



# Liquor & Gaming NSW

## Regulatory Impact Statement Gaming Machines Regulation 2019

June 2019

# Public Consultation

This Regulatory Impact Statement (RIS) has been prepared to inform the consultation process for the making of the proposed Gaming Machines Regulation 2019.

Before the proposed Regulation can be made, consultation with the public, relevant interest groups, industry and commerce sectors is essential, and must occur in line with the requirements under the *Subordinate Legislation Act 1989*.

Notice of the availability of a public consultation draft of the proposed Regulation, together with the RIS, has been provided to relevant Government agencies and stakeholder groups. A full list of stakeholders notified is included in Annexure A.

Notices have also been published in The Sydney Morning Herald and the Daily Telegraph and in the NSW Government Gazette at <http://nsw.gov.au/gazette>. Public comment has also been invited via Liquor & Gaming NSW's website and the NSW Government's 'Have Your Say' public consultation website.

## Submissions

Submissions about the proposed Regulation can be made:

By email: [gm.regulation@liquorandgaming.nsw.gov.au](mailto:gm.regulation@liquorandgaming.nsw.gov.au)

By mail: Remake of the Gaming Machines Regulation  
Liquor & Gaming NSW  
GPO Box 7060  
SYDNEY NSW 2001

Closing date for submissions: **Wednesday 17 July 2019**

All submissions may be published, unless the submission indicates that it is to be treated as confidential.

Requests for submissions to be treated as confidential must be accompanied by supporting reasons. They will be considered in light of Government principles and requirements relevant to the public release of, and access to, information, including those established by the *Government Information (Public Access) Act 2009*. Should such a request not be granted, appropriate opportunity will be provided for the submission to be withdrawn.

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# 1. Introduction

## 1.1 Title and proponents of the proposed Regulation

The Gaming Machines Regulation 2019 (**'the proposed Regulation'**), to be made under the *Gaming Machines Act 2001* (**'the Act'**), has been developed by Liquor & Gaming NSW (**'L&GNSW'**). The Act and the Gaming Machines Regulation 2010 (**'the current Regulation'**) are administered by the Minister for Customer Service, the Hon. Victor Dominello MP. It is proposed to remake the current Regulation with amendments that reflect a risk-based approach to regulation.

## 1.2 Why is the proposed Regulation being made?

Section 10 of the *Subordinate Legislation Act 1989* provides for statutory rules to lapse after a set period of time. In most cases, Regulations are automatically repealed after five years (or for a longer period of time where this has been approved). The current Regulation is due for automatic repeal on 1 September 2019.

When a Regulation is due for repeal, the responsible agency must review the Regulation, its social and economic impacts to determine whether there is a need for the Regulation or whether it should lapse. The results of this review are typically required to be published in a Regulatory Impact Statement (**'RIS'**), with submissions invited from the public.

This RIS has been prepared to inform public consultation on a draft of the proposed Regulation.

## 1.3 Status of the proposed Regulation

The proposed Regulation (ANNEXURE C) is a draft for the purpose of consultation. It has been released with this RIS so interested parties can review and provide any comments and suggestions. All submissions received will be considered and may result in amendments to the proposed Regulation. It is intended that the proposed Regulation will be finalised and published on the NSW Legislation website to enable it to commence on 1 September 2019.

## 2 Legislative Background

### 2.1 The *Gaming Machines Act 2001* and regulations

The primary legislation regulating the control and management of gaming machines in hotels and registered clubs in NSW is the Gaming Machines Act 2001 ('the Act'). The Act has been modified numerous times from its original version as the legal and regulatory framework for gaming machines has evolved. The current Regulation commenced on 1 September 2010.

The major objectives of these gaming machine laws, as set out under the Act, are to:

- a) minimise harm associated with the misuse and abuse of gambling activities;
- b) foster responsible conduct in relation to gambling;
- c) facilitate the balanced development, in the public interest, of the gaming industry;
- d) ensure the integrity of the gaming industry; and
- e) provide for an on-going reduction in the number of gaming machines in the state by means of the tradeable gaming machine entitlement scheme.

In securing these objectives, the Act requires that persons who exercise functions under the Act (including licensees) have due regard to:

- a) the need for gambling harm minimisation and the fostering of responsible conduct in relation to gambling; and
- b) the need for gambling harm minimisation when considering what is or is not in the public interest.

The current Regulation provides a legislative and administrative framework that underpins the effectiveness of the Act. Various sections of the Act require or allow for the Regulations to deliver community and industry goals that include:

- technical standards and requirements for approved gaming machines and the technology platforms that they use;
- harm minimisation measures that must be in place;
- the offering and provision of prizes;
- enhanced framework for the Centralised Monitoring System (CMS) and linked gaming systems;
- the management of the Community Development Fund; and
- the transfer and forfeiture of gaming machine entitlements.

The Act and the current Regulation can be accessed from the NSW legislation website at <http://www.legislation.nsw.gov.au/>.

### 2.2 Regulatory bodies

Liquor & Gaming NSW ('**L&GNSW**') is the State's integrated "fit for purpose" regulator, with overall responsibility for administering the regulatory framework and supervision across the liquor industry, gambling industry and registered clubs in NSW. In administering the regulatory framework for gaming machines in NSW, L&GNSW provides policy advice to the Government, undertakes technology approvals and issues licences. L&GNSW also oversees and enforces the gaming machine laws in NSW.

L&GNSW presently sits within the Department of Industry cluster.<sup>1</sup> Under the NSW gaming machine laws, the Secretary of the Department also has a range of functions and powers, many of which are exercised by L&GNSW staff under delegation.

L&GNSW supports the Independent Liquor & Gaming Authority ('**the Authority**') in its oversight of the gaming machine regulatory framework. The Authority is established under the *Gaming and Liquor Administration Act 2007* ('**the GALA Act**').

