

2001-2002-2003-2004

**LEGISLATIVE ASSEMBLY FOR THE
AUSTRALIAN CAPITAL TERRITORY**

MINUTES OF PROCEEDINGS

No. 106

THURSDAY, 24 JUNE 2004

- 1 The Assembly met at 10.30 a.m., pursuant to adjournment. The Speaker (Mr Berry) took the Chair and asked Members to stand in silence and pray or reflect on their responsibilities to the people of the Australian Capital Territory.

- 2 **MINISTER FOR HEALTH AND PLANNING – PROPOSED MOTION OF WANT OF CONFIDENCE**

Mr Smyth (Leader of the Opposition), by leave, moved – That the Assembly expresses a lack of confidence in the Minister for Health and Planning for persistently and wilfully misleading the Assembly on a number of issues.

Paper: Mr Smyth, by leave, presented the following paper:

2004 Report on Government Services – Quality and efficiency of health services in the ACT – Question brief, 10 February 2004.

Mr Smyth, by leave, was granted an extension of time.

Debate ensued.

Debate adjourned (Ms Tucker) and the resumption of the debate made an order of the day for a later hour this day.

- 3 **CIVIL LAW (WRONGS) (PROPORTIONATE LIABILITY AND PROFESSIONAL STANDARDS) BILL 2004**

Mr Wood (Minister for Urban Services), for Mr Stanhope (Attorney-General), pursuant to notice, presented a Bill for an Act to amend the *Civil Law (Wrongs) Act 2002*.

Paper: Mr Wood presented an explanatory statement to the Bill.

Title read by Clerk.

Mr Wood moved – That this Bill be agreed to in principle.

Debate adjourned (Mr Stefaniak) and the resumption of the debate made an order of the day for the next sitting.

4 CRIMINAL CODE (SERIOUS DRUG OFFENCES) AMENDMENT BILL 2004

Mr Wood (Minister for Urban Services), for Mr Stanhope (Attorney-General), pursuant to notice, presented a Bill for an Act to amend the *Criminal Code 2002*, and for other purposes.

Paper: Mr Wood presented an explanatory statement to the Bill.

Title read by Clerk.

Mr Wood moved – That this Bill be agreed to in principle.

Debate adjourned (Mr Stefaniak) and the resumption of the debate made an order of the day for the next sitting.

5 DISCRIMINATION AMENDMENT BILL 2004 (NO. 2)

Mr Wood (Minister for Urban Services), for Mr Stanhope (Attorney-General), pursuant to notice, presented a Bill for an Act to amend the *Discrimination Act 1991*.

Paper: Mr Wood presented an explanatory statement to the Bill.

Title read by Clerk.

Mr Wood moved – That this Bill be agreed to in principle.

Debate adjourned (Mr Stefaniak) and the resumption of the debate made an order of the day for the next sitting.

6 RESIDENTIAL TENANCIES AMENDMENT BILL 2004

Mr Wood (Minister for Urban Services), for Mr Stanhope (Attorney-General), pursuant to notice, presented a Bill for an Act to amend the *Residential Tenancies Act 1997*.

Paper: Mr Wood presented an explanatory statement to the Bill.

Title read by Clerk.

Mr Wood moved – That this Bill be agreed to in principle.

Debate adjourned (Mr Stefaniak) and the resumption of the debate made an order of the day for the next sitting.

7 ELECTRICITY (GREENHOUSE GAS EMISSIONS) BILL 2004

Mr Quinlan (Treasurer), pursuant to notice, presented a Bill for an Act to establish greenhouse gas benchmarks for the electricity industry and to encourage activities relating to the reduction of greenhouse gas emissions, and for other purposes.

Paper: Mr Quinlan presented an explanatory statement to the Bill.

Title read by Clerk.

Mr Quinlan moved – That this Bill be agreed to in principle.

Debate adjourned (Mrs Dunne) and the resumption of the debate made an order of the day for the next sitting.

8 PAYROLL TAX AMENDMENT BILL 2004

Mr Quinlan (Treasurer), pursuant to notice, presented a Bill for an Act to amend the *Payroll Tax Act 1987*.

Paper: Mr Quinlan presented an explanatory statement to the Bill.

Title read by Clerk.

Mr Quinlan moved – That this Bill be agreed to in principle.

Debate adjourned (Mr Smyth – Leader of the Opposition) and the resumption of the debate made an order of the day for the next sitting.

9 DRUGS OF DEPENDENCE (SYRINGE VENDING MACHINES) AMENDMENT BILL 2004

Mr Corbell (Minister for Health), pursuant to notice, presented a Bill for an Act to amend the *Drugs of Dependence Act 1989* in relation to syringe vending machines, and for other purposes.

Paper: Mr Corbell presented an explanatory statement to the Bill.

Title read by Clerk.

Mr Corbell moved – That this Bill be agreed to in principle.

Debate adjourned (Mr Smyth – Leader of the Opposition) and the resumption of the debate made an order of the day for the next sitting.

10 INTOXICATED PERSONS (CARE AND PROTECTION) AMENDMENT BILL 2004

Mr Corbell (Minister for Health), pursuant to notice, presented a Bill for an Act to amend the *Intoxicated Persons (Care and Protection) Act 1994*.

Paper: Mr Corbell presented an explanatory statement to the Bill.

Title read by Clerk.

Mr Corbell moved – That this Bill be agreed to in principle.

Debate adjourned (Mr Smyth – Leader of the Opposition) and the resumption of the debate made an order of the day for the next sitting.

11 DISCHARGE OF ORDER OF THE DAY – ASSEMBLY BUSINESS

The order of the day having been called on –

Mrs Dunne moved – That, pursuant to standing order 152, order of the day No. 1, Assembly business, relating to possible aged care facilities in Holt – Proposed reference to the Standing Committee on Planning and Environment, be discharged from the *Notice Paper*.

Question – put and passed.

12 PLANNING AND ENVIRONMENT – STANDING COMMITTEE – INQUIRY – AGED CARE FACILITIES IN THE A.C.T. – PROVISION OF LAND – STATEMENT BY CHAIR

Ms Dundas (Chair), by leave, informed the Assembly that the Standing Committee on Planning and Environment had resolved to conduct an inquiry into and report on long-term planning for the provision of land for aged care facilities in the ACT following examination of the predicted needs of the ACT's ageing population.

13 EXECUTIVE BUSINESS – PRECEDENCE

Ordered – That Executive business be called on forthwith.

14 JUSTICE AND COMMUNITY SAFETY LEGISLATION AMENDMENT BILL 2004

The order of the day having been read for the resumption of the debate on the question – That this Bill be agreed to in principle –

Debate resumed.

Question – That this Bill be agreed to in principle – put and passed.

Detail stage

Clause 1 agreed to.

Clause 2 –

On the motion of Mr Wood (Minister for Urban Services), on behalf of Mr Stanhope (Attorney-General), his amendment No. 1 (*see* [Schedule 1](#)) was made, after debate.

