

NEW SOUTH WALES
DRAFT GOVERNMENT BILL

**Gaming Machines Amendment (Gambling
Harm Minimisation) Bill 2020**

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public consultation draft

NEW SOUTH WALES
DRAFT GOVERNMENT BILL

**Gaming Machines Amendment (Gambling
Harm Minimisation) Bill 2020**

No , 2020

A Bill for

An Act to amend the *Gaming Machines Act 2001* to make further provision with respect to gambling harm minimisation; and for other purposes.

public consultation draft

Gaming Machines Amendment (Gambling Harm Minimisation) Bill 2020 [NSW]

The Legislature of New South Wales enacts—

1 Name of Act

This Act is the *Gaming Machines Amendment (Gambling Harm Minimisation) Act 2020*.

2 Commencement

This Act commences on a day or days to be appointed by proclamation.

Schedule 1 Amendment of Gaming Machines Act 2001 No 127

- [1] **Section 39 General 6-hour shutdown period after 1 May 2003**
Omit “100 penalty units” from section 39(1). Insert instead “250 penalty units”.
- [2] **Section 40 Approval of 3-hour shutdown period on weekends and public holidays**
Omit “100 penalty units” from section 40(2). Insert instead “250 penalty units”.
- [3] **Section 40A Approval of limited shutdown period on hardship grounds**
Omit “100 penalty units” from section 40A(2). Insert instead “250 penalty units”.
- [4] **Section 41 Approval of different shutdown periods for “early openers”**
Omit “100 penalty units” from section 41(4). Insert instead “250 penalty units”.
- [5] **Part 4, Division 2A**
Insert after Division 2—

Division 2A Exclusion of persons from hotels and clubs

42A Definitions

In this Division—

excluded person, in relation to a venue, means—

- (a) a person who has entered into a self-exclusion arrangement that relates to the venue, or
- (b) a person who is subject to an exclusion order that prohibits the person from entering or remaining in the whole of the venue.

Note. An exclusion order prohibits the excluded person from entering or remaining in the whole of each venue, within 5 kilometres of the venue of the hotelier or club that made the order, in which approved gaming machines are located. Accordingly, the person is an excluded person in relation to each of the other venues. See section 42E.

exclusion application—see section 42C(1).

exclusion order—see section 42C(1).

family member—see section 42C(2).

gambling counselling service provider means a body prescribed by the regulations as a gambling counselling service provider.

gaming area of a venue means a part of the venue in which approved gaming machines are located.

Online Exclusion Portal means a web-based tool, approved by the Secretary, by which a person may enter into a self-exclusion arrangement.

personal gambling counsellor means a person who—

- (a) has appropriate gambling counselling qualifications, and
- (b) is employed or engaged by, or whose services are accessed through, a gambling counselling service provider.

relevant exclusion area of a venue—

- (a) for a person who has entered into a self-exclusion arrangement—see section 42B(1)(b), or
- (b) for a person who is subject to an exclusion order—see section 42E.

relevant person means a person who is the subject of an exclusion application.

responsible person means—

- (a) for a hotel—the following—
 - (i) the hotelier,
 - (ii) the manager of the hotel,
 - (iii) an employee of the hotelier or manager,
 - (iv) any other person involved in the conduct of gambling activities in the hotel, or
- (b) for a club—the following—
 - (i) the secretary of the club,
 - (ii) a director of the club,
 - (iii) an employee of the club,
 - (iv) any other person involved in the conduct of gambling activities on the club premises.

self-exclusion arrangement—see section 42B(1).

spouse of a relevant person means—

- (a) a person to whom the relevant person is legally married (including a husband or wife of the relevant person), or
- (b) a de facto partner of the relevant person.

Note. “De facto partner” is defined in section 21C of the *Interpretation Act 1987*.

State-wide Exclusion Register—see section 42L.

42B Self-exclusion arrangements

- (1) For the purposes of this Division, a **self-exclusion arrangement** is a written undertaking—
 - (a) that is voluntarily entered into by a person in accordance with the regulations, and
 - (b) that prohibits the person from entering or remaining in an area of a venue nominated by the person (the **relevant exclusion area**).
- (2) A self-exclusion arrangement may relate to a single venue or to multiple venues.
- (3) The relevant exclusion area may comprise—
 - (a) 1 or more of the gaming areas of the venue, or
 - (b) the whole of the venue.
- (4) A hotelier or club authorised to keep approved gaming machines must—
 - (a) display in each gaming area of the venue a notice, in the form approved by the Secretary, about the availability of self-exclusion arrangements, and
 - (b) publicise the availability of self-exclusion arrangements and information about how they operate to the patrons of the venue, and
 - (c) ensure that a person is, before entering into a self-exclusion arrangement, given the opportunity to seek independent legal or other professional advice at the person’s own expense as to the effect of the arrangement, and
 - (d) assist a person who proposes to enter into a self-exclusion arrangement to do so, and

- (e) provide a person who enters into a self-exclusion arrangement with information about gambling counselling services, including the name and contact details of a gambling counselling service provider, and refer the person to those services unless the person elects otherwise, and
- (f) make a record of each self-exclusion arrangement in relation to the venue in the State-wide Exclusion Register, and
- (g) comply with any requirements of the regulations relating to the recording of information in the State-wide Exclusion Register.