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<sup>1</sup> L&GNSW will move to the Department of Customer Service from 1 July 2019.

The GALA Act specifies, among other things, the functions of the Authority (including functions that can be delegated to Public Service employees), and confers investigation and enforcement powers for the purposes of administering the Act.

L&GNSW also supports the Authority in determining certain gaming machine proposals including, but not limited to, applications made under the Local Impact Assessment ('LIA') scheme, applications for gaming machine entitlement leases, determination of gaming machine technical standards and the integrity arrangements for progressive jackpot linked gaming machines. The Authority also conducts disciplinary proceedings where L&GNSW or the NSW Police Commissioner has made a complaint alleging contraventions of gaming machine legislation.

### 3 Need for Government Action

Under the provisions of the Subordinate Legislation Act 1989, the current Regulation will lapse on 1 September 2019 unless Government action is taken to replace it.

Many of the regulatory and procedural matters provided for under the Act are required to be dealt with by Regulation. This is to ensure the efficient operation of the Act. Failing to make a Regulation would leave these matters unspecified and impair the objectives of the Act.

The loss of provisions designed to promote industry integrity and protect the community would jeopardise the public confidence in the conduct of gaming machine activity in NSW.

### 4 Objectives of the Proposed Regulation

The principal objective of the proposed Regulation is to help secure the policy objectives of the Act by providing the necessary legislative support and administrative detail to support the Act.

The specific objectives of the proposed Regulation are:

- the general regulation and management of gaming machines in hotels and clubs;
- enhanced requirements for responsible gambling practices and other harm minimisation measures, including requirements for staff to undertake responsible gambling training courses;
- requirements relating to gaming machine threshold increase applications, including details relating to the provision of local impact assessments by venues seeking to increase their gaming machine numbers;
- requirements relating to gaming-related licences such as gaming machine dealers' licences;
- the regulation of intra-venue progressive gaming machines and systems;
- regulation of player cards and accounts;
- gaming machine tickets issued by venues;
- the operation of the centralised monitoring system and the operation of inter-venue linked gaming systems;
- the fees applicable to gaming-related licences and work permits and the transfer of poker machine entitlements and the indexation of those fees through the use of a 'fee unit' structure; and
- other matters of procedural or administrative nature, including specifying the offences under the Act and the proposed Regulation that may be dealt with by way of penalty notice.

The proposed Regulation has been prepared in accordance with the following criteria:

- to retain matters that are necessary and appropriate for the effective and efficient operation of the Act;
- to make amendments that are necessary as a result of changes to the Act; and
- to make amendments necessary to maintain consistency with other relevant gaming and liquor legislation.

## 5 Assessment of Options to Achieve Objectives

### 5.1 Option 1 - Make the proposed Regulation

The objects of the Act create a relationship between the requirement for the minimisation of gambling harm and facilitating the balanced development, in the public interest, of the gaming machine industry. To develop this relationship, a strong legislative and regulatory framework is required to ensure the need to minimise the risk of harm associated with gaming machines is considered concurrently with ensuring the integrity and ongoing balanced development of the industry.

The proposed Regulation provides the only viable means to provide mandatory and uniform requirements for the matters envisaged by the Act. Without the proposed Regulation, or in the absence of specific enabling legislation, there would be limited means to strengthen the objects and requirements contained in the Act.

The making of the proposed Regulation will result in the gaming industry continuing to incur compliance and enforcement costs. However, these costs will be commensurate to ensuring appropriate oversight of the overall gaming machine regulatory framework.

The regulatory framework for the administration and oversight of the gaming industry through the Act and regulations is already in place. Many matters not dealt with through the proposed Regulation will continue to be managed administratively where possible in line with the Government's policy to minimise the number and complexity of regulations.

### 5.2 Option 2 – Allow the current Regulation to lapse

Failing to remake the proposed Regulation in advance of the repeal of the current Regulation on 1 September 2019 would prejudice the operation of the Act, and result in significant deregulation of the gaming machine industry. In a deregulated environment, there would be no minimum compliance standards or requirements to meet and the power to address issues such as gambling harm minimisation would be greatly reduced.

The Act is written in a form that requires many of the matters necessary for its effective operation to be dealt with by regulation. The absence of a regulation to specify the related requirements would jeopardise the achievement of the policy objectives of the Act.

It would also mean that government, community and industry stakeholders would not have access to clear statutory rules about crucial matters relating to the conduct and operation of gaming machines in NSW.

This option would significantly erode the integrity of the regulatory framework for gaming machines by removing the requirements for harm minimisation and licensing. The ability of government to be adaptable and flexible in minimising harm to the community could not be guaranteed if the proposed Regulation was not made. It is likely public confidence in the compliance and operation of the regulatory regime would be undermined.

This option would also mean that there would no longer be a formal regulatory mechanism, as envisaged by the Act, to enable fees to be charged to help cover the costs associated with regulating the industry.

The Act states that the annual licensing fees and application fees may only be prescribed by Regulation. This may have an immediate direct benefit for industry. However the overall cost of operating in a significantly deregulated environment is likely to be considerably higher for the community.

An alternative approach would be to transfer the requirements in the current Regulation and place them in the Act. This would ensure the regulator maintains ongoing and appropriate regulatory powers to respond to changes in the gaming machine industry.



However, this approach would require significant amendments being progressed through Parliament, and would make it difficult for government to respond appropriately to emerging issues and concerns faced by industry and the community.

### **5.3 Option 3 – Industry self-regulation or co-regulation**

This option would place greater responsibility on the gaming machine industry in NSW for the development and oversight of certain aspects of the regulatory framework.

Self-regulation could rely on industry developing voluntary rules or codes of practice, with the industry solely responsible for compliance. Co-regulation could involve the industry developing and administering similar arrangements, with government providing legislative backing to enable the arrangements to be enforced by industry and government.

