

**Draft Amendments to the *Gaming Machines Act 1992***  
**Consultation Paper**

September 2008



**Government of South Australia**

Department of Treasury  
and Finance

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## Glossary

2004 Amendments	Amendments to the <i>Gaming Machines Act 1992</i> made by the <i>Gaming Machines (Miscellaneous) Amendment Act 2004</i>
2004 Amendments Inquiry	<i>2004 Amendments Inquiry Report</i> by the IGA and provided to the Minister for Gambling on 12 September 2007.
Act	<i>Gaming Machines Act 1992</i>
Bill	The draft <i>Gaming Machines (Miscellaneous) Bill 2008</i> attached to this consultation paper
Commissioner	Liquor and Gambling Commissioner
Club One	Holder of the special club licence pursuant to section 24A of the <i>Gaming Machines Act 2004</i>
DTF	Department of Treasury and Finance
IGA	Independent Gambling Authority
Minister	Minister for Gambling
OLGC	Office of the Liquor and Gambling Commissioner
OPG	Office for Problem Gambling
Review 2006	<i>Review 2006 – Regulatory Functions Final Report</i> by the IGA and provided to the Minister for Gambling on 17 May 2007
RGWP	Responsible Gambling Working Party
SPB	State Procurement Board

## **1 Introduction and Background**

### **1.1 Introduction**

The *Gaming Machines Act 1992* regulates the supply and operation of gaming machines in South Australian club and hotel venues.

The purpose of this consultation paper is to:

- describe the South Australian Government's policy initiatives that underlie the draft amendments to the *Gaming Machines Act 1992*; and
- seek comment from interested parties on the practical implementation of the policy initiatives and the draft Bill.

### **1.2 Background**

The draft *Gaming Machines (Miscellaneous) Amendment Bill 2008* is provided as an attachment to this consultation paper. It represents the South Australian Government's response to:

- recommendations contained in the Independent Gambling Authority (IGA's) Final Report of its *Review 2006* released on 17 May 2007; and
- recommendations contained in the IGA's Final Report of its *2004 Amendments Inquiry* released on 28 September 2007.

The draft *Gaming Machines (Miscellaneous) Amendment Bill 2008* also incorporates a series of amendments identified by the Department of Treasury and Finance, in consultation with the Office of the Liquor and Gambling Commissioner (OLGC), the Office for Problem Gambling (OPG) and the Independent Gambling Authority (IGA) that focus on reducing the cost and risk associated with regulation.

#### **1.2.1 Review 2006**

The first IGA inquiry was *Review 2006* which commenced in January 2006. The IGA reviewed the advertising and responsible gambling codes of practice, game approval guidelines, and gaming machine licensing guidelines.

There was an extensive consultation process for *Review 2006*, which included written submissions, public hearings in May 2006, further stakeholder consultation in September 2006 and a supplementary hearing in November 2006.

The final report of *Review 2006* was presented to the Minister for Gambling on 17 May 2007. The amendments to the codes of practice, prepared by the IGA, were released in August 2008. The full report and proposed codes of practice are available from the IGA's website: <http://www.iga.sa.gov.au>

*Review 2006* made recommendations for legislative change in relation to operating hours.

#### **1.2.2 2004 Amendments Inquiry**

The second IGA inquiry was the *2004 Amendments Inquiry* commenced in August 2006. As required by the Act, the IGA examined effects of the amendments assented to on 9 December 2004 on gambling in the State of South Australia and in particular, on whether those amendments have been effective in reducing the incidence of problem gambling and the extent of any such reduction.

There was an extensive consultation process for the *2004 Amendments Inquiry*, which included written submissions and a public hearing on 21 November 2006.

The final report of *2004 Amendments Inquiry* was released by the Minister for Gambling on 28 September 2007. A copy of the full report is available from the IGA's website: <http://www.iga.sa.gov.au>

The *2004 Amendments Inquiry* made a series of recommendations for legislative change. On 28 September 2007 the South Australian Government made its response to the *2004 Amendments Inquiry* and agreed to implement the following legislative amendments:

- accelerating the reduction in the number of gaming machine entitlements through the removal of the fixed price;
- strengthening compliance and enforcement; and
- strengthening the social effects test.