Maximum penalty—250 penalty units.

42C Making of exclusion orders—general

- (1) A hotelier or club authorised to keep approved gaming machines may, on application by a person's family member (an *exclusion application*), or on the hotelier's or club's own initiative, make a written order (an *exclusion order*) that prohibits the person from entering or remaining in—
 - (a) the hotel, or
 - (b) the club premises (including, in the case of a club that has more than 1 set of premises, any or all of those sets of premises).
 - (2) For the purposes of this Division, each of the following is a *family member* of the relevant person—
 - (a) a current or former spouse of the relevant person,
 - (b) a child of the relevant person or of a current or former spouse of the relevant person,
 - (c) a sibling, step-brother or step-sister of the relevant person or of a current or former spouse of the relevant person,
 - (d) a parent or step-parent of the relevant person or of a current or former spouse of the relevant person.
 - (3) A hotelier or club must—
 - (a) refer a family member who proposes to make an exclusion application to a gambling counselling service provider, and
 - (b) following the referral, assist the family member to make the exclusion application, and
 - (c) decide, within 21 days of receiving an exclusion application, whether or not to make the exclusion order and inform the family member and the relevant person of the decision.
- Maximum penalty—250 penalty units.
- (4) An exclusion order—
 - (a) takes effect on the date that it is served on the excluded person in accordance with the regulations, and
 - (b) may be revoked at any time by the hotelier or club that made the exclusion order but not until after 6 months from the date it took effect.
 - (5) The regulations may make provision for or with respect to the matters to be considered, and the procedure to be followed, in deciding whether or not to make an exclusion order.
 - (6) A decision by a hotelier or club whether or not to make an exclusion order may be reviewed by the Authority in accordance with the regulations.

- (7) A club does not, in making or enforcing an exclusion order, contravene any provision of the *Registered Clubs Act 1976* or the *Anti-Discrimination Act 1977*.

42D Making of exclusion orders—*independent advice*

- (1) The Secretary may appoint personal gambling counsellors as persons (*independent advisers*) who may provide hoteliers and clubs an opinion on whether a proposed decision to make or not make an exclusion order is, in a particular case, reasonable.
- (2) The regulations may make provision for or with respect to independent advisers, including—
- (a) the procedure by which a hotelier or club may seek the services of an independent adviser, and
 - (b) the fee payable for use of an independent adviser, and
 - (c) the manner in which, and terms on which, an independent adviser may provide an opinion to a hotelier or club.

42E Extension of effect of exclusion order

- (1) A person subject to an exclusion order is prohibited from entering or remaining in the whole of each venue, within 5 kilometres of the venue of the hotelier or club that made the order, in which approved gaming machines are located (the *relevant exclusion area*).
- (2) Accordingly, the person is an excluded person in relation to each of the other venues.

42F Requirement to prevent excluded persons from entering or remaining in relevant exclusion areas

- (1) A hotelier or club must take all reasonable steps to prevent an excluded person from entering or remaining in the relevant exclusion area of the venue.
Maximum penalty—250 penalty units.
- (2) The Secretary is to issue guidelines setting out the reasonable steps that may be taken by a hotelier or club to prevent an excluded person from entering or remaining in the relevant exclusion area of the venue.
- (3) The guidelines are to be made publicly available in a manner the Secretary considers appropriate.
- (4) It is a defence to a prosecution for an offence under this section if it is proved that the hotelier or club complied with the guidelines referred to subsection (2).

42G Action by responsible persons in relation to excluded persons

- (1) It is lawful for a responsible person for a hotel or club, using no more force than is reasonable in the circumstances—
- (a) to prevent an excluded person from entering or remaining in the relevant exclusion area of the venue, and
 - (b) to remove the excluded person, or cause the excluded person to be removed, from the relevant exclusion area of the venue.
- (2) No civil or criminal liability is incurred by a responsible person for a hotel or club, or by the club itself, for any act done in good faith, and in accordance with this section, to or in respect of an excluded person.

- (3) No civil liability is incurred by a responsible person for a hotel or club, or by the club itself, if an excluded person enters or remains in the relevant exclusion area of the venue after all reasonable steps have been taken to prevent the excluded person from doing so.
- (4) However, this section does not limit or otherwise affect the civil liability of a person for negligence that causes personal injury to a person or the death of a person.

42H Prohibition on sending promotional or other material to excluded persons

- (1) If a person is, under this Division, prohibited from entering or remaining in the gaming area of a venue only, the hotelier or club must not send any promotional material to the person.
Maximum penalty—250 penalty units.
- (2) If a person is, under this Division, prohibited from entering or remaining in the whole of a venue, the hotelier or club must not send any promotional material or other information about the venue to the person.
Maximum penalty—250 