The Act does not envisage, or provide for, self-regulatory or co-regulatory approaches as a primary regulatory means by which to achieve its objectives.

The broader adoption of self-regulation or co-regulation approaches to address the matters contained in the proposed Regulation would likely increase uncertainty about how standards and requirements would apply at a state-wide level.

It would also raise strong concerns in the community whether there are appropriate controls over the operation and management of gaming machines in NSW. It is unlikely any industry body or association would have proper incentive to dedicate significant resources to regulating the gaming machine industry in the public interest.

Given the nature of the conduct that is regulated by the proposed Regulation, it is not considered appropriate to progress with industry self or co-regulation.

### **5.4 Option 4 – Address matters in the Act, not by Regulation**

To avoid significant deregulation, standards and requirements in the proposed Regulation could alternatively be stipulated in the Act to ensure they could be enforced. However, it is far more complex, costly and time-consuming to address the types of matters contemplated by the proposed Regulation through an Act of Parliament. It would greatly limit opportunities for government policy to adapt and be responsive to casino gaming related issues affecting the public and the industry; changing expectations and needs; and to respond to genuine concerns raised by stakeholders.

Furthermore, it is clear from the Act that it was not Parliament's intention to include machinery and procedural matters in the Act, and these matters were to be dealt with through regulations.

### **5.5 Option 5 – Address matters through administrative procedures**

This option would address matters through administrative procedures rather than through the proposed Regulation. However, there are limits to the matters that can be dealt with administratively.

Administrative requirements would not have the force of law, heightening the potential for any set standards to be disregarded by some in the industry in favour of economic or other gains.

Administrative procedures could provide greater flexibility to respond to changes in circumstances, as administrative changes can be more readily approved and implemented than regulatory amendments. However, any benefits are likely to be greatly outweighed by decreased legal certainty and possible non-compliance.

A clear, uniform regulatory framework is considered necessary to reduce risks associated with the operation of gaming machines on the community.



## 5.6 Recommendation

The preferred option for supporting the objectives and provisions of the Act is to make the proposed Regulation (**Option 1**). It is considered that this is the only option that will provide a net social and economic benefit. An evaluation of the respective impacts on government, community and industry stakeholders of the options is set out in the table below.

Option	Costs	Benefits	Overall Benefit
Option 1	Medium	High	Positive
Option 2	High	Low	Negative
Option 3	High	Low	Negative
Option 4	Medium	Low	Negative
Option 5	Medium	Low	Negative

## 6 Summary of primary changes

In March 2018, the NSW Government introduced a package of reforms that included changes to the LIA scheme, the introduction of a gaming machine entitlement leasing scheme and various machinery amendments to ensure the continued operation of the regulatory framework. Certain amendments were made to the current Regulation to accommodate these changes.

The proposed Regulation remakes the current Regulation with a number of amendments to ensure that the NSW Government continues to have a dynamic, risk-based approach to regulating gaming machines in NSW. The proposed Regulation contains several amendments of a machinery nature to reflect current legislative drafting practice, as well as the removal of redundant provisions and renumbering of clauses to streamline the proposed Regulation and reduce red tape.

A summary of the primary changes proposed is set out below. A table which details all proposed amendments to the current Regulation is attached at Annexure A.

### 6.1 Fees

The proposed Regulation introduces a number of changes to the fee structure for the gaming industry (new Schedule 3), which presents a more contemporary approach to fees.

Proposed change	Reason for Change
<b>Introduction of a fee unit structure</b> <b>Schedule 3</b> Fees have been expressed in fee units instead of dollar amounts. The proposed fee unit is \$100. Under the proposed fee unit structure, the fee unit amount prescribed in the Regulation will be automatically adjusted each year for inflation in line with the Consumer Price Index (All Groups Index) for Sydney, published by the Australian Statistician (CPI). It is proposed that fees will be adjusted annually before 16 February each year from 2020-21 onwards, by reference to the CPI number for the December quarter in the fee year immediately preceding the fee year for which the amount is calculated. For example, when lodging an application for a dealer's licence that is 10 fee units, the fee is \$1000.	The adoption of fee units will assist in enabling fees to be automatically adjusted in line with inflation. The proposed changes reflect the principle that fees should reflect wider price increases in the economy so that the industry is charged the real cost of processing applications and the provision of related services. A fee unit structure was introduced in the Liquor Regulation 2018. The proposed changes align the gaming machine application and licence fee structure with the liquor fee structure, providing certainty to industry through a consistent and uniform approach.

### 6.2 Provisions relating to player information

Division 1 of Part 3 of the proposed Regulation outlines the harm minimisation requirements hotels and clubs must take to ensure that players make informed decisions when using gaming machines.

The proposed Regulation removes the prescription of **player information and harm minimisation messages** from the Regulation, and instead requires that venues are required to provide player information and harm minimisation messages in a form approved by the Authority.

This will provide the Authority the ability to efficiently change the content of these messages in response to current research on what form of words (and way of presenting those words) is best placed to give players the information they need to make informed decisions about their gambling, and where necessary, how to access help to address their gambling behaviour.

The proposed Regulation also updates the **display of notice requirements**. To reduce unnecessary duplication, L&GNSW currently produces one notice that contains the three pieces of information required by the current Regulation. However, penalties remain for failure to display each individual piece of information. If a venue does not have this one notice displayed on a gaming machine, it technically may be breached for three separate offences.

The proposed amendment will reflect current practice and will clarify that failure to display the notice is a single offence.

Finally, it is proposed that the requirement for venues to have visible **clocks in gaming areas** is removed. The provision of clocks on gaming machine screens has become common industry practice.

There is limited evidence on the ongoing harm minimisation benefit of requiring venues to have separate clocks in their gaming areas to those that are on gaming machines, and individual's personal devices.