### 1.3 Policy Initiatives

The policy initiatives proposed to be implemented by the draft Bill are:

- **Better Responsible Gambling Environments**
  - Accelerating gaming machine entitlement reduction through the removal of the fixed price and a new approved trading system.
  - Strengthening the social effect test for new venues through new powers for the IGA.
  - Extra responsibilities for late trading venues and changes to closing hours.
  - Prohibiting the location of gaming machines in smoking areas.
  - Extending responsible gambling provisions to airport gaming.
  - Strengthening the compliance and enforcement provisions.
  - Formalising recognition of industry responsible gambling agencies.
- **Reducing Costs and Risks Associated with Regulation**
  - A social effect certificate to address the social effect before costly development and other licensing applications.
  - A conciliation process to handle contested applications.
  - Reforming the regulation of finance arrangements.
  - Proposed premises certificates to provide regulatory certainty during the construction phase where gaming machine licence applicants meet all of the requirements
  - Facilitating club sector reform through clarifying that the transfer of gaming machine entitlements between clubs or Club One and a club can be for a limited period or absolute.
  - Eliminating unnecessary regulation of commissioning gaming machines.
  - Eliminating the State Procurement Board's role from new gaming machine procurement arrangements that regulate for probity and integrity.
- **Technical Improvements to the Act.**

The remainder of this consultation paper will discuss each policy initiative in turn. The discussion will be structured as follows:

- **Description** – describes the initiative in more detail.
- **Background** – provides the background to the initiative.
- **Implementation** – describes how the initiative is implemented in the draft Bill.

#### 1.4 Next Steps

The proposed next steps are:

- a six week consultation period;
- drafting of any necessary changes to the Bill based on consultation;
- introduction of amendments Bill and debate in Parliament; and
- commencement of operation of amended Act.

Submissions that address the practical implementation of the policy initiatives in this paper should be sent by email or post by no later than **Friday 31 October 2008** to:

- e-mail: [gamblingpolicy@saugov.sa.gov.au](mailto:gamblingpolicy@saugov.sa.gov.au)
- post: Gambling Policy  
Department of Treasury and Finance  
GPO Box 1045  
Adelaide SA 5001

Submissions should:

- include contact details of the person making the submission;
- identify which policy initiatives are being addressed in the submission; and
- for each policy initiative being addressed:
  - identify the impact of implementation of the policy initiative as contained in the draft Bill;
  - provide suggestions on how the draft Bill could be improved so that the policy initiative can be achieved; and
  - provide comment on the timing for commencement of the policy initiatives.

It should be noted that submissions may be placed on the Department of Treasury and Finance website and/or quoted in subsequent policy and/or consultation papers.

Additional copies of the consultation paper can be downloaded from:

<http://www.treasury.sa.gov.au/gamblingpolicy>

## 2 Accelerating Gaming Machine Entitlements Reduction

### 2.1 Description

It is proposed that the Act be amended to remove the fixed price of \$50,000 on gaming machine entitlements traded through the approved trading system, set in section 27B(2)(a) of the Act. Further, it is proposed to exempt trades through the approved trading system from Stamp Duty.

### 2.2 Background

The South Australian Government accepted the recommendation contained in the IGA's 2003 *Inquiry into the Management of Gaming Machine Numbers* that there be a 20% (3,000) reduction in the number of gaming machines operating in South Australia.

The 2004 Amendments established the concept of gaming machine entitlements and created 12,950 gaming machine entitlements on 1 February 2005. This achieved the first reduction of 2,168 gaming machine entitlements or 72% of the 3,000 reduction target recommended by the IGA.

The remaining 832 gaming machine entitlements were to be removed through forfeiture requirements of the approved trading system with a fixed price of \$50,000. One out of every four hotel gaming machine entitlements traded through the approved trading system would be forfeited. After three trading rounds, only a further 50 entitlements were forfeited leaving a further 782 gaming entitlements to be forfeited before the 3,000 target is achieved.

The low rate of forfeiture arises because at a fixed price of \$50,000 there is little interest by venues to sell gaming machine entitlements.

The proposed amendment is consistent with the IGA's recommendation in its *2004 Amendments Inquiry* for the removal of the fixed purchase price of \$50,000 per gaming machine entitlement and the implementation of a market trading model. The exemption from Stamp Duty will provide some additional assistance to accelerating the reduction of gaming machine entitlements.

### 2.3 Implementation

Clause 22(3) of the draft Bill removes the fixed price of \$50,000.

