

## South Australia



# GAMING MACHINES (MISCELLANEOUS) AMENDMENT ACT 1996

No. 22 of 1996

## SUMMARY OF PROVISIONS

1. Short title
2. Commencement
3. Amendment of s. 3—Interpretation
4. Amendment of s. 15—Eligibility criteria
5. Amendment of s. 27—Conditions
6. Amendment of s. 28—Certain gaming machine licences only are transferable
7. Amendment of s. 37—Commissioner may approve managers and employees
8. Insertion of s. 51A
  - 51A. EFTPOS or ATM facilities, etc., not to be provided within gaming area
9. Amendment of s. 72—Tax system operable to end of 1995/1996 financial year
10. Insertion of ss. 72A and 72B
  - 72A. Tax system operable from beginning of 1996/1997 financial year
  - 72B. Recovery of tax
11. Amendment of s. 73—Accounts and monthly returns
12. Insertion of ss. 73A, 73B and 73C
  - 73A. Sport and Recreation Fund
  - 73B. Charitable and Social Welfare Fund
  - 73C. Community Development Fund
13. Transitional provision



ANNO QUADRAGESIMO QUINTO

**ELIZABETHAE II REGINAE**

A.D. 1996

\*\*\*\*\*

No. 22 of 1996

**An Act to amend the Gaming Machines Act 1992.**

[Assented to 24 April 1996]

The Parliament of South Australia enacts as follows:

**Short title**

1. (1) This Act may be cited as the *Gaming Machines (Miscellaneous) Amendment Act 1996*.
- (2) The *Gaming Machines Act 1992* is referred to in this Act as "the principal Act".

**Commencement**

2. This Act will come into operation on a day to be fixed by proclamation.

**Amendment of s. 3—Interpretation**

3. Section 3 of the principal Act is amended by inserting after the definition of "approved gaming machine" in subsection (1) the following definition:

"approved gaming machine manager" in relation to the gaming operations conducted on licensed premises means—

- (a) a person who is approved under Part 4 as a gaming machine manager in respect of those operations; or
- (b) a person who is a director or member of the governing body of a body corporate that holds the gaming machine licence in respect of the licensed premises;.

**Amendment of s. 15—Eligibility criteria**

4. Section 15 of the principal Act is amended—

- (a) by inserting in subsection (1)(b) ", or two or more holders of separate club licences, jointly" after "(whether restricted or unrestricted)";
- (b) by striking out from subsection (2) "The" and substituting "Subject to subsection (3a), the";

**Gaming Machines (Miscellaneous) Amendment  
Act 1996**

No. 22 of 1996

---

(c) by inserting after subsection (3) the following subsection:

(3a) If two or more holders of separate club licences are, or are to be, the joint holders of a gaming machine licence, the following provisions apply:

- (a) none of the holders can hold, either solely or jointly, another gaming machine licence; and
- (b) the jointly held licence can only relate to the premises of one of the clubs, being the premises nominated by the applicants.

**Amendment of s. 27—Conditions**

5. Section 27 of the principal Act is amended by striking out subsection (7) and substituting the following subsection:

(7) In fixing (or varying) the hours during which gaming operations may be conducted pursuant to a gaming machine licence, the Commissioner—

- (a) cannot fix hours that are outside the hours during which the licensed premises are authorised to be open for the sale of liquor; and
- (b) must ensure—
  - (i) that gaming operations cannot be conducted on the premises on Christmas Day or Good Friday; and
  - (ii) that at other times there are at least 6 hours in each 24 hour period (which may be a continuous period of 6 hours, or 2 separate periods of 3 hours or 3 separate periods of 2 hours) during which gaming operations cannot be conducted on the premises.

**Amendment of s. 28—Certain gaming machine licences only are transferable**

6. Section 28 of the principal Act is amended—

- (a) by striking out from subsection (1) ", but a gaming machine licence is not otherwise transferable";
- (b) by inserting after subsection (1) the following subsections:
  - (1a) A gaming machine licence held by the holder of a club licence may, with the consent of the Commissioner, be transferred to that holder jointly with one or more other holders of separate club licences.
  - (1b) A gaming machine licence is not transferable otherwise than under subsection (1) or (1a).;
- (c) by striking out from subsection (3)(c) "the applicant" (first occurring) and substituting "each applicant";
- (d) by striking out from subsection (3)(c)(ii) "the applicant" and substituting "an applicant";
- (e) by inserting in subsection (5) "under subsection (1)" after "An application";

**Gaming Machines (Miscellaneous) Amendment  
Act 1996**

No. 22 of 1996

(f) by striking out from subsection (9) "the transferee" and substituting "each transferee".

(g) by inserting in subsection (10) "or net gambling revenue" after "gross gaming turnover".