This amendment removes what is considered to be an unnecessary requirement on venues.

### **6.3 Gaming machine leasing levy**

It is proposed that this provision be amended to require that a levy of at least \$1,000 for each year of the lease is paid into the Responsible Gambling Fund for community projects.

This amendment is considered necessary to prevent operators from entering into leasing arrangements which minimise their obligation to contribute to the funding of gambling harm minimisation and treatment services around the State. It is also considered that the clause would sit more appropriately in Part 10 of the proposed Regulation which deals with miscellaneous provisions.

## 7 Impact Assessment of the Proposed Amendments

The proposed Regulation is essentially a remake of the current regulation. However it omits or changes certain provisions that are considered redundant or outdated (detailed in Annexure A). There is also a major renumbering of the clauses as a result of these changes.

This section of the Regulatory Impact Statement:

- Discusses the amendments to be included in the proposed Regulation.
- Weighs up the costs and benefits of the proposed changes to the current Regulation on the gaming machine industry, government and the general community.

The proposed Regulation are broken up into Parts and Schedules. Each of the Parts and Schedules are analysed separately below. Where a provision in the proposed Regulation replicates a provision in the current Regulation, i.e. there is no change, it is not discussed below.

### 7.1 Part 1 – Preliminary

#### 7.1.1 Overview of provisions

The provisions of Part 1 of the proposed Regulation are interpretation tools which promote a proper understanding and functioning of the regulation. They are of a machinery nature and are necessary for the effective operation of the proposed Regulation. There are no proposed amendments.

### 7.2 Part 2 – Regulation and management of gaming machines

#### 7.2.1 Overview of provisions

Part 2 establishes the regulation and general management of gaming machines in hotels and clubs by providing general requirements for the use of gaming machines in NSW. These include, but are not limited to, the types of gaming machines permitted to be kept in hotels, the requirements for a hotel gaming room, setting bet and prize limits for multi-terminal gaming machines, procedures for faulty gaming machines, and record keeping requirements for hotels and clubs.

#### 7.2.2 Proposed amendments

##### **Clause 10 – Faulty gaming machines (*clause 11 of current Regulation*)**

The proposed Regulation includes a requirement that when a hotel or club has become aware of a fault that affects a gaming machine, they must act immediately to rectify the fault will be included in the proposed Regulation. This will provide a positive obligation on the hotelier or registered club to act immediately once a fault that affects any game or the accuracy of the reading meter has been identified.

##### **Clause 15 – Records to be kept by clubs (*clause 17 and 18 of current Regulation*)**

It is proposed that these clauses be amalgamated to streamline the Regulation.

##### **Clause 17 – Clearance and refilling of gaming machines in clubs (*clause 20 of current Regulation*)**

It is proposed that the subclauses dealing with the clearing and refilling of the gaming machines be incorporated into one subclause to remove repetitive provisions.

### **7.2.3 Assessment of costs and benefits of proposed amendments**

The proposed amendments to Part 2 of the current Regulation are minor refinements of the regulatory framework. There will be no additional costs to regulation as a result of the amendments. There are no additional costs to industry or impacts of the amendments on the community as these are business as usual requirements.

## **7.3 Part 3 – Responsible gambling practices and other harm minimisation measures**

### **7.3.1 Overview of provisions**

Part 3 provides the framework for responsible gambling practices including information for player information, cheques and cash facilities, the LIA scheme, various other harm minimisation measures and the responsible conduct of gambling training.

Division 1 of Part 3 provides for gambling information that includes information on chances of winning prizes on gaming machines, player information brochures, dangers of gambling notices, counselling signage, as well as provisions for this information in specific languages to ensure that all patrons can access information on the operation of gaming machines.

Division 2 of Part 3 provides the process on how hotels and clubs deal with cheques and cash dispensing facilities. The provisions ensure that the access to cash facilities is limited as a harm minimisation measure.

Division 3 of Part 3 establishes the specific requirements for the gaming machine threshold application process to obtain additional gaming machines under the LIA scheme. This includes specifying the requirements for applications for Class 1 and Class 2 LIAs.

Division 4 of Part 3 contains miscellaneous harm minimisation measures that includes but is not limited to gaming machine advertising and signs, the provision of player activity statements under player reward schemes, the offering of inducements, and the provision of problem gambling counselling services and self-exclusion schemes.

Division 5 of Part 3 provides for Responsible Conduct of Gambling (RCG) training and the establishment of the RCG competency card. This Division also deals with the approval of training providers to undertake RCG training.

### **7.3.2 Proposed amendments**

#### **Division 1 – Provisions relating to player information**

##### **Clauses 18, 22, 23 and 24 – Display of information and signage (clauses 21, 25, 26 and 27 of current Regulation)**

Proposed amendments will remove the prescribed wording for mandatory player information and will afford the Authority with the capacity to approve the content of notices and signs from time to time. Creating the power for the Authority to prescribe the wording (and therefore change the wording from time to time) will provide a flexible approach to mandatory signage and ensure that these harm minimisation measures remain fit for purpose. This will be achieved by allowing the Authority to make changes to the content and form of information based on contemporary research and industry best practice.

It is envisaged that the current wording will be carried over when the proposed Regulation is made, with changes to be progressed to the signage and information requirements in 2020.

##### **Clauses 19, 20 and 21 – Provision of player information brochures (clauses 22, 23 and 24 of current Regulation)**

The proposed amendments will permit the Authority to determine the content and language requirements of player information brochures based on the latest gambling harm minimisation research and changing community needs.

Similar amendments are in the proposed Casino Control Regulation 2019 with respect to mandatory signage and player information brochures.