The detail of the approved trading system is contained in regulations. New regulations will be required to implement an approved trading system with a variable price.

At this stage, new regulations have not been drafted. If the amendment is passed, it is proposed that the new regulations would let:

- buyers indicate how many entitlements they wish to buy and the maximum price they are willing to pay; and
- sellers indicate how many entitlements they wish to sell and the minimum sale price they are willing to receive.

This would provide buyers and sellers with greater certainty in relation to the approved trading system outcome. If the amendment is passed, the new regulations will be the subject of a six week public consultation.

Clause 22(4) of the draft Bill exempts specific transfers of gaming machine entitlements from stamp duty.

### **3 Strengthening the Social Effect Test for New Venues**

#### **3.1 Description**

It is proposed that the IGA be given new powers to prescribe:

- an inquiry process that must precede an application for a social effect certificate (for more details about the certificate see part 9 of this paper). This will be an obligation that must be met by applicants for a social effect certificate; and
- principles for assessing the social effect of the grant of a gaming machine licence. The principles must be applied by the Commissioner when assessing an application for a social effect certificate.

It is proposed that the principles and process be disallowable by Parliament and subject to review at least every 5 years.

#### **3.2 Background**

The 2004 Amendments introduced the social effect test for the granting of gaming machine licences.

The proposed amendments are consistent with the IGA's recommendation in its *2004 Amendments Inquiry* for the elimination of any technical impediments to the Commissioner being required to follow the social effect assessment process determined by the IGA.

#### **3.3 Implementation**

Clause 10 of the draft Bill establishes the power for the IGA to prescribe an inquiry process and principles for assessing the social effect of the granting of a gaming machine licence.

Clause 14 of the draft Bill requires that the Commissioner must apply the principles approved by the IGA for assessing the social effect of the granting a gaming machine licence.

Clause 16 of the draft Bill requires the applicant to complete the inquiry process prescribed by the IGA before making an application for a social effect certificate.



## 4 Extra Responsibilities for Late Trading Venues and Changes to Closing Hours

### 4.1 Description

It is proposed to amend the Act so that club and hotel gaming venues that have **not** entered into a responsible gambling agreement with a responsible gambling agency (see section 8 for more detail) must **not** conduct gaming operations:

- before 10am on Monday to Friday; and
- between 2am and 10am on Saturday and Sunday.

It is proposed that club and hotel gaming venues that have entered into a responsible gambling agreement, in a form prescribed by the IGA, with a responsible gambling agency, recognised by the IGA, will be subject to closing requirements currently set in the Act. Further, it is proposed if such a gaming venue operates between 2am and 8am then the gaming venue must ensure:

- that a gaming machine manager or gaming machine employee who has completed advanced problem gambling intervention training is at the venue;
- arrangements are in place under which the gaming machine manager or gaming machine employee may immediately refer a person identified as engaging in problem gambling to a service to address the problem; and
- no machine designed to change notes into coins is operating on the licensed premises between 2am and 8am.

### 4.2 Background

The proposed closing requirements were recommended by the IGA in its *Review 2006*.

*Review 2006* outlined its approach in relation to responsible gambling agencies established by the industry, such as Gaming Care and Club Safe. The IGA considered the strengthening of these agencies as a very positive approach by the club and hotel sector. In recognition of the expected positive outcomes, the IGA outlined a range of measures that it considered were not necessary for venues that entered into an agreement with a responsible gambling agency. Closing hours was one of those measures.

The additional responsibilities for late trading club and hotel gaming venues aim to ensure that customers during “off-peak” late trading hours have access to early intervention and other support measures for problem gambling that are at least as good as those available during other operating times.

Advanced problem gambling intervention training is expected to be based on the report *Identifying Problem Gamblers in Gambling Venues* funded by Gambling Research Australia. The Second Progress Report of the Responsible Gambling Working Party (RGWP) reported that the Australian Hotels Association SA Branch was funding work by Dr Paul Delfabbro to develop a training program based on that report. The other measures are complementary to this training.

### 4.3 Implementation

Clause 10 of the draft Bill establishes the power for the IGA to prescribe the form of a responsible gambling agreement, to recognise a responsible gambling agency, and to recognise a course of training as advanced problem gambling intervention training.

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Clause 20 of the draft Bill establishes the new closing requirements for club and hotel venues with or without a prescribed form of responsible gambling agreement with a responsible gambling agency.