Paper: Mr Wood presented a supplementary explanatory statement to the Government amendments.

Clause 2, as amended, agreed to.

Clause 3 agreed to.

New clauses –

On the motion of Mr Wood, on behalf of the Attorney-General, new clauses 3A, 3B and 3C (his amendment No. 2 – *see* [Schedule 1](#)) were inserted in the Bill, after debate.

Clauses 4 and 5, by leave, taken together and agreed to.

New part –

On the motion of Mr Wood, on behalf of the Attorney-General, new Part 2A (his amendment No. 3 – *see* [Schedule 1](#)) was inserted in the Bill.

Clause 6 agreed to.

New clauses –

On the motion of Mr Wood, on behalf of the Attorney-General, new clauses 6A to 6ZH (his amendment No. 4 – *see* [Schedule 1](#)) were inserted in the Bill.

Clause 7 agreed to.

New clauses –

On the motion of Mr Wood, on behalf of the Attorney-General, new clauses 7A to 7M (his amendment No. 5 – *see* [Schedule 1](#)) were inserted in the Bill.

Clause 8 agreed to.

New clauses –

On the motion of Mr Wood, on behalf of the Attorney-General, new clauses 8A and 8B (his amendment No. 6 – *see* [Schedule 1](#)) were inserted in the Bill.

Clauses 9 to 31, by leave, taken together and agreed to.

New part –

On the motion of Mr Wood, on behalf of the Attorney-General, new Part 10A (his amendment No. 7 – *see* [Schedule 1](#)) was inserted in the Bill.

Clauses 32 and 33, by leave, taken together and agreed to.

Clause 34 debated and agreed to.

Clause 35 debated and agreed to.

Clause 36 agreed to.

Remainder of Bill, by leave, taken as a whole and agreed to.

Question – That this Bill, as amended, be agreed to – put and passed.

15 SUSPENSION OF STANDING AND TEMPORARY ORDERS – CONSIDERATION OF PRIVATE MEMBERS' BUSINESS

Mr Wood (Manager of Government Business) moved – That so much of the standing and temporary orders be suspended as would prevent order of the day No. 23, Private Members' business, relating to the Financial Management Amendment Bill 2003 (No. 3), being called on and debated cognately with order of the day No. 2, Executive business, relating to the Financial Management Amendment Bill 2004 (No. 2).

Question – put and passed, with the concurrence of an absolute majority.

16 FINANCIAL MANAGEMENT AMENDMENT BILL 2003 (NO. 3)

The order of the day having been read for the resumption of the debate on the question – That this Bill be agreed to in principle –

Debate resumed.

Ms Dundas, by leave, spoke without closing the debate.

Debate continued.

Question – That this Bill be agreed to in principle – put and negatived.

17 FINANCIAL MANAGEMENT AMENDMENT BILL 2004 (NO. 2)

The order of the day having been read for the resumption of the debate on the question – That this Bill be agreed to in principle –

Question – That this Bill be agreed to in principle – put and passed.

Leave granted to dispense with the detail stage.

Question – That this Bill be agreed to – put and passed.

18 MINISTERIAL ARRANGEMENTS

Mr Quinlan (Treasurer) informed the Assembly of the absence of Mr Stanhope (Chief Minister) and advised the Assembly that questions without notice normally directed to Mr Stanhope could be directed to Mr Quinlan.

19 QUESTIONS

Questions without notice were asked.

20 PAPER

Mr Gallagher (Minister for Industrial Relations), having added to an answer, presented the following paper:

ACT Workcover – Code of conduct.

21 AUDITOR-GENERAL ACT – AUDITOR-GENERAL'S REPORTS – NO. 2 2004 – TRAVEL ARRANGEMENTS AND EXPENSES AND NO. 3 2004 – REVENUE ESTIMATES IN BUDGET PAPERS 2002-03 – PUBLICATION OF REPORTS

The Speaker presented the following papers:

Auditor-General Act – Auditor-General's Reports –

No. 2 2004 – Travel Arrangements and Expenses, dated 23 June 2004.

No. 3 2004 – Revenue Estimates in Budget Papers 2002-03, dated 23 June 2004.

Mr Wood (Manager of Government Business), by leave, moved – That the Assembly authorises the publication of the Auditor-General's Reports Nos. 2 2004 and 3 2004.

Question – put and passed.

22 PRESENTATION OF PAPERS

Mr Wood (Manager of Government Business), for Mr Stanhope (Minister for Community Affairs), presented the following papers:

Facing up to Racism – A strategic plan addressing racism and unfair discrimination – 2004-2008, prepared by the Multicultural and Community Affairs Group, Chief Minister's Department, dated June 2004, together with a copy of the tabling statement.

23 REVIEW OF THE PROTECTION ORDERS ACT – PAPER AND STATEMENT BY MINISTER

Mr Wood (Manager of Government Business), for Mr Stanhope (Attorney-General), presented the following paper:

Report on the review of the *Protection Orders Act 2001*, dated June 2004 –

and, by leave, made a statement in relation to the paper.

24 PUBLIC ACCOUNTS – STANDING COMMITTEE – REPORT 8 – REVENUE RAISING ISSUES IN THE A.C.T. – GOVERNMENT RESPONSE – STATEMENT BY MINISTER

Mr Quinlan (Treasurer) presented the following paper:

Public Accounts – Standing Committee – Report 8 – *Revenue raising issues in the ACT* – Government response –

and, by leave, made a statement in relation to the paper.

25 PRESENTATION OF PAPER

Ms Gallagher (Minister for Industrial Relations) presented the following paper:

Occupational Health and Safety Act, pursuant to section 96D – Operation of the *Occupational Health and Safety Act 1989* and its associated law – Quarterly report – March quarter 2004.

26 PRESENTATION OF PAPER

Mr Wood (Manager of Government Business) presented the following paper:

Petition which does not conform with the standing orders –

Free parking at suburban shopping centres (541 citizens).

27 MATTER OF PUBLIC IMPORTANCE – DISCUSSION – POLICE NUMBERS

The Assembly was informed that Mr Pratt had proposed that a matter of public importance be submitted to the Assembly for discussion, namely, “The state of police numbers in the ACT.”.

Discussion ensued.

The time for discussion having expired –

Discussion concluded.

28 GAMING MACHINE BILL 2004

The order of the day having been read for the resumption of the debate on the question – That this Bill be agreed to in principle –

Debate resumed.

Question – That this Bill be agreed to in principle – put and passed.

Detail stage

Clauses 1 to 8, by leave, taken together and agreed to.

Clause 9 –

Ms Dundas moved her amendment No 1 (*see* [Schedule 2](#)).

Debate continued.

Amendment negatived.

Clause 9 agreed to.

Clause 10 agreed to.

Clause 11 –

On the motion of Mr Quinlan (Treasurer), his amendment No. 1 (*see* [Schedule 3](#)) was made.