**Clauses 18 and 22 – Display of information about the chances of winning, the dangers of gambling and problem gambling assistance**  
***(clauses 21 and 25 of current Regulation)***

The current clauses contain provisions requiring the display of information on the chances of winning a major prize and warning of the dangers of gambling, as well as problem gambling notices. All these notices are required to be displayed on each gaming machine in a hotel or club and at certain places within the venue. To avoid unnecessary duplication, L&GNSW currently produces one notice which contains the three messages required under the current Regulation.

However, penalties remain in place for failure to display each individual piece of information. If a venue does not have the one notice supplied by L&GNSW displayed on a gaming machine, they may be technically liable for three separate offences.

The proposed amendments reflect current practice and will clarify that failure to display the notice represents one single offence. The changes do not remove the requirement for a hotel or club to display the three important messages, which will be approved by the Authority from time to time.

**Division 2 – Cheques and cash dispensing facilities**

There are no proposed amendments to these provisions.

**Division 3 – Gaming machine threshold scheme**

**Clauses 33 and 34 – Information to be included in a Class 1 and Class 2 LIA**  
***(clauses 38 and 39 of current Regulation)***

It is proposed that these provisions be strengthened by expanding the information to be provided in a LIA, including details of specific harm minimisation and responsible gambling measures to be put in place. The proposed new provisions will also include a requirement for applicants to specify their operating hours and any other information that may be required by the Authority to determine the application.

**Clause 37 – Consultation and advertising requirements** ***(clause 41 of current Regulation)***

It is proposed that this clause be redrafted to remove duplication of provisions.

**Division 4 – Miscellaneous harm minimisation measures**

**Sub-clause 41(4) – Gaming machine advertising** ***(clause 46(4) of current Regulation)***

Proposed amendments to sub-clause 46(4) will remove references to the means by which promotional material from clubs may be sent to include new technologies.

**Clause 42 – Provision of player activity statements** ***(clause 48 of current Regulation)***

It is proposed that this clause be amended to require hotels and clubs to provide player activity statements free of charge. The scale of charges mentioned in the current sub-clause 48(8) is not used by the Authority and its removal will have no impact on hotel and clubs.

**Clause 44 – Provision of problem gambling counselling services** ***(clause 52 of current Regulation)***

At present this provision is silent on whether the person providing the problem gambling counselling should be suitably qualified. It is proposed that the clause be amended to specify that only qualified persons provide problem gambling counselling services. The proposed amendment is intended to strengthen the provision, and recognises the serious nature of problem gambling in the community. It is directed at ensuring that appropriate services are provided to those persons who are at risk of, or have a gambling problem.

#### **Clause 45 – Self-exclusion schemes (*clause 53 of current Regulation*)**

This provision prescribes the requirements for the conduct of a self-exclusion scheme by a hotel or club. It is proposed that subclause 53(1)(f) be removed as the venue is required to comply with the participant's request to participate in the scheme under subclause 53(1)(a). This will remove duplication from the current clause and will have no overall effect on the operation of the clause.

#### **Clause 46– Provision of gambling contact cards (*clause 54 of current Regulation*)**

It is proposed that the provision be reworded for ease of understanding. There is no overall effect on the operation of the clause.

#### **Clause 47– Offering of inducements to gamble (*clause 55 of current Regulation*)**

It is proposed that references to "letter box flyers, shopper dockets or any other similar means" removed so that the prohibition on offering free credits as an inducement to gamble will apply to all methods of communications.

### **Division 5 – Responsible conduct of gambling (RCG) training**

There are no proposed amendments to these provisions.

### **7.3.3 Assessment of costs and benefits of proposed amendments**

The proposed amendments to Part 3 of the current Regulation are mostly refinements of the existing regulatory requirements. The proposed amendments also include renumbering of provisions and rewording to reflect current drafting practices.

There will be no additional costs to regulation as a result of the amendments. The amendments will provide clarification where needed and streamline what is already required to provide a flexible and adaptable framework for harm minimisation. The proposed clause provides for transitional arrangements that will permit hotels and clubs to retain their current signage, with the new content or languages only due to once new signage has been approved by the Authority.

## **7.4 Part 4 – Gaming-related licences**

### **7.4.1 Overview of provisions**

Part 4 of the proposed Regulation provides for the various technical applications and processes related to dealers and technicians licences, and the manufacture, assembly and repair of gaming machines. There are no amendments proposed.

## **7.5 Part 5 – Intra-venue progressive gaming machines and progressive systems**

### **7.5.1 Overview of provisions**

Part 5 contains provisions for intra-venue progressive gaming machines and progressive systems. Progressive gaming machines have an incremental prize that increases each time the game is played without the jackpot being won.

Division 1 of Part 5 sets out the legal definitions for intra-venue progressive gaming machines and progressive systems.

Division 2 of Part 5 sets out the regulatory framework for intra-venue progressive gaming machines and progressive systems. This includes the authority to keep the progressive gaming machines and progressive systems, the display of player information about progressive machines and progressive systems, notification to players of which gaming machines are linked, the location of the monitors to indicate the progressive systems and the disposal of the progressive gaming machines and system.



Division 3 of Part 5 provides specific requirements for hotels that operate progressive gaming machines and their systems, including record keeping and prize requirements.

Division 4 of Part 5 provides specific requirements for registered clubs that operate progressive gaming machines and their systems, which include record keeping and prize requirements.

## **7.5.2 Proposed amendments**

The only proposed amendment to Part 5 includes replacing “premises of club” with “club premises” throughout to simplify the wording of the provisions.

## **7.5.3 Assessment of costs and benefits of proposed amendments**

The proposed amendments to this Part 5 of the Regulation will have no associated cost or any effect on the operation of the Regulation.

## **7.6 Part 6 – Player cards and accounts**

### **7.6.1 Overview of provisions**

These provisions establish the requirements for hotels and clubs that use player cards and accounts, including the issuing of player cards, participation in player rewards schemes, player accounts and their associated account and transaction statements, weekly limits, and record keeping requirements.