Clause 52 of the draft Bill sets out the additional responsibilities for a club and hotel venues that operate late.

## **5 Prohibiting the Location of Gaming Machines in Smoking Areas**

### **5.1 Description**

It is proposed that the Act be amended so that the Commissioner can only approve a gaming machine licence if the proposed gaming area is within a place or area that is defined as enclosed by the *Tobacco Products Regulation Act 1997*. Smoking in enclosed areas is prohibited.

### **5.2 Background**

On 1 November 2007 the 100% smoking ban in all enclosed areas at club and hotel venues commenced.

It is the South Australian Government's policy position that no smoking be allowed in gaming areas.

### **5.3 Implementation**

Clause 13 of the draft Bill adds an eligibility criterion for the grant of a gaming machine licence that the gaming area is within a place or area that is enclosed as defined by the *Tobacco Products Regulation Act 1997*.

## **6 Extending Responsible Gambling Provisions to Airport Gaming**

### **6.1 Description**

It is proposed to amend the Act to establish a mechanism that will allow South Australian responsible gambling measures to be extended to two gaming machine venues operating on airport land controlled by the Australian Government.

### **6.2 Background**

The Commonwealth *Airports (Control of On-Airport Activities) Regulations 1997*, made under the *Airports Act 1996*, generally prohibits gambling activities on airport land. Two gaming machine venues in South Australia continue to have the right to conduct gaming operations on airport land.

Regulations 138(2) and 139F require a person authorised to conduct gaming operations on airport land to comply with any law of a State or Territory that applies to gambling activity, except licensing laws or laws that are inconsistent with the Regulations.

Currently, the responsible gambling provisions of the *Gaming Machines Act 1992* attach to a gaming machine licence. As a result, those provisions do not currently apply to the two gaming machine venues operating on airport land because they are not required to be licensed.

### **6.3 Implementation**

Clause 5 of the draft Bill establishes the mechanism for the application of responsible gambling provisions of the *Gaming Machines Act 1992* to the two gaming machine venues operating on airport land controlled by the Australian Government.

If passed, a regulation would need to be prepared to identify which sections of the Act would apply to airport gaming venues. This would be the subject of consultation with the venues affected and the Australian Government.

Part 1 of Schedule 1 amends the *Independent Gambling Authority Act 1995* to extend voluntary barring provisions to gaming venues operating on airport land.

## 7 Strengthening the Compliance and Enforcement Provisions

### 7.1 Description

It is proposed to amend the Act to strengthen compliance and enforcement through the establishment of a mechanism for civil penalties and provision of additional powers to authorised officers.

Civil penalties will be calculated and collected on a yearly basis and can take account of:

- the nature and number of contravention notices issued by authorised officers during the year;
- the licensee's history of compliance; and
- whether the licensee has undertaken corrective activity recommended and certified by a responsible gambling agency.

The maximum penalty that could be applied for a breach by a contravention penalty is set at \$15,000 which is the same as the maximum fine that can be applied by the Commissioner through disciplinary action. It is less than the maximum penalty of \$35,000 or 2 years imprisonment available if a breach of licence conditions is prosecuted under section 46 of the Act.

The details of how the civil penalties would be calculated will be set out in regulations.

Authorised officers will be given new powers to:

- issue contravention notices; and
- require the production of documents for inspection at a specified place and time.

Protections similar to those found in relation to the expiation of offences are also present in the proposed arrangements for civil penalties.

### 7.2 Background

The *Gaming Machines Act 1992* provides penalties for breaches of the Act through Disciplinary Action under Part 3 Division 7 of the Act, or prosecution for an offence under Division 5 of the Act.

The Commissioner can only take disciplinary action under Part 3 Division 7 after a lengthy inquiry process set out in section 36A of the Act. Equally, prosecution for an offence under Division 5 of the Act can involve a lengthy and costly court case.

The Government is concerned that these processes act as a disincentive for addressing less serious offences. These less serious offences should be addressed to ensure that the standard of responsible gambling environments in South Australia are maintained and improved.

### 7.3 Implementation

Clause 26 of the draft Bill implements the arrangements for civil penalties.

At this stage, new regulations that set out civil penalties have not been drafted. If the amendment is passed, it is proposed that the new regulations would set out the formula for calculating the civil penalty based on:

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- the nature and number of contravention notices issued by authorised officers during the year;
- the licensee's history of compliance; and
- whether the licensee has undertaken corrective activity recommended and certified by a responsible gambling agency.

