieve a more appropriate share for the community, to give a helping hand to the smaller more remote venues, and to remove some of the super profits from an already very profitable part of the gaming sector. Much of the public discussion focuses on the breaking of Federal Hotels' monopoly and attention is diverted away from existing super profits in the industry. If industry is to claim extra super profits are needed to upgrade their businesses, they need to show how the super profits earned by them over the past 25 years have been spent. Even if this can be provided it begs the questions as to why EGM pubs should receive further preferential treatment compared to everyone else in the hospitality sector. To allow a proliferation of super profits in one sector of the hospitality industry will lead to aggregators moving into the gaming industry chasing higher returns, where the super profits will be used to repay loans and make returns to owners rather than spent in communities, and where gaming will become the predominant focus for venues, rather than as another offering in the leisure and hospitality industry complementing food and beverage operations.

Note on data sources

EGM player loss figures for each licensed EGM venue for 2015/16 were obtained from Treasury in Feb 2018 and posted on Andrew Wilkie's website Full-poker-machine-figures.xlsx (live.com)

The TLGC publishes data for overall player losses each year and provides a breakup across LGA areas with more than 2 EGM venues. The pattern of losses is fairly consistent each year. In 15/16 losses in the Glenorchy LGA represented 18.8 % of the State total. Five years later in 20/21 the figure was 18.3%. The pattern is similar for other LGAs, Burnie 6.4% in 15/16 and 6.1% in 20/21, Central Coast 6.2% and 6.4%, Clarence 8.0% and 8.6%, Devonport 9.8% and 9.9%, Launceston 15.1% and 15.7% and Waratah Wynyard 5.0% and 4.9%.

There have only been a few minor changes in venues and EGM numbers since 15/16. Two pubs and one club have gone. The latter was the Glenorchy RSL which the list from Treasury shows had losses of $19,700 per EGM, which as the above table of gaming profits indicates, was below breakeven. One pub has been added, there have been a couple of minor changes in EGM numbers, and a couple of new entrants in 15/16 have improved their rankings.

Proposal V2 in detail

The proposed V2 license fee per EGM is based on the venue's gross profit from EGMs divided by the number of EGMs in that venue at the beginning of the license year.

Gross profit per EGM	Base fee $	Plus marginal fee $
Up to $20,000	$1	not applicable
From $20,001 to $40,000	$1	10% of gross profits> $20,000
From $40,001 to $60,000	$2,001	20% of gross profits> $40,000
Above $60,000	$6,001	30% of gross profits> $60,000

Applying this produces licence fees per EGM:

Gross profit per EGM	Fee per EGM
$20,000	$1
$30,000	$1,001
$40,000	$2,001
$50,000	$4,001
$60,000	$6,001
$70,000	$9,001
$80,000	$12,001
$90,000	$15,001
$100,000	$18,001

Updated 14th Nov 2021