### **7.6.2 Proposed amendments**

#### **Clause 97– Player activity statements – player accounts (*clause 101 of current Regulation*)**

It is proposed that hotels and registered clubs be required to provide player activity statements free of charge regardless of the number of times a player requests them. This will be of benefit to players by allowing them more ready access to information that could assist in them making more informed decisions about their gambling behaviour.

In addition, it is proposed that the scale of charges that are mentioned in current Clause 101(9) be removed. The scale of charges is not utilised by the Authority and its removal will have no impact on the costs on the hotel and club.

### **7.6.3 Assessment of costs and benefits of proposed amendments**

The proposed amendment to clause 101 will require hotels and clubs to provide player activity statements free of charge. This is expected to have minimal cost on the hotel or club operation and represents a benefit to patrons.

## **7.7 Part 7 – Gaming Machine Tickets**

### **7.7.1 Overview of provisions**

Part 7 sets out the requirements for gaming machine tickets. Gaming machine tickets are tickets issued by the gaming machine or subsidiary equipment that indicate a value of credits accumulated to a person claimed through gaming machine play. Part 7 establishes the regulatory framework for the use of gaming machine tickets, including the type of information to be contained in the gaming machine ticket, record keeping requirements, redemption of gaming machine tickets and expiry of gaming machine tickets.

## **7.7.2 Proposed amendments**

### **Clause 107 - Records to be made on redemption (*clause 112 of current Regulation*)**

It is proposed that this clause be reworded so that it is more readily understood and is consistent with other provisions in the proposed Regulation that deal with the payment of prizemoney.

## **7.7.3 Assessment of costs and benefits of proposed amendments**

The proposed amendment is machinery in nature and will have no cost or impact on the industry or community. This will ensure that wording throughout the proposed Regulation is consistent.

## **7.8 Part 8 – Provisions relating to authorised CMS and inter-venue linked gaming systems**

### **7.8.1 Overview of provisions**

The centralised monitoring system (**CMS**) is the regulatory tool that connects all gaming machines in all venues in NSW. The CMS monitors and ensures the integrity of gaming machine operations, and calculates a venue's gaming machine tax.

Division 1 of Part 8 provides for the use and control of CMS information and sets out the obligations of licensees and other persons in respect of an authorised CMS and its operation.

Division 2 of Part 8 provides for the approval of inter-hotel and inter-club linked gaming systems. An inter-venue linked gaming system is a network of venues that take part in a linked gaming machine progressive jackpot prize.

Division 3 of Part 8 regulates the operation of authorised CMS and linked gaming systems.

### **7.8.2 Proposed amendments**

There are no substantive amendments to Part 8 of the current regulation. However the opportunity has been taken to reword clauses to reflect current drafting practices. The proposed clauses have also been renumbered as a consequence of other amendments.

### **7.8.3 Assessment of costs and benefits of proposed amendments**

There are no costs to industry or the community of the proposed amendments to Part 8 of the current Regulation. The rewording will make the provisions more readily understandable, which will be of benefit to all stakeholders.

## **7.9 Part 9 – Miscellaneous provisions**

### **7.9.1 Overview of provisions**

Part 10 of the current Regulation contains various provisions that include:

- Exemptions for clubs from the requirement for authorisation to keep certain gaming machines
- Exemption for Tabcorp to possess certain subsidiary equipment
- Expiry of hardship gaming machines
- Shopping centre requirements
- Penalty notice offence provisions.

## **7.9.2 Proposed Amendments**

### **Clause 138 – Gaming machine lease levy (*current clause 45B*)**

It is proposed that this provision be amended to require that a levy of at least \$1,000 for each year of the lease is paid into the Responsible Gambling Fund for community projects.

This amendment is considered necessary to prevent operators from entering into leasing arrangements which minimise their obligation to contribute to the funding of gambling harm minimisation and treatment services around the State. It is also considered that the clause would sit more appropriately in Part 10 of the proposed Regulation which deals with miscellaneous provisions.

### **Clause 147 – Meaning of ‘metropolitan area’ (*clause 156A of current Regulation*)**

It is proposed that this clause be updated to reflect local council mergers.

## **7.9.3 Assessment of costs and benefits of proposed amendments**

The proposed amendment of clause 156A is a matter of a machinery nature.

## **7.10 Schedule 1 Gaming-related licensees – prescribed changes and particulars**

### **7.10.1 Overview of provisions**

Schedule 1 prescribes what particulars are required in respect of applications and when a notification of a change must be made. There are no proposed changes to Schedule 1.

## **7.11 Schedule 2 Sydney Central Business District**

### **7.11.1 Overview of provisions**

The Sydney Central Business District referred to in Clause 144 of the proposed Regulation is prescribed by Schedule 2. There are no proposed amendments to Schedule 2.

## **7.12 Schedule 3 - Fees**

### **7.12.1 Overview of provisions**

Schedule 3 of the proposed Regulation prescribes fees for gaming-related licences, work permits and other matters.

### **7.12.2 Proposed amendments**

It is proposed that the current Part 9 be repealed and be replaced with a new Schedule 3 of the proposed Regulation.

The new Schedule will be comprised of a list of fees, with their value displayed in ‘fee units’, together with provisions relating to the calculation of fee units and the periods in respect of which various fees are payable.

### **7.12.3 Assessment of costs and benefits of proposed amendments**

These proposed changes will make it easier to adjust gaming machine fees annually to reflect inflation.

A fee unit structure was introduced in the Liquor Regulation 2018. The proposed changes align the gaming machine application and licence fee structure with the liquor fee structure, providing certainty to industry through a consistent and uniform approach.

The proposed changes reflect the principle that fees should reflect wider price increases in the economy so that the industry is charged the real cost of processing applications and the provision of related services.

The proposed fee unit structure establishes a transparent process for increasing fees and provides the industry with certainty around future increases.