Paper: Mr Quinlan presented a supplementary explanatory statement to the Government amendments.

Clause 11, as amended, agreed to.

Clauses 12 to 14, by leave, taken together and agreed to.

Proposed new clause –

Ms Dundas moved her amendment No. 2 (*see* [Schedule 2](#)), which inserts a new clause 14A in the Bill.

Amendment negatived.

Clauses 15 and 16, by leave, taken together and agreed to.

Clause 17 –

Ms Dundas moved her amendment No. 3 (*see* [Schedule 2](#)).

Debate continued.

Mr Quinlan addressing the Assembly –

Adjournment negatived: It being 5 p.m. – The question was proposed – That the Assembly do now adjourn.

Mr Quinlan (Treasurer) requiring the question to be put forthwith without debate –

Question – put and negatived.

Debate continued.

Amendment negatived.

Clause 17 agreed to.

Clause 18 –

On the motion of Mr Quinlan, his amendment No. 2 (*see* [Schedule 3](#)) was made.

Clause 18, as amended, agreed to.

Clause 19 –

On the motion of Ms Tucker, her amendment No. 1 (*see* [Schedule 8](#)) was made, after debate.

Clause 19, as amended, agreed to.

Clauses 20 to 24, by leave, taken together and agreed to.

Proposed new clause –

Mr Stefaniak moved his amendment No. 1 (*see* [Schedule 4](#)), which inserts a new clause 24A in the Bill.

Debate continued.

Amendment negatived.

Clauses 25 to 29, by leave, taken together and agreed to.

Clauses 30 to 34, by leave, taken together and agreed to.

Clause 35 –

Ms Dundas moved her amendment No. 5 (*see* [Schedule 2](#)).

Debate continued.

Amendment negatived.

Ms Tucker, by leave, moved her amendments Nos. 2 to 4 together (*see* [Schedule 8](#)).

Debate continued.

Ordered – That the question be divided.

Amendment No. 2 negatived.

Amendment No. 3 agreed to.

Amendment No. 4 negatived.

Clause 35, as amended, agreed to.

Clause 36 agreed to.

Clauses 37 to 43, by leave, taken together and agreed to.

Proposed new clauses –

Ms Dundas moved her amendment No. 7 (*see* [Schedule 2](#)), which inserts new clauses 43A and 43B in the Bill.

Debate continued.

Amendment negatived.

Clauses 44 to 53, by leave, taken together and agreed to.

Clause 54 –

On the motion of Mr Quinlan, his amendment No. 3 (*see* [Schedule 3](#)) was made.

Clause 54, as amended, agreed to.

Clause 55 –

On the motion of Mr Stefaniak, his amendment No. 2 (*see* [Schedule 4](#)) was made, after debate.

Clause 55, as amended, agreed to.

Clause 56 to 65, by leave, taken together and agreed to.

Clause 66 debated and agreed to.

Clause 67 –

Debate continued.

On the motion of Mr Quinlan, his amendment No. 4 (*see* [Schedule 3](#)) was made.

Clause 67, as amended, agreed to.

Clause 68 agreed to.

Clause 69 –

On the motion of Ms Tucker, her amendment No. 6 (*see* [Schedule 8](#)) was made.

Ms Tucker moved her amendment No. 7 (*see* [Schedule 8](#)).

Debate continued.

Amendment negatived.

Clause 69, as amended, agreed to.

Clauses 70 to 152, by leave, taken together and agreed to.

Clause 153 –

Ms Dundas moved her amendment No. 9 (*see* [Schedule 2](#)).

Debate continued.

Amendment negatived.

Clause 153 agreed to.

Clauses 154 to 158, by leave, taken together and agreed to.

Clause 159 agreed to.

Clause 159 – Reconsideration:

Ms Dundas, by leave, moved – That clause 159 be reconsidered.

Question – put and passed.

Clause 159 –

Ms Dundas moved her amendment No. 10 (*see* [Schedule 2](#)).

Debate continued.

Question – put.

The Assembly voted —

Ayes, 8

Noes, 7

Mrs Burke	Mrs Dunne	Mr Berry	Ms MacDonald
Mr Cornwell	Mr Pratt	Mr Corbell	Mr Quinlan
Mrs Cross	Mr Stefaniak	Ms Gallagher	Mr Wood
Ms Dundas	Ms Tucker	Mr Hargreaves	

And so it was resolved in the affirmative.

Clause 159, as amended, agreed to.

New clause —

On the motion of Ms Dundas, new clause 159A (her amendment No. 1 – [see Schedule 7](#)) was inserted in the Bill.

Clauses 160 to 162, by leave, taken together and agreed to.

Clause 163 –

Ms Dundas, by leave, moved her amendments Nos. 11 to 16 together ([see Schedule 2](#)).

Debate continued.

Amendments negatived.

On the motion of Ms Dundas, her amendment No. 17 ([see Schedule 2](#)) was made, after debate.

Clause 163, as amended, agreed to.

Clause 164 agreed to.

Clause 165 –

Ms Dundas, by leave, moved her amendments Nos. 19 and 20 together ([see Schedule 2](#)).

Ordered – That the question be divided.

Amendment No. 19 negatived.

Ms Dundas, by leave, withdrew her amendment No. 20.

Mrs Cross moved her amendment No. 1 ([see Schedule 5](#)).

Debate continued.

Question – put.

The Assembly voted —

Ayes, 8

Noes, 7

Mr Cornwell	Mr Pratt	Mr Berry	Ms MacDonald
Mrs Cross	Mr Smyth	Mr Corbell	Mr Quinlan
Ms Dundas	Mr Stefaniak	Ms Gallagher	Mr Wood
Mrs Dunne	Ms Tucker	Mr Hargreaves	

And so it was resolved in the affirmative.

Clause 165, as amended, agreed to.

Clause 165 – Reconsideration:

Ms Dundas, by leave, moved – That clause 165 be reconsidered.

Question – put and passed.

Clause 165 –

Ms Dundas moved her amendment No. 19 (*see* [Schedule 2](#)).

Debate continued.

Question – put.

The Assembly voted —

Ayes, 3

Mrs Cross
Ms Dundas
Ms Tucker

Noes, 12

Mr Berry	Ms MacDonald
Mr Corbell	Mr Pratt
Mr Cornwell	Mr Quinlan
Ms Dunne	Mr Smyth
Ms Gallagher	Mr Stefaniak
Mr Hargreaves	Mr Wood

And so it was negatived.

On the motion of Mrs Cross, her amendment No. 1 (*see* [Schedule 5](#)) was made.

Clause 165, as amended, agreed to.

Clause 166 agreed to.

Clause 167 agreed to.

Clause 168 –

Mr Stefaniak moved his amendment No. 5 (*see* [Schedule 4](#)).

Debate continued.

Question – put.

The Assembly voted —

Ayes, 7

Mr Cornwell	Mr Pratt
Mrs Cross	Mr Smyth
Ms Dundas	Mr Stefaniak
Mrs Dunne	

Noes, 8

Mr Berry	Ms MacDonald
Mr Corbell	Mr Quinlan
Ms Gallagher	Ms Tucker
Mr Hargreaves	Mr Wood

And so it was negatived.

Ms Dundas moved her amendment No. 1 (*see* [Schedule 6](#)).

Debate continued.

Amendment negatived.

On the motion of Mr Quinlan, his amendment 4A (*see* [Schedule 9](#)) was made.

Clause 168, as amended, agreed to.

Clause 169 agreed to.

Clause 170 agreed to.

Clause 171 agreed to.

Clauses 172 to 179, by leave, taken together and agreed to.

Clause 180 agreed to.

Clauses 181 to 188, by leave, taken together and agreed to.

Schedules 1 and 2, by leave, taken together and agreed to.

Dictionary –

On the motion of Mr Quinlan, his amendment No. 5 (*see* [Schedule 3](#)) was made.

On the motion of Mr Quinlan, his amendment No. 6 (*see* [Schedule 3](#)) was made.

Dictionary, as amended, agreed to.

Title agreed to.

Question – That this Bill, as amended, be agreed to – put and passed.

29 MINISTER FOR HEALTH AND PLANNING – PROPOSED MOTION OF WANT OF CONFIDENCE – RESOLUTION OF CENSURE

The order of the day having been read for the resumption of the debate on the motion of Mr Smyth (Leader of the Opposition) – That the Assembly expresses a lack of confidence in the Minister for Health and Planning for persistently and wilfully misleading the Assembly on a number of issues –

Debate resumed.

Papers: Mr Corbell (Minister for Health) presented the following papers:

Answer to Question on Notice No. 1463.

“Creating a safe, secure, and responsive mental health service” – Canberra Liberals Policy Statement 2004.

The state of mental health services in the ACT – Matter of public importance – Speaking notes.

Forensic mental health – Forensic Mental Health Facility – Questions brief, 25 March 2004.

Ministerial code of conduct – Extract.

Mental health funding per capita expenditure – Correction – Ministerial brief, dated 30 April 2004, prepared by Dr Tony Sherbon, Chief Executive, ACT Health.

Debate continued.

Ms Dundas moved the following amendment: Omit “expresses a lack of confidence in”, substitute “censures”.

Debate continued.

Ms Tucker, by leave, was granted an extension of time.

Debate continued.

Question – That the amendment be agreed to – put and passed.

Question – That the motion, as amended, be agreed to, viz:

“That the Assembly censures the Minister for Health and Planning for persistently and wilfully misleading the Assembly on a number of issues.” – proposed.

Debate continued.

Mr Smyth, by leave, was granted an extension of time.

Mr Smyth, by leave, was granted a further extension of time.

Question – put and passed.

30 ADJOURNMENT

Mr Quinlan (Treasurer) moved – That the Assembly do now adjourn.

Debate ensued.

Question – put and passed.

And then the Assembly, at 11.03 p.m., adjourned until Tuesday, 29 June 2004 at 10.30 a.m.

MEMBERS’ ATTENDANCE: All Members were present at some time during the sitting.

T Duncan
Clerk of the Legislative Assembly

SCHEDULES OF AMENDMENTS

Schedule 1

JUSTICE AND COMMUNITY SAFETY LEGISLATION AMENDMENT BILL 2004

Amendments circulated by the Minister for Urban Services, on behalf of the Attorney-General

1

Clause 2

Page 2, line 5—

omit clause 2, substitute

2 Commencement

Part 2 (Agents Act 2003), part 2A (Agents Regulations 2003) and part 10A (Leases (Commercial and Retail) Act 2001) commence on the day after this Act's notification day.

Part 3 (Civil Law (Sale of Residential Property) Act 2003) commences on 1 July 2004.

The remaining provisions commence on the 14th day after this Act's notification day.

Note The naming and commencement provisions automatically commence on the notification day (see Legislation Act, s 75 (1)).

2

Proposed new clauses 3A to 3C

Page 3, line 3—

insert

3A Eligibility for licences Section 24 (1) (d)

substitute

- (d) for a travel agents licence—the individual is eligible under section 26 (Additional eligibility grounds for travel agents).

3B New section 24 (3A)

insert

- (3A) However, a corporation is eligible to be licensed as a travel agent if—

- (a) the commissioner for fair trading is satisfied that no director of the corporation is disqualified from being licensed under section 27; and
- (b) at least 1 director of the corporation satisfies the eligibility requirements of section 24 (1) (a) to (c); and
- (c) the corporation satisfies the additional eligibility requirements of section 26 (Additional eligibility grounds for travel agents).

3C Section 24

renumber subsections when Act next republished under Legislation Act

3

Proposed new part 2A

Page 3, line 20—

insert

Part 2A Agents Regulations 2003

5A Legislation amended—pt 2A

This part amends the *Agents Regulations 2003*.

5B Qualifications for licences, Act s 25 New regulation 6 (1A)

insert

- (1A) However, a person has the qualifications for a real estate agents licence if, immediately before the repeal of the repealed Act, the person was eligible for the grant of a real estate agent's licence under that Act.

5C Regulation 6

renumber subregulations when regulations next republished under Legislation Act

4

Proposed new clauses 6A to 6ZH

Page 4, line 5—

insert

6A Definitions for pt 2 Section 7, new definition of *building and compliance inspection report*

insert

building and compliance inspection report means a building and compliance inspection report prescribed under the regulations.

6B Section 7, definition of *building inspection report*

omit

6C Section 7, definition of *encumbrance*

substitute

encumbrance, in relation to residential property proposed to be sold, includes an unregistered or statutory encumbrance, but does not include an encumbrance that is to be released or discharged on or before completion of the sale.

6D Section 7, definition of *pest treatment certificate*

omit

6E Section 7, definition of *seller*, paragraph (a)

after

legal

insert

or equitable

**6F Meaning of *residential property*
New section 8 (2) (ba)**

insert

(ba) land or a unit subject to the Retirement Villages Industry Code of Practice prescribed under the *Fair Trading Act 1992*, section 34; or

6G Section 8 (2) (c)

omit

‘developer’s holding lease’

substitute

developer’s holding lease

6H Section 8 (2)

renumber paragraphs when Act next republished under Legislation Act

6I **Meaning of *required documents***
New section 9 (1) (ba)

insert

(ba) a copy of the deposited plan;

6J **Section 9 (1) (f) (i)**

substitute

(i) if there is a registered units plan—

(A) the registered units plan; and

(B) a unit title certificate for the unit dated not earlier than 3 months before the day the property was first advertised or offered for sale or listed by an agent; and

(ia) if there is no registered units plan—a plan showing the proposed location and dimensions of the unit in relation to other units and the common property; and

6K **Section 9 (1) (g) (iii)**

after

building

insert

and compliance

6L **Section 9 (1) (g) (iii)**

after

advertised

insert

or offered

6M **Section 9 (1) (g) (iv) and (v)**

omit

6N **Section 9 (1) (g) (vi) and (vii)**

after

advertised

insert

or offered

6O Section 9 (1) (g) (vii)

omit

agent.

substitute

agent;

6P New section 9 (1) (h)

insert

(h) any other document prescribed under the regulations.

6Q Section 9 (1)

renumber paragraphs and subparagraphs when Act next republished under Legislation Act

6R Section 9 (2) (a)

before

inspection

insert

and compliance

6S Section 9 (2) (a) (iii)

omit

‘off-the plan purchase’

substitute

off-the-plan purchase

6T Section 9 (2) (b)

omit

unit.

substitute

unit; and

6U New section 9 (2) (c) and (d)

insert

(c) a document mentioned in subsection (1) is not required if the seller cannot obtain the document after taking all reasonable steps to obtain it; and

- (d) for a sale of vacant land under a developer's holding lease, the ***required documents*** are—
- (i) a copy of the holding lease; and
 - (ii) a copy of the development conditions or, if they are not finalised, the draft development conditions for the lease.

6V Section 9 (3)

omit

, (v)

**6W Proposed contract etc to be available for inspection
Section 10 (1)**

before

times

insert

reasonable

**6X Certain conditions to be included in contract
Section 11 (1) (a) (ii)**

after

possession

insert

on completion of the contract

6Y Section 11 (1) (d)

substitute

- (d) if, before completion of the contract, the buyer becomes aware of an unapproved structure that is not disclosed in the contract, the buyer may—
- (i) ask the seller to arrange for the structure to be approved before completion of the contract; and
 - (ii) if the structure is not approved before completion—rescind the contract, or complete the contract and claim damages.

6Z Section 11 (1) (f) (iii)

omit

there are no

substitute

the seller has no knowledge of any

6ZA Section 11 (1) (g) (i)

after

be

insert

, or be able to be,

6ZB Section 11 (1) (g) (iii)

omit

there are no

substitute

the seller has no knowledge of any

6ZC Section 11 (1) (h)

substitute

(h) if, before completion of the contract, the buyer becomes aware of an error in the description of the property the buyer may—

(i) ask the seller to arrange for the error to be corrected before completion of the contract; and

(ii) if the error is not corrected before completion—

(A) for an error that is material—rescind the contract, or complete the contract and claim damages; and

(B) for an error that is not material—complete the contract and claim damages;

6ZD Section 11 (1) (i)

omit

(g)

substitute

(h)

6ZE Section 11 (2)

omit

(g) (ii)

substitute

(g) (i), (ii)

6ZF Section 11 (2) (a)

after

property

insert

, or exercising a power of sale

**6ZG Buyer may waive cooling-off period
Section 13**

omit

signing

substitute

entering into

**6ZH Buyer to reimburse seller for cost of certain reports
Section 18 (a) and (b)**

substitute

- (a) a building and compliance inspection report required under section 9 (1) (g) (iii) (or, if the seller obtained more than 1 report, the latest report);
- (b) a pest inspection report required under section 9 (1) (g) (vi) (or, if the seller obtained more than 1 report, the latest report).

5**Proposed new clauses 7A to 7M****Page 4, line 12—**

insert

**7A Bidders record
Section 25 (4)**

after

in relation to

insert

bidders records, including

**7B Bidder's name and address to be established by proof of identity
Section 26 (5)**

omit

(3)

substitute

(4)

7C New section 31A

insert

31A Standard auction conditions

A public auction of residential property must be conducted in accordance with the standard auction conditions prescribed under the regulations.

**7D Auction conditions to be available before auction begins
New section 32 (3)**

insert

(3) In this section:

conditions, of an auction, means—

- (a) the standard auction conditions prescribed under section 31A; and
- (b) any other conditions (not inconsistent with the standard auction conditions) decided by the seller for the auction.

**7E Making false or misleading statements
Section 37 (7), definition of *relevant document*, paragraph (b), (c) and (d)**

substitute

- (b) a building and compliance inspection report; or
- (c) a pest inspection report.

**7F Regulation-making power
New section 40 (3) and (4)**

insert

- (3) The regulations may incorporate a law or instrument, or a provision of a law or instrument, as in force from time to time.
- (4) In this section:
incorporate includes apply and adopt.

7G New part 7*insert***Part 7 Transitional****43 Contracts entered into before 1 July 2004**

Part 2 (Sale of residential property) does not apply in relation to a contract for the sale of residential property entered into before 1 July 2004.

44 Required documents not available before 31 October 2004

- (1) A seller of residential property does not commit an offence against section 10 (Proposed contract etc to be available for inspection) because a required document is not available at any time before 31 October 2004 if the seller has taken all reasonable steps to obtain the document.
- (2) This section expires on 31 October 2004.

45 Transitional regulations

- (1) The regulations may prescribe transitional matters necessary or convenient to be prescribed because of the enactment of this Act.
- (2) Without limiting subsection (1), the regulations may prescribe matters necessary or convenient to be prescribed for carrying out or giving effect to the provisions of this Act.
- (3) Regulations made for this section must not be taken to be inconsistent with this Act as far as they can operate concurrently with this Act.
- (4) This section is additional to, and does not limit, section 46.

46 Modification of pt 7's operation

The regulations may modify the operation of this part to make provision in relation to any matter that is not already, or is not (in the Executive's opinion) adequately, dealt with in this part

47 Expiry of pt 7

This part expires 1 year after the day it commences.

7H Schedule 1, amendment 1.1
Proposed new section 89A (1) (b) and (2) (c)

before

times

insert

reasonable

7I Dictionary, new definition of *building and compliance inspection report*

insert

building and compliance inspection report, for part 2 (Sale of residential property)—see section 7.

7J Dictionary, definition of *building inspection report*

omit

7K Dictionary, new definition of *developer's holding lease*

insert

developer's holding lease—see section 8 (2) (c).

7L Dictionary, definition of *pest treatment certificate*

omit

7M Dictionary, new definition of *unit title certificate*

insert

unit title certificate, for a unit, means a certificate given under the *Unit Titles Act 2001*, section 75 (1).

6
Proposed new clauses 8A and 8B
Page 5, line 3—

insert

8A Limitation of liability for acts of terrorism
Section 38 (1)

omit

committed before 1 October 2004

8B Expiry of pt 3.3
Section 39

omit

7**Proposed new part 10A****Page 17, line 21—***insert*

Part 10A Leases (Commercial and Retail) Act 2001

31A Legislation amended—pt 10A

This part amends the *Leases (Commercial and Retail) Act 2001*.

31B Expiry of pt 16 Section 171

substitute

171 Expiry of pt 16

- (1) This part expires on 30 June 2006.
 - (2) However, section 169, section 170 and this subsection expire on 30 June 2004.
-

Schedule 2

GAMING MACHINE BILL 2004

Amendments circulated by Ms Dundas

1

Clause 9

Page 6, line 1—

omit clause 9, substitute

9

Kinds of applications—pt 2

A person may apply to the commission for—

- (a) a licence (an *initial licence application*); or
- (b) an amendment of a licence (a *licence amendment application*); or
- (c) renewal of a licence (a *licence renewal application*).

Note 1 If a form is approved under the Control Act, s 53D for an application, the form must be used.

Note 2 A fee may be determined under s 176 for this provision.

2

Proposed new clause 14A

Page 13, line 14—

insert

14A

Term of licence

A licence is issued for the term (up to 5 years) stated in the licence.

3

Clause 17

Page 14, line 23—

omit clause 17, substitute

17

No available gaming machines

- (1) This section applies to an application for an initial licence, or a licence amendment under section 22 (1) (a) to increase the number of licensed gaming machines allowed under the licence, if the maximum number of gaming machines allowed on all licensed premises in the ACT has been reached.
- (2) The commission—
 - (a) must tell the applicant that the maximum number of gaming machines allowed on all licensed premises in the ACT has been reached; and

- (b) must not deal with the application until the gaming machines sought to be authorised under the licence or amended licence can be authorised without the maximum number of gaming machines allowed on all licensed premises in the ACT being exceeded.

Note Applications must be dealt with in the order they are received or are fully received (see s 10).

4

Proposed new division 2.5A

Page 26, line 6—

insert

Division 2.5A Licence renewals

29A Application for licence renewal

- (1) A licensee may apply in writing for renewal of the licence before the licence term ends.

Note 1 If a form is approved under the Control Act, s 53D for an application, the form must be used.

Note 2 A fee may be determined under s 176 for this provision.

- (2) The regulations may require an application to include particular information or be accompanied by particular documents.
- (3) The commission need not decide the application if the application is not in accordance with this section.

29B Renewal of licences

- (1) On application, the commission must renew the licence if satisfied that—
 - (a) for a corporation (including a club)—the rules and control procedures of the corporation to control the operation of gaming machines are adequate to control that operation; and
 - (b) the applicant has complied with and is likely to comply with this Act; and

Example

The commission may consider how well the applicant complied with its previous licence conditions in assessing whether the applicant is likely to comply with this Act.

- (c) if an on licence applies to the licensed premises—the premises are used by people mainly for drinking alcohol.

Note An example is part of the Act, is not exhaustive and may extend, but does not limit, the meaning of the provision in which it appears (see Legislation Act, s 126 and s 132).

- (2) However, the commission may refuse to renew the licence of a club if satisfied that—
- (a) payments for the rental or lease of the club's premises are unreasonable or are related to the level of gaming machine performance; or
 - (b) someone, other than the lessor or leasing agent, has received or will receive a payment or benefit during or at the end of a lease, agreement or arrangement entered into by the club for its premises; or
 - (c) the election of a member of the club's management committee or board has been decided, controlled or influenced in a significant way, or to a significant degree, by—
 - (i) people who are not voting members of the club; or
 - (ii) only some voting members of the club; or
 - (d) the voting members of the club, taken as a group, do not have complete control over the election of all members of the club's management committee or board; or
 - (e) each voting member of the club does not have an equal right to elect people, and to nominate or otherwise choose people for election, to the club's management committee or board; or
 - (f) if the club does not own its premises—an executive officer or employee of the club is also the club's lessor, or an associate of the club's lessor; or
 - (g) an executive officer or employee of the club is a creditor, or an associate of a creditor, of the club; or
 - (h) the club's management committee or board does not, for any reason, have complete control over the club's business or operations, or a significant aspect of the club's business or operations; or
 - (i) the club has been, is being, or may be, used as a device for individual gain or commercial gain by someone other than the club.

5

Clause 35

Page 29, line 12—

omit clause 35, substitute

35

Maximum number of gaming machines allowed

The maximum number of gaming machines allowed on all licensed premises in the ACT is 5 200.

6**Clause 36****Page 30, line 1—***[oppose the clause]*

7**Proposed new clauses 43A and 43B****Page 33, line 16—***insert***43A Gaming machines with note acceptors**

It is a condition of a licence that a licensee must not operate a gaming machine with a note acceptor on the licensed premises.

43B Existing note acceptors

- (1) This section applies if, immediately before the commencement of this Act, a gaming machine with a note acceptor was on licensed premises.
- (2) The commission may, in writing, exempt the licensee from the operation of section 43A in relation to the gaming machine for the period stated in the exemption.
- (3) However, the commission may exempt a licensee only for the period the commission considers is reasonable to allow the licensee to remove the note acceptor.
- (4) An exemption is a notifiable instrument.
Note A notifiable instrument must be notified under the Legislation Act.
- (5) This section expires on 1 January 2008.

8**Clause 69 (1) (b)****Page 47, line 22—***omit clause 69 (1) (b), substitute*

- (b) any peripheral equipment, other than a note acceptor, for the gaming machine.

9**Clause 153****Page 98, line 1—***omit clause 153, substitute***153 Cash facilities on licensed premises**

- (1) A licensee commits an offence if the licensee provides any of the following in a gaming area in the licensed premises:
 - (a) an automatic teller machine;

- (b) an EFTPOS facility;
- (c) any other facility for gaining access to cash or credit.

Maximum penalty: 50 penalty units.

Note The Criminal Code, pt 2.4 (Extensions of criminal responsibility) extends this offence to cover situations where the licensee does not personally provide a cash facility but allows the provision of the facility by someone else.

- (2) A licensee commits an offence if the licensee provides an automatic teller machine in the licensed premises in a place other than a gaming area.

Maximum penalty: 50 penalty units.

153A Existing automatic teller machines in licensed premises

- (1) This section applies if, immediately before 1 January 2005—
 - (a) there was an automatic teller machine in licensed premises; and
 - (b) the automatic teller machine was not in a gaming area.
- (2) The commission may, in writing, exempt the licensee from the operation of section 153 (2) (which makes it an offence to provide an automatic teller machine in licensed premises) in relation to the automatic teller machine for the period stated in the exemption.
- (3) However, the commission may exempt a licensee only for the period the commission considers is reasonable to allow the licensee to remove the automatic teller machine.
- (4) An exemption is a notifiable instrument.

Note A notifiable instrument must be notified under the Legislation Act.
- (5) This section expires on 1 January 2008.

10
Clause 159 (2) and (3)
Page 102, line 1—

omit clause 159 (2) and (3), substitute

- (2) The rate at which gaming machine tax is payable is the prescribed percentage.
- (3) In this section:
prescribed percentage, in relation to a licensee, means—
 - (a) if the licensee is a club whose gross revenue for the relevant month does not exceed \$8 000—nil; or

- (b) if the licensee is a club whose gross revenue for the relevant month exceeds \$8 000—
 - (i) in relation to the part of the gross revenue that does not exceed \$8 000—1%; and
 - (ii) in relation to the part of the gross revenue that exceeds \$8 000 but does not exceed \$25 000—23.5%; and
 - (iii) in relation to the part of the gross revenue that exceeds \$25 000 but does not exceed \$50 000—24.5%; and
 - (iv) in relation to the part of the gross revenue that exceeds \$50 000—27.0%; or
- (c) if the licensee is not a club—25.9%.

11**Part 12 heading****Page 104, line 1—***omit the heading, substitute***Part 12****Charitable and social welfare
contributions and community
contributions**

12**Proposed new clause 162A****Page 104, line 1—***insert***162A Definitions for pt 12**

In this part:

approved contribution means—

- (a) a charitable and social welfare contribution; or
 - (b) a community contribution.
-

13**Clause 163 heading****Page 104, line 2—***omit the heading, substitute***163****Approval of charitable and social welfare
contributions and community contributions**

14**Clause 163 (1), example 1****Page 104, line 11—***omit*

15**Proposed new clause 163 (1A)****Page 104, line 17—***insert*

- (1A) The commission may approve contributions made by a licensee to a stated entity for a stated purpose as charitable and social welfare contributions.

16**Clause 163 (2) (a)****Page 104, line 20—***omit**community**substitute**approved*

17**Clause 163 (3), definition of *contribution*, new paragraphs (b) (via),
(vib) and (vic)****Page 105, line 17—***insert*

- (via) depreciation in relation to a capital payment mentioned in paragraph (iv) or (v);
 - (vib) depreciation in relation to a capital payment that is an approved contribution;
 - (vic) a capital payment if depreciation in relation to the payment is an approved contribution;
-

18**Clause 164 (1)****Page 106, line 3—***omit*

community

substitute

approved

19**Clause 165 (2), definition of *financial report*, paragraph (b)****Page 106, line 22—***omit*

if the licensee is a club—

20**Clause 165 (2), definition of *financial report*, paragraph (c)****Page 106, line 23—***omit*

community

substitute

approved

21**Clause 166 (b)****Page 107, line 7—***omit*

community

substitute

approved

22**Clause 168****Page 107, line 13—***omit clause 168, substitute***168****Required contributions**

(1) In this section:

contribution means—

(a) a required charitable and social welfare contribution; or

(b) a required community contribution.

required charitable and social welfare contribution, for a licensee for a financial year, means the required percentage of the licensee's net revenue for the financial year.

required community contribution, for a licensee for a financial year, means the required percentage of the licensee's net revenue for the financial year.

required percentage, for a licensee's contribution for a financial year, means—

- (a) if the Minister determines a percentage under subsection (2) for the licensee's contribution for the year—the percentage determined; or
- (b) for any other required charitable and social welfare contribution—2%; or
- (c) for any other required community contribution—8%.

Note For the required percentage for the financial years beginning 1 July 2004, 2005 and 2006, see s (6).

- (2) On application by a licensee, the Minister may, in writing, determine a percentage as the required percentage for the licensee for a financial year for the licensee's required charitable and social welfare contribution or required community contribution.
- (3) However, the Minister may determine a percentage under subsection (2) for a licensee for a financial year only if—
 - (a) the percentage determined is lower than the percentage (the **default percentage**) that would otherwise apply to the licensee; and
 - (b) the Minister is satisfied that—
 - (i) the gross revenue of the licensee for a financial year is, or is likely to be, less than \$200 000; and
 - (ii) requiring the licensee to pay the default percentage would so seriously affect the licensee's viability that it would not be just and equitable in the circumstances for the default percentage to apply to the licensee.
- (4) To remove any doubt, the Minister may determine 0% under subsection (2).
- (5) A determination under subsection (2) is a disallowable instrument.

Note A disallowable instrument must be notified, and presented to the Legislative Assembly, under the Legislation Act.

- (6) In subsection (1), definition of ***required percentage***, paragraph (c), the ***percentage prescribed*** is taken to be—
- (a) for the financial year beginning 1 July 2004—5%; and
 - (b) for the financial year beginning 1 July 2005—6%; and
 - (c) for the financial year beginning 1 July 2006—7%.
- (7) Subsection (6), this subsection and the note to subsection (1), definition of ***required percentage***, expire on 1 July 2007.

23**Clause 169****Page 108, line 8—***omit clause 169, substitute***169 Corporations with several licences**

- (1) This section applies to a corporation that holds 2 or more licences.
- (2) In working out the contribution for each licence, common expenditure on behalf of the corporation's different licences must be allocated between the licences in proportion to the number of gaming machines authorised to be operated under each licence.

24**Clause 171****Page 108, line 25—***omit clause 171, substitute***171 Contribution shortfall taxes**

- (1) Tax (the ***contribution shortfall tax***) is imposed on a contribution shortfall of a licensee at the rate of 100%.
- (2) The licensee must pay the contribution shortfall tax.
- (3) Contribution shortfall tax is payable 30 days after the day the licensee receives an assessment under the Control Act, part 6.
- (4) If an amount of contribution shortfall tax is paid, the commission must transfer the amount to the grants program fund or, if another fund is prescribed under the regulations, that fund.
- (5) In this section:

contribution shortfall, for a licensee in a financial year, means the total of—

- (a) the amount (if any) by which the licensee's charitable and social welfare contributions fall short of its required charitable and social welfare contribution; and

- (b) the amount (if any) by which the licensee's community contributions fall short of its required community contribution.

25

Proposed new clause 180 (2A)

Page 114, line 12—

insert

- (2A) A licence mentioned in subsection (1) expires 5 years after commencement day.

26

Dictionary, new definition of *charitable and social welfare contribution*

Page 123, line 22—

insert

charitable and social welfare contribution means a contribution made by a licensee that is approved as a charitable and social welfare contribution under section 163.

27

Dictionary, definition of *net revenue*

Page 128, line 21—

omit

that is a club

28

Dictionary, definition of *required community contribution*

Page 130, line 6—

omit the definition, substitute

required charitable and social welfare contribution, for a licensee for a financial year—see section 168 (1).

required community contribution, for a licensee for a financial year—see section 168 (1).

Schedule 3

GAMING MACHINE BILL 2004

Amendments circulated by the Treasurer

1

Clause 11 (1) (e)

Page 7, line 10—

omit

type

substitute

kind

2

Clause 18 (2) (b)

Page 15, line 27—

omit

assessed or

3

Clause 54 (b)

Page 37, line 18—

omit clause 54 (b), substitute

- (b) any remuneration given to a person the value of which is equal to or more than the amount prescribed under the regulations.

Example for par (b)

A person may be remunerated by salary plus the use of a car.

Note An example is part of the Act, is not exhaustive and may extend, but does not limit, the meaning of the provision in which it appears (see Legislation Act, s 126 and s 132).

4

Clause 67 (1)

Page 46, line 14—

omit

establishment

substitute

approval

5

Dictionary, new definition of *commission*

Page 124, line 16—

insert

commission means the gaming and racing commission.

6

Dictionary, definition of *permit-holder*

Page 129, line 18—

omit the definition, substitute

permit-holder means the holder of a multi-user permit.

Schedule 4

GAMING MACHINE BILL 2004

Amendments circulated by Mr Stefaniak

1

New clause 24A

Page 23, line 4—

insert

24A Transfer of gaming machines within club

- (1) This section applies to a licensee that is a club that holds 2 or more licences.
- (2) The licensee may apply under section 22 to decrease the number of licensed gaming machines allowed under 1 of the licensee's licences by a stated number (the ***number decreased***) and, at the same time, to increase the number of licensed gaming machines allowed under another of the licensee's licences by the same amount as the number decreased.

Note An application to increase the number of licensed gaming machines allowed under a licence must be accompanied by a social impact assessment (see s 22 (2) (b)).

- (3) The commission—
 - (a) must consider the applications together; and
 - (b) must not amend 1 licence in accordance with the application unless the other licence is also amended to allow the transfer of gaming machines between the licences.
- (4) The commission must not amend the licences if—
 - (a) any of the licences were transferred to the licensee; and
 - (b) the transfer happened less than 3 years before the date the application for amendment is made.

2

Clause 55 (g)

Page 38, line 17—

omit

3

Clause 66

Page 46, line 2—

[oppose the clause]

4

Clause 67

Page 46, line 13—

[oppose the clause]

5

Clause 168 (1)

Page 107, line 1—

omit clause 168 (1), substitute

- (1) For a licensee that is a club, the ***required community contribution*** for a financial year is the total of—
- (a) the required percentage of the club's net revenue for the year; and
 - (b) an amount equal to the total of the contributions made by the licensee during the financial year to registered parties, associated entities, members of the Legislative Assembly and candidates.
-

Schedule 5**GAMING MACHINE BILL 2004**

Amendment circulated by Mrs Cross

1

New clause 165 (2) (d)

Page 106, line 23—

insert

- (d) the total value of contributions to registered parties and associated entities.
-

Schedule 6**GAMING MACHINE BILL 2004**

Amendment circulated by Ms Dundas

1

Clause 168 (2)

Page 107, line 17—

omit clause 168 (2), substitute

(2) In subsection (1):

required percentage, for a club, means—

- (a) if the Minister determines a percentage under subsection (3) for the club for a financial year—the percentage determined; or
 - (b) in any other case—
 - (i) for the financial year beginning 1 July 2004—7%; or
 - (ii) for the financial year beginning 1 July 2005—8%; or
 - (iii) for the financial year beginning 1 July 2006—9%; or
 - (iv) for the financial year beginning 1 July 2007 and each following financial year—10%.
-

Schedule 7

GAMING MACHINE BILL 2004

Amendment circulated by Ms Dundas

1

New clause 159A

Page 102, line 5—

insert

159A Tax adjustment in relation to GST for clubs

This section applies if a licensee that is a club paid to the Commonwealth, during a month, an amount in relation to the licensee's liability for a global GST amount (the ***GST paid***).

If the GST paid is less than the club's gross GMT for the month, the amount of gaming machine tax for which the licensee is liable is reduced by the GST paid.

If the GST paid is equal to or more than the club's gross GMT for the month, the licensee is not liable for gaming machine tax for the month.

In this section:

global GST amount—see the GST provision.

gross GMT, for a club, is the amount of gaming machine tax for which the club would, apart from this section, be liable.

GST provision means the *A New Tax System (Goods and Services Tax) Act 1999* (Cwlth), section 126-10 (which deals with tax on gambling revenue).

Schedule 8

GAMING MACHINE BILL 2004

Amendments circulated by Ms Tucker

1

Proposed new clause 19 (4A) and (4B)

Page 16, line 25—

insert

- (4A) On or before the day the advertisement is published, the applicant must place a sign (the *information sign*) containing information about the application in a prominent position outside each public entrance to the premises to which the application relates, and ensure that the sign stays at the entrance for the 6-week comment period.
- (4B) The information sign for an application must include the following:
- (a) a description of the application;
 - (b) a statement of when and where the social impact assessment for the application will be available;
 - (c) an invitation to make written submissions to the commission about the social impact assessment within the 6-week comment period;
 - (d) when the 6-week comment period ends;
 - (e) details of where to get more information about the application.

2

Clause 35 (2)

Page 29, line 15—

before

number

insert

smaller

3

New clause 35 (3A)

Page 29, line 22—

insert

- (3A) Subject to any disallowance or amendment under the Legislation Act, chapter 7, the declaration commences—

- (a) if there is a motion to disallow the declaration and the motion is negated by the Legislative Assembly—the day after the day the disallowance motion is negated; or
- (b) the day after the 6th sitting day after the day it is presented to the Legislative Assembly under that chapter; or
- (c) if the declaration provides for a later date or time of commencement—on that date or at that time.

4**Clause 35 (4)****Page 29, line 23—**

before

section 36

insert

section 35A and

5**New clause 35A****Page 29, line 23—**

insert

35A Reduction in maximum number of gaming machines allowed

- (1) This section applies if—
 - (a) a licence is surrendered; or
 - (b) the commission cancels a licence.
- (2) The commission must declare in writing that, under this section, the maximum number of gaming machines allowed on all licensed premises in the ACT is reduced by the number of gaming machines that were authorised to be operated under the surrendered or cancelled licence.
- (3) A declaration is a notifiable instrument.

Note A notifiable instrument must be notified under the Legislation Act.

6**Clause 69 (2)****Page 47, line 23—**

omit clause 69 (2), substitute

- (2) However, the commission must not approve something under subsection (1) unless the commission has considered—
 - (a) the results of a technical evaluation of the gaming machine and any peripheral equipment by an approved entity; and

- (b) any available research on the consumer protection and harm minimisation implications of the gaming machine or peripheral equipment proposed to be approved.

7**Clause 69 (3)****Page 48, line 1—***omit clause 69 (3), substitute*

- (3) An approval under subsection (1) is a disallowable instrument.

Note A disallowable instrument must be notified, and presented to the Legislative Assembly, under the Legislation Act.

- (3A) Subject to any disallowance or amendment under the Legislation Act, chapter 7, the approval commences—

- (a) if there is a motion to disallow the approval and the motion is negated by the Legislative Assembly—the day after the day the disallowance motion is negated; or
 - (a) the day after the 6th sitting day after the day it is presented to the Legislative Assembly under that chapter; or
 - (b) if the approval provides for a later date or time of commencement—on that date or at that time.
-

Schedule 9**GAMING MACHINE BILL 2004**

Amendment circulated by the Treasurer

4A

Clause 168 (3)

Page 107, line 23—

omit

community contribution

substitute

percentage