**Amendment of s. 37—Commissioner may approve managers and employees**

7. Section 37 of the principal Act is amended by striking out subsection (2).

**Insertion of s. 51A**

8. The following section is inserted in Part 5 Division 2 of the principal Act before section 52:

**EFTPOS or ATM facilities, etc., not to be provided within gaming area**

51A. (1) The holder of a gaming machine licence must not provide, or allow another person to provide, a cash facility within a gaming area on the licensed premises.

Penalty: Division 3 fine.

(2) The Commissioner may, by instrument in writing, exempt a licensee who has, on the commencement of this section, a cash facility within a gaming area on the licensed premises from the operation of this section.

(3) An exemption may be granted under subsection (2) only for such period as the Commissioner thinks necessary for the purpose of the removal of the cash facility from the gaming area and as is specified in the instrument of exemption.

(4) The Minister may, if he or she thinks exceptional circumstances exist for doing so, exempt a licensee (conditionally or unconditionally) from the operation of this section.

(5) A licensee who contravenes a condition of an exemption granted under subsection (4) is guilty of an offence.

Penalty: Division 3 fine.

(6) In this section, "cash facility" means—

(a) an automatic teller machine; or

(b) an EFTPOS facility; or

(c) any other facility, prescribed by regulation, that enables a person to gain access to his or her funds or to credit.

**Amendment of s. 72—Tax system operable to end of 1995/1996 financial year**

9. Section 72 of the principal Act is amended—

(a) by inserting in subsection (1) "up to and including the month of June 1996" after "each calendar month";

(b) by striking out subsections (2) and (3);

(c) by striking out subsections (5), (6), and (7).

**Gaming Machines (Miscellaneous) Amendment  
Act 1996**

No. 22 of 1996

**Insertion of ss. 72A and 72B**

**10. The following sections are inserted after section 72 of the principal Act:**

**Tax system operable from beginning of 1996/1997 financial year**

**72A. (1)** The holder of a gaming machine licence must pay to the Treasurer the prescribed percentage of the net gambling revenue derived by the licensee from the business carried out pursuant to the licence in the financial year ending on 30 June 1997 and each successive financial year.

(2) Where a gaming machine licence is surrendered in the course of a financial year conditionally upon the grant of another gaming machine licence to the same person and in respect of the same premises, the licensee will, for the purposes of subsection (1), be taken to have carried on business under the one licence during that year.

(3) The tax to which a licensee is liable under subsection (1) is payable in monthly instalments, to be calculated and paid in the manner specified by the Minister by notice in the *Gazette*.

(4) The revenue received under this section by the Treasurer in respect of each financial year is to be paid—

- (a) as to \$2.5 million—into the *Sport and Recreation Fund* established under this Part;
- (b) as to \$3 million—into the *Charitable and Social Welfare Fund* established under this Part;
- (c) as to \$19.5 million—into the *Community Development Fund* established under this Part;
- (d) as to the balance—into the Consolidated Account.

(5) The Treasurer will pay the sums referred to in subsection (4)(a), (b) and (c) into the various Funds in equal monthly instalments (starting in July 1996).

(6) For the purposes of this section—

"net gambling revenue" or "NGR" in relation to a financial year means the total amount of all bets made on the gaming machines on the licensed premises during that year less the total amount of all prizes won on the machines during that year;

"prescribed percentage" means—

- (a) in respect of the 1996/1997 financial year—an amount calculated in accordance with the following formula:

<i>Tax Threshold</i>	<i>Tax Rate</i>
For an annual NGR of \$900 000 or less . . . . .	35% of NGR
For an annual NGR of more than \$900 000 . . . . .	\$315 000 plus 40% of the excess NGR over that amount;

(b) in respect of each successive financial year—

- (i) if the total tax payable by licensees to the Treasurer pursuant to this section in respect of the 1996/1997 financial year equalled or exceeded \$146 million—an amount calculated in accordance with the formula set out in paragraph (a);
- (ii) if the total tax payable by licensees in respect of the 1996/1997 financial year was less than \$146 million—an amount calculated in accordance with an adjusted formula fixed by the Minister by notice in the *Gazette*, being a formula that would, had it applied in the 1996/1997 financial year, have produced revenue equalling \$146 million (or an amount as near to that sum as is possible while keeping tax thresholds in multiples of \$1 000 and divisible by 12).

(7) In fixing an adjusted formula under subsection (6)(b)(ii), the Minister may reduce the tax threshold that applied in the 1996/1997 financial year, or may introduce a further threshold and tax rate (not exceeding 45%), or do a combination of those things.

(8) If the total tax payable by licensees to the Treasurer pursuant to this section in respect of the 1996/1997 financial year is less than \$146 million, the Minister may, by notice in the *Gazette*, impose a surcharge on the tax rates fixed under subsection (6)(b)(ii) (but cannot vary the tax threshold or thresholds) for the purpose of recouping the amount of that 1996/1997 shortfall.

(9) A surcharge imposed under subsection (8)—

- (a) will be effective for such period (constituted of whole months) as is necessary for the purposes of recouping the shortfall (but licensees will not be entitled to any refund should the final monthly instalment payable result in an amount in excess of the shortfall being collected); and
- (b) will, while it is effective, apply to a licensee whether or not the licensee was the holder of a gaming machine licence during the 1996/1997 financial year.

**Recovery of tax**

**72B.** (1) If default is made by a licensee for more than 7 days in paying an amount due and payable under this Part, a fine of 10 per cent of the amount outstanding is added to that amount.

**Gaming Machines (Miscellaneous) Amendment  
Act 1996**

No. 22 of 1996

(2) The Commissioner may, if he or she thinks good reason exists for doing so, waive payment of the whole or a part of a fine incurred under subsection (1).

(3) An amount due and payable under this Part is recoverable by the Treasurer as a debt due to the Crown.

(4) If an amount is due and payable under this Part by a licensee that is a body corporate and—

- (a) the body corporate is dissolved; or
- (b) the amount is not satisfied in full within 14 days of written demand being made by the Commissioner,

the amount outstanding may be recovered from—

- (c) a person who was a director or a member of the governing body of the body corporate or former body corporate at the time when the amount became due and payable by the licensee; or
- (d) a body corporate that was a related body corporate (as defined in the *Corporations Law*) at that time or a person who was a director of such a related body corporate at that time.

(5) If an amount due and payable by a licensee under this Part is not satisfied in full within 14 days of written demand being made by the Commissioner, the licensee will be taken to have contravened a condition of the licence.

**Amendment of s. 73—Accounts and monthly returns**

11. Section 73 of the principal Act is amended—

- (a) by inserting in subsection (1) "and net gambling revenue" after "gross gaming turnover";
- (b) by inserting in subsection (3) "to be" after "a payment is";
- (c) by striking out from subsection (3) "particulars of the licensee's gross gaming turnover for that month and such other information as the Commissioner may require" and substituting "such information as the Commissioner may require for the purposes of determining the amount of that payment".

**Insertion of ss. 73A, 73B and 73C**

12. The following sections are inserted after section 73 of the principal Act:

**Sport and Recreation Fund**

73A. (1) The *Sport and Recreation Fund* is established.

(2) The Fund is to be kept at Treasury.

(3) The money paid into the Fund under this Part will from time to time be applied, in accordance with the directions of the Minister for Recreation, Sport and Racing, in financial assistance for sporting or recreation organisations.

(4) The Minister for Recreation, Sport and Racing must, before giving a direction under subsection (3), consult with the Economic and Finance Committee established under the *Parliamentary Committees Act 1991*.

(5) The Chief Executive of the Office for Recreation, Sport and Racing must provide the Economic and Finance Committee with such information as the Committee may require relating to applications for financial assistance made by sporting or recreation organisations.

(6) Financial assistance will not be given under this section to an organisation that is the holder of a gaming machine licence.

#### **Charitable and Social Welfare Fund**

**73B.** (1) The *Charitable and Social Welfare Fund* is established.

(2) The Fund will be kept at Treasury.

(3) The money paid into the Fund under this Part will from time to time be applied by the Treasurer, in accordance with the directions of a board that must be established by the Minister for Family and Community Services for the purpose, in financial assistance for charitable or social welfare organisations.

(4) The board established under subsection (3) is to consist of 5 members—

(a) being persons who have, between them, appropriate expertise in financial management and charitable or social welfare organisation administration; and

(b) at least 2 of whom are women and 2 are men.

(5) The procedures of the board will be as determined by the Minister for Family and Community Services.

#### **Community Development Fund**

**73C.** (1) The *Community Development Fund* is established.

(2) The Fund will be kept at Treasury.

(3) The money paid into the Fund under this Part will from time to time be applied by the Treasurer, in accordance with the directions of the Governor, towards—

(a) financial assistance for community development; and

(b) the provision of government health, welfare or education services.



**Gaming Machines (Miscellaneous) Amendment  
Act 1996**

No. 22 of 1996

---

**Transitional provision**

13. The Commissioner must, in relation to a gaming machine licence that is in force as at the commencement of this section, vary the condition fixing the hours during which gaming operations may be conducted on the licensed premises to such extent (if any) as is necessary to ensure—

- (a) that gaming operations cannot be conducted on the premises on Christmas Day or Good Friday; and
- (b) that at other times there are at least 6 hours in each 24 hour period (which may be a continuous period of 6 hours, or 2 separate periods of 3 hours or 3 separate periods of 2 hours) during which gaming operations cannot be conducted on the premises.

In the name and on behalf of Her Majesty, I hereby assent to this Bill.

ROMA MITCHELL Governor