These regulations will provide licensees with clarity in relation to the application of civil penalties. If the amendment is passed, the new regulations will be the subject of a six-week public consultation and, like all regulations, will be subject to scrutiny by Parliament and potential disallowance.

## **8 Formalising Recognition of Industry Responsible Gambling Agencies**

### **8.1 Description**

It is proposed to amend the Act to create provisions that formally recognise industry responsible gambling agencies and the form of responsible gambling agreement between an agency and licensees.

It is proposed that the IGA be responsible for:

- recognising responsible gambling agencies; and
- prescribing the form of responsible gambling agreements. It is expected that this would be after a period of consultation and negotiation with the responsible gambling agency.

Further, it is proposed to subject the form of responsible gambling agreement to Parliamentary scrutiny by making it disallowable by Parliament and establish a review process for the recognition of responsible gambling agencies.

### **8.2 Background**

*Review 2006* outlined its approach in relation to responsible gambling agencies established by the industry, such as Gaming Care and Club Safe. The IGA considered the strengthening of these agencies as a very positive approach by the club and hotel sector. In recognition of the expected positive outcomes, the IGA outlined a range of measures that it considered were not necessary for venues that entered into an agreement with a responsible gambling agency.

### **8.3 Implementation**

Clause 10 of the draft Bill establishes the power for the IGA to prescribe the form of a responsible gambling agreement and to recognise a responsible gambling agency.

## 9 Social Effect Certificate

### 9.1 Description

It is proposed to amend the Act to bring forward the assessment of the social effect of a proposed gaming venue so that it can occur before costs associated with development and liquor licensing approval applications have been incurred.

### 9.2 Background

Currently, before a person can apply for a gaming machine licence for a new venue to be considered by the Commissioner (which includes consideration of the social effect), the applicant must have received:

- development approval from the relevant planning agency; and
- a liquor licence from the Commissioner.

Getting to the point of applying for a gaming machine licence involves the cost of preparing detailed site plans and the other applications. It is clear, however, that often the most significant concern of the community of a proposed gaming venue is its social effect. The social effect can be assessed without the preparation of detailed plans.

The proposed amendments allow a person to apply for a social effect certificate in relation to a gaming venue on a specific site without first having received development approval or a liquor licence so that the social effect test can be applied by the Commissioner. If a certificate is granted it will remain current for 18 months.

The proposed amendment will allow:

- applicants to better manage the cost and regulatory risk associated with making an application for a gaming machine licence; and
- community respondents to address the issue of the social effect of a proposed gaming machine venue at the beginning of the approval process.

### 9.3 Implementation

Clause 14 of the draft Bill provides for the social effect certificate.

Consequential amendments are made by the following clauses:

- 7;
- 10;
- 11;
- 13;
- 16;
- 23;
- 25; and
- Schedule 1 transition provisions.



## **10 A Conciliation Process to Handle Contested Applications**

### **10.1 Description**

It is proposed to amend the Act to allow the Commissioner to resolve contested applications through a process of conciliation.

### **10.2 Background**

The *Liquor Licensing Act 1997* has a similar conciliation provision that has been successful in lowering the cost to applicants and objectors. Under the *Liquor Licensing Act 1997*, for some applications that are contested the Commissioner must make reasonable attempts to achieve agreement between the parties by conciliation.

Generally, at a conciliation conference parties to the contested application would be given an opportunity to voice their concerns before the Commissioner. The Commissioner would encourage parties to find common ground and would suggest ways to resolve the matter, for example, a modification to the application or the addition of conditions to the licence. If conciliation is not achieved, the application will proceed to a contested hearing.

### **10.3 Implementation**

Clause 6 of the draft Bill inserts the conciliation process.

## **11 Reforming the Regulation of Finance Arrangements**

### **11.1 Description**

It is proposed to amend the Act to clarify that gaming machine entitlements and gaming machines can be used as collateral in finance arrangements by holders of gaming machine licences. It should be noted that existing prohibitions, e.g. offences relating to profit sharing, remain.

It is proposed to amend the Act to provide a way for financial service providers who acquire gaming machines or gaming machine entitlements as a result of financial service agreements with holders of gaming machine licences, to sell those assets. It should be noted that while a financial service provider may have the right to possess gaming machine entitlements or gaming machines, under the proposed provisions, the financial service provider will not be able to operate gaming machines.

### **11.2 Background**

There are currently in place two exemptions issued in 2000 and 2005 under Gaming Machine Regulations that provide exemptions in relation to finance arrangements. While they provide exemptions over possession they are less clear about what the financial service provider can do with the gaming machines and entitlements once they are in their possession.

Copies of the current exemptions are available from

<http://www.treasury.sa.gov.au/gamblingpolicy>

### **11.3 Implementation**

Clause 47 of the draft Bill implements measures relating to finance arrangements.

## 12 Proposed Premises Certificates

### 12.1 Description

It is proposed to amend the Act to allow the Commissioner to grant a proposed premises certificate to a person that meets the requirements for a gaming machine licence except for the fact that the premises is not yet complete. A proposed premises certificate, provided the person has complied with its conditions, can be converted to a full gaming machine licence once the premises is complete.

### 12.2 Background

Section 59 of the *Liquor Licensing Act 1997* has a similar provision. These provisions reduce the risk to successful applicants for liquor and gaming machine licences who have not yet completed construction of the proposed premises. It also provides greater certainty to financiers, potentially lowering the cost of finance.

### 12.3 Implementation

Clause 14 of the draft Bill provides for the proposed premises certificate.

Consequential amendments are made by the following clauses:

- 7;
- 11;
- 13;
- 16; and
- 23.

## **13 Facilitating Club Sector Reform**

### **13.1 Description**

It is proposed to amend the Act to provide clarity that a transfer of a gaming machine entitlement from a club to another club or Club One can either be absolute (i.e. the transfer arrangements do not provide for the entitlement to be returned to the original club) or for a limited period (i.e. the transfer arrangements provide for the return of the entitlement to the original club after a specified period of time or a specified event).

### **13.2 Background**

The *2004 Amendment* contained a number of provisions to facilitate the strengthening of the club sector through a process of reform and merger. This included the establishment of Club One and section 27B(1)(b) and 27B(1)(c) that allows a not-for-profit association to transfer gaming machine entitlements either to Club One or to another not-for-profit association.

A number of not-for-profit associations were concerned that the section 27B(1)(b) and 27B(1)(c) did not allow for the gaming machine entitlements to revert to the original club if the objectives of the transfer were not achieved. The Commissioner sought advice from the Crown Solicitor's Office on the matter. While the advice concluded that a reversion provision in the transfer arrangement is possible, it also advised that it would be preferable to specifically provide for reversion in the Act.

### **13.3 Implementation**

Clause 22 of the draft Bill provides for the possibility of a transfer of a gaming machine entitlement under section 27B(1)(b) or 27B(1)(c) being for a limited period (i.e. a specified period of time or a specified event).

## **14 Eliminating Unnecessary Regulation of Commissioning Gaming Machines.**

### **14.1 Description**

It is proposed to amend the Act to eliminate the requirement for a Government inspector to seal each gaming machine at installation and to instead allow the gaming machine technician, who is already present for installation, to seal the gaming machine.

### **14.2 Background**

The Act requires a Government inspector to inspect and seal each gaming machine before commencing gaming operations pursuant to the licence and it is currently an offence for any person other than an authorised officer to seal a gaming machine. This results in resources of the Office of the Liquor and Gambling Commissioner (OLGC) being directed away from compliance and enforcement functions and directed towards a function where there is little demonstrable benefit.

As part of a risk based compliance and enforcement the appropriate sealing and installation of gaming machines and other equipment will continue to be the subject of the OLGC's inspection program.

### **14.3 Implementation**

Clause 40 of the draft Bill amends the offences relating to the sealing of gaming equipment and gaming machines to allow an approved gaming machine technician to seal a gaming machine.

Clause 52 of the draft Bill amends the obligation for licensees to have gaming machines sealed to allow an approved gaming machine technical to seal a gaming machine.

## 15 Eliminating the State Procurement Board's Role from New Gaming Machine Procurement Arrangements

### 15.1 Description

It is proposed to amend the Act to establish new arrangements for the procurement of gaming machines by gaming machine licensees directly from gaming machine dealers. This will eliminate the role currently assigned by the Act to the State Procurement Board.

To ensure on-going integrity of gaming machines the form of supply arrangements are subject to approval by the Commissioner who must refuse to approve the form of supply arrangements that:

- are harsh and unconscionable;
- provide for a payment by reference to the proceeds or profits of the business of a licensee; or
- provide for an inducement to enter the contract other than a discount based on the number of machines, components or items of equipment to be supplied; or
- may otherwise jeopardise the proper conduct of gaming operations.

Further there are a number of offences relevant to the supply of gaming machines:

- new offence for selling gaming machines, components or equipment without an approved contract;
- new offence for offering or providing inducements to purchase gaming machines, components or equipment; and
- extending existing prohibitions on links between dealers and other licensees to include associates with profit sharing arrangements.

### 15.2 Background

The South Australian *Review of Gambling Legislation Under National Competition Policy* completed in 2003 recommended the role of the State Procurement Board as the single gaming machine supplier and service licensee should be removed and a more competitive market structure should be developed.

This recommendation was not accepted by Government because it considered the State Procurement Board arrangements allowed regulatory standards to be met.

The role of the State Procurement Board in the procurement of gaming machines was again considered by the Department of Treasury and Finance in preparation for the proposed 2008 Amendments. This assessment was undertaken in light of the Government's commitment to reduce red tape.

The Department of Treasury and Finance concluded that regulatory outcome of ongoing integrity in the gaming machine sector could be achieved without the involvement of the State Procurement Board and that this would reduce cost and risk associated with regulation to holders of gaming machine licences and gaming machine dealer's licences.

### 15.3 Implementation

Clause 12 of the draft Bill removes gaming machine supplier's licence from the classes of licence available under the Act.

Clause 30 of the draft Bill establishes the requirement that the form of supply arrangements be approved.

Clause 35 of the draft Bill extends the prohibitions of links between dealers and other licensees.

Clause 37 of the draft Bill establishes new offences relating the sale or supply of gaming machines.

Clauses 45 and 48 include some consequential amendments.

## 16 Technical Improvements to the Act

### 16.1 Description

A number of technical improvements have been made to the Act that provide for better administration and regulation of gaming machines in South Australia. Below is a table that outlines the technical improvements.

Improvement	Clauses
Restructure of the Act to better describe for the role of the IGA as a “rule maker” in the administration of the Act. Including changes to the way Codes of Practice and other rules are made and reviewed:	10 46 50
<ul style="list-style-type: none"> <li>• a 14 day notice period is replaced with a 28 day notice period;</li> <li>• 2 yearly reviews of Codes of Practice have been replaced with reviews at least once every 5 years for all of the instruments that the IGA makes; and</li> <li>• all instruments made by IGA are disallowable by Parliament.</li> </ul>	
Changes to disclosure requirement to allow the OLGC to release more non-confidential information.	9
A new power that allows the Liquor and Gambling Commissioner to refer matters to the Licensing Court.	8
References to Ministers in relation to funds established under the Act have been changed to references to Ministers which administer specific Acts. This eliminates the need for future administrative orders when changes in Ministerial titles occur.	42 43 44
The section relation to immunity from liability has been deleted as it is redundant given the provisions of the <i>Public Sector Management Act 1995</i> .	49



## 17 Next Steps

The proposed next steps are:

- a six week consultation period;
- drafting of any necessary changes to the Bill based on consultation;
- introduction of amendments Bill and debate in Parliament; and
- commencement of operation of amended Act.

Submissions that address the practical implementation of the policy initiatives in this paper should be sent by email or post by no later than **Friday 31 October 2008** to:

- e-mail: [gamblingpolicy@saugov.sa.gov.au](mailto:gamblingpolicy@saugov.sa.gov.au)
- post: Gambling Policy  
Department of Treasury and Finance  
GPO Box 1045  
Adelaide SA 5001

Submissions should:

- include contact details of the person making the submission;
- identify which policy initiatives are being addressed in the submission; and
- for each policy initiative being addressed:
  - identify the impact of implementation of the policy initiative as contained in the draft Bill;
  - provide suggestions on how the draft Bill could be improved so that the policy initiative can be achieved; and
  - provide comment on the timing for commencement of the policy initiatives.

It should be noted that submissions may be placed on the Department of Treasury and Finance website and/or quoted in subsequent policy and/or consultation papers.

Additional copies of the consultation paper can be downloaded from:

<http://www.treasury.sa.gov.au/gamblingpolicy>