## **7.13 Schedule 4 Penalty Notice Offences**

### **7.13.1 Overview of provisions**

Schedule 4 of the proposed Regulation sets out the penalty notice offences under the Act and Regulation, and prescribes the penalty amounts for those offences. It is proposed that this Schedule will be renumbered as Schedule 4 and the proposed new fee unit schedule mentioned above will become Schedule 3 of the proposed Regulation.

### **7.13.2 Proposed Amendments**

Apart from re-numbering of the Schedule, it is proposed that the offence of accepting transfer of a prize winning cheque be deleted from the list of penalty notice offences. It is considered that this is an offence that is more appropriately dealt with by the court, rather than by penalty notice.

### **7.13.3 Assessment of costs and benefits of proposed amendments**

Liability for an offence under section 47A of the Act requires that the person who accepts transfer of the cheque knew, or should have known, that the cheque was a prize winning cheque. It is not appropriate for an offence that requires a test of this nature to be dealt with by way of penalty notice and is best determined by a court.

## 8 Summary of proposed changes

The proposed Regulation remakes the current Regulation with a number of changes aimed at meeting the objectives outlined in the RIS. A summary of the proposed changes is set out below.

Current Regulation	Proposed Regulation	Reason for Change
<b>References to: 'NSW Office of Liquor, Gaming and Racing'</b>	References to 'NSW Office of Liquor, Gaming and Racing' to 'Liquor & Gaming NSW'.	Liquor & Gaming NSW succeeded NSW Office of Liquor, Gaming and Racing in 2016.
<b>11 Faulty gaming machines</b>	Clause re-ordered to include a definition of faulty gaming machine and include a requirement that when the hotel or registered club becomes aware of the fault they must act immediately.	Removes the defence that the venue was not aware of their obligations.
<b>17 Clubs required to record certain information in relation to gaming machines</b>	Amalgamating Clauses 17 and 18.	Redrafted in line with current legislation drafting practices.
<b>18 Additional records by clubs</b>	Amalgamating Clauses 17 and 18.	Redrafted in line with current legislation drafting practices.
<b>20 Clearance and refilling of gaming machines in clubs</b>	Provisions amalgamated.	Redrafted in line with current legislation drafting practices.
<b>21 Display of information concerning chances of winning prizes on gaming machines</b>	Allows the Authority to approve the content and design of signage.	To provide a more flexible approach to mandatory player information requirements.  Consistent with proposed amendments to Casino Control Regulation 2019.

Current Regulation	Proposed Regulation	Reason for Change
<b>22 Approval of English and other community language player information brochures</b>	Allow the Authority to approve the community language brochures.	<p>To provide a more flexible approach to mandatory player information requirements.</p> <p>Consistent with proposed amendments to Casino Control Regulation 2019.</p>
<b>23 Provision of player information brochures</b>	Merges provisions.	Removes duplicate requirements
<b>24 Provision of player information brochures in community languages</b>	Allow the Authority to approve the community language brochures.	<p>To provide a more flexible approach to mandatory player information requirements.</p> <p>Consistent with proposed amendments to Casino Control Regulation 2019.</p>
<b>25 Dangers of gambling – notice to be displayed on gaming machines</b>	Amends certain offence provisions.	<p>Overcomes the issue of three individual penalty notices being issued for for failure to display the one sign.</p> <p>Consistent with proposed amendments to Casino Control Regulation 2019.</p>
<b>26 Counselling signage – notice to be displayed</b>	Allow the Authority to approve the content and design of signage.	<p>To provide a more flexible approach to mandatory player information requirements.</p> <p>Consistent with amendments to Casino Control Regulation 2019.</p>

Current Regulation	Proposed Regulation	Reason for Change
<b>27 Signage to be displayed on ATMs and cash-back terminals</b>	Allow the Authority to approve the content and design of signage	To provide a more flexible approach to mandatory player information requirements.
<b>34 Interpretation (LIA provisions)</b>	Reference included to align guidelines with the requisite section of the Act	Clarify that this was intended in the Act
<b>38 Class 1 LIA – information to be provided</b>	Provide greater explanation of what to include in the LIA application to assist in the approval process by requiring venues to show harm minimisation measures and trading/operating hours	<p>Ensure that there is a clear delineation of the harm minimisations that venues are required to comply with under the Act and any additional measures taken.</p> <p>To provide the Authority with a clear picture of the venue's operations.</p>
<b>39 Class 2 LIA – information to be provided</b>	Provide greater explanation of what to include in the LIA application to assist in the approval process by requiring venues to show harm minimisation measures and trading/operating hours	<p>Ensure that there is a clear delineation of the harm minimisations that venues are required to comply with under the Act and any additional measures taken.</p> <p>To provide the Authority with a clear picture of the venue's operations.</p>
<b>41 Consultation and advertising requirements</b>	Streamlining provisions	Provide clear directions for what is required by applicants
<b>45B Gaming Machine Lease Levy</b>	Renumbered as new clause 138 and increase minimum amount of levy due.	Ensure those participating in the leasing scheme make a reasonable contribution to the Responsible Gambling Fund.
<b>46 Gaming Machine advertising and signs – exclusions</b>	Remove reference to “post or electronic means” in Clause 46(4)	<p>Removes redundant provisions.</p> <p>Allows provision to apply to all means of communication platforms.</p>



Current Regulation	Proposed Regulation	Reason for Change
<b>48 Provision of player activity statements under player reward schemes</b>	Ensure qualified persons provide services. Removal of scale of charges to provide statements free of charge.	Ensuring that problem gamblers are provided with sufficient and qualified care and the ability to access their player activity statements free of charge.
<b>52 Provision of problem gambling counselling services</b>	Ensure qualified persons provide services.	Ensure that minimum standards apply.
<b>53 Self-exclusion schemes</b>	Redrafted for clarity.	Redrafted in line with current legislation drafting practices.
<b>54 Provision of gambling contact cards</b>	Remove requirement that cards be obtained from L&GNSW and be in a form approved by the Authority.	Provides ability in the future for other means to obtain contact cards.
<b>55 Offering inducements to gamble</b>	Omit references to “letter box, shopper dockets and other means”.	Removes redundant provisions.  Allows provision to apply to all means of communication platforms
<b>96 Issuing of player cards</b>	Amendments to clause 96(4) and repeal of clause 96(5).	Consequential on amendments to clause 25.
<b>101 Player activity statements – player accounts</b>	Removal of scale of charges to provide statements free of charge.	Remove the cost to consumers for the provision of player activity statements.
<b>109 Records of gaming machine tickets issued</b>	Amendments to clause 109(2)	Consequential on amendments to clause 25.
<b>112 Records to be made on redemption</b>	Amend clause to read “exceeds \$5,000”.	Ensure consistent wording throughout the Regulation.
<b>156A Meaning of “metropolitan area”</b>	Reflection of local council amalgamations.	Updates the definition.

Current Regulation	Proposed Regulation	Reason for Change
<b>Schedule 3 – Penalty notice offences</b>	Introduce a fee unit structure and CPI increase provisions.	The current Schedule 3 will be moved to Schedule 4. The placement of the fee structure here is for continuity reasons.
<b>Fees – Generally</b>  A fee unit system consistent with Liquor Regulation 2018.  Clauses/Schedules containing fees are Part 9.	A 'fee unit' enabling the simplified annual updating of fees in line with CPI.	Adopting a fee unit model approach to the updating of annual fees simplifies the updating of fees and provides industry with certainty.

### Removed clauses

Current Regulation	Reason for Removal
<b>8(4)(f) Suitable space between gaming machines</b>	Redundant provision.
<b>28 - Display of clocks</b>	The provision of clocks on gaming machine screens has become common industry practice. There is limited evidence on the ongoing harm minimisation benefit of requiring venues to have separate clocks in their gaming areas to those that are on gaming machines, and individual's personal devices.
<b>33 Exemptions from dealing in cheques and from locating cash dispensing facilities away from gaming machines</b>	Redundant provisions. These provisions have fallen into disuse and exemptions are rarely, if ever, sought from the Authority.
<b>45 Transitional provision – threshold increase applications for prospective hoteliers</b>	Redundant transitional provision.
<b>45A Date on which gaming machine threshold is to be decreased by number of AADs previously surrendered</b>	Redundant provision that was specific to a point in time.
Current Regulation	Reason for Removal
<b>46(1)(h) – (j) Gaming Machine</b>	Redundant provisions which related to specific publications and events.

<b>advertising and signs – exclusions</b>	
<b>149A Expiry of hardship gaming machine approvals – exemptions for certain hoteliers</b>	Redundant provision. There is no more hardship gaming machines in NSW.
<b>162 Savings provision – construction of certain references to Licensing Court and Liquor Administration Board</b>	Redundant savings provisions.

## ANNEXURE A List of Stakeholders notified

The following organisations have been informed of the release of this RIS and the consultation draft of the proposed Gaming Machines Regulation 2019:

### **Community Organisations and Industry:**

- ❖ AHA NSW
- ❖ Alliance for Gambling Reform
- ❖ Anglicare
- ❖ Aristocrat
- ❖ Australasian Gaming Council
- ❖ Australian Leisure & Hospitality Group
- ❖ Catholic Care
- ❖ Centre for Gambling Research, School of Sociology, ANU
- ❖ Club Managers Association Australia
- ❖ ClubsNSW
- ❖ Crown Ltd
- ❖ Financial Counselling Australia
- ❖ Gambling and Social Determinants Units, Monash University
- ❖ Gambling Help NSW
- ❖ Gambling Impact Society
- ❖ Gambling Research and Treatment Clinic, University of Sydney
- ❖ Gaming Technologies Association
- ❖ GLI Australia
- ❖ Leagues Clubs Australia
- ❖ Maxgaming
- ❖ Mounties
- ❖ North Shore Local Health District
- ❖ NSW Council for Social Services (NCOSS)
- ❖ NSW Golf
- ❖ O'Hara Group
- ❖ Red Cross
- ❖ Relationships Australia NSW
- ❖ Responsible Wagering Australia
- ❖ Royal NSW Bowling Association
- ❖ RSL & Services Clubs Association
- ❖ St Vincent de Paul
- ❖ Tabcorp
- ❖ The Salvation Army
- ❖ The Star
- ❖ Wesley Mission

### **Government Agencies:**

- ❖ Centrelink
- ❖ City of Sydney Council
- ❖ Department of Planning & Industry
- ❖ Department of Premier and Cabinet
- ❖ Local Area Health Districts
- ❖ Local Area Health Districts
- ❖ Local Councils
- ❖ Local Government NSW

- ❖ Multicultural NSW
- ❖ NSW Council for Social Services
- ❖ NSW Crime Commission
- ❖ NSW Department of Customer Service
- ❖ NSW Department of Family and Community Services and Justice
- ❖ NSW Health
- ❖ NSW Police (including LACS)
- ❖ NSW Treasury
- ❖ Office of Local Government

## ANNEXURE B - Table of Abbreviations

TERM	ABBREVIATION
Regulatory Impact Statement	RIS
Centralised Monitoring System	CMS
Liquor & Gaming NSW	L&GNSW
Local Impact Assessment	LIA
Independent Liquor & Gaming Authority	The Authority
<i>Gaming Machine Act 2001</i>	The Act
Gaming Machines Regulation 2010	The current Regulation
Gaming Machines Regulation 2019	The proposed Regulation
<i>Gaming and Liquor Administration Act 2007</i>	The GALA Act
Responsible Conduct of Gambling	RCG