

## EXEMPTION

### GAMING MACHINES ACT 1992

#### *Section 76A – Financing of licensee's business*

#### NOTICE OF EXEMPTION BY THE MINISTER FOR GAMBLING

(Credit providers, holders of a gaming machine licence, the holder of the special club licence and licensed gaming machine dealers)

##### **Preamble**

1. The acquisition of gaming machines or gaming machine entitlements by the holders of gaming machine licences will in some cases be financed under normal commercial credit arrangements (whether by secured loan, hire purchase, lease, operating lease, rental, sale and lease back of machines to licensees or otherwise) and a person who provides such a credit arrangement is referred to in this Notice as a 'credit provider'.
2. The existing businesses or undertakings of the holders of gaming machine licences may also be or become subject to credit arrangements in the nature of floating charges that will extend over the gaming machines purchased or gaming machine entitlements owned or purchased by those licensees.
3. Some credit arrangements and the repossession and sale of gaming machines and gaming machine entitlements in the event of default under, or expiry of, credit arrangements, would constitute an infringement of the *Gaming Machines Act 1992*.
4. Transitional provision 6 of the *Gaming Machines Act 1992* provides that the exemptions previously granted under Regulation 10 of the *Gaming Machines Regulations 1993* (and their successor, the *Gaming Machine Regulations 2005*) continue in force as if they had been granted under section 76A of the *Gaming Machines Act 1992*:
  - a. Exemption granted on 19 December 2000 by the Treasurer; and
  - b. Exemption granted 10 June 2005 by the Minister for Gambling.
5. This Notice varies the previously granted exemptions by removing references to the State Supply Board and including the holder of the special club licence.

##### **Notice**

PURSUANT to section 76A of the *Gaming Machines Act 1992*, I, the Hon Gail Gago MLC, Minister for Gambling:

- grant exemptions from the provisions of the *Gaming Machines Act 1992* in reliance on sub-section 76A(1); and
- make the exemptions referred to in this Notice subject to conditions in reliance upon sub-section 76A(2); and

- vary the exemptions granted on 17 December 2000 and 10 June 2005 in reliance upon sub-section 76A(3) to the effect that that they shall be read as being incorporated into this Notice,

as follows:

1. I grant an exemption from section 27A(2) of the *Gaming Machines Act 1992* to the extent necessary to allow the making and enforcement of permissible credit arrangements in relation to gaming machine entitlements.
2. I declare credit arrangements providing as follows to be permissible credit arrangements:
  - a. the credit arrangement may authorise the credit provider to enforce the arrangement by confiscating a gaming machine entitlement to which the arrangement relates;
  - b. the confiscation is to be effected by notice of confiscation given to the licensee and to the Commissioner;
  - c. a confiscated gaming machine entitlement is to be held by the credit provider by way of security only and does not, when so held, authorise the credit provider to operate a gaming machine;
  - d. the gaming machine entitlement, if not returned to the licensee beforehand (by notice in writing given to the licensee and to the Commissioner), is to be offered for sale on the trading day next following the date of confiscation;
3. I grant to the following persons an exemption from section 45 (offence of being unlicensed) and section 77(1) (certain agreements and arrangements are unlawful) of the *Gaming Machines Act 1992*:
  - a. a credit provider,
  - b. a holder of a gaming machine licence;
  - c. the holder of the special club licence; and
  - d. a licensed gaming machine dealer.
4. I declare that the exemption under clause 3 has effect only in respect of:
  - a. the purchase of a gaming machine by a credit provider from the holder of a gaming machine dealer's licence for supply to the holder of a gaming machine licence or the holder of the special club licence under a credit arrangement provided that the licensee already has the approval of the Liquor and Gambling Commissioner to possess the machine;
  - b. the entering into a credit arrangement by a credit provider and the holder of a gaming machine licence or the holder of the special club licence;

- c. the repossession of a gaming machine by a credit provider on the default of a licensee under a credit arrangement;
  - d. the acquisition of a gaming machine by a credit provider on the expiration of a credit arrangement;
  - e. the sale by a credit provider to the holder of a gaming machine dealer's licence of a repossessed gaming machine or machine acquired on expiration of a credit arrangement and the purchase of such a machine by the holder of a gaming machine dealer's licence.
5. I declare that the exemption granted under this Notice to a credit provider in respect of a repossessed gaming machine or a machine acquired on expiration of a credit arrangement and subsequent sale to the holder of a gaming machine dealer's licence is subject to the following condition:
- a. the credit provider may only sell the gaming machine to a holder of a gaming machine dealer's licence where the form of the contract has been approved by the Commissioner as if the contract were a contract to which section 39 of the *Gaming Machines Act 1992* applied.
6. I note that the exemption granted under this notice is subject to Section 76A(4) of the *Gaming Machines Act 1992*.

Dated the                    1            day of    July                    2011.



**Hon Gail Gago MLC**  
Minister for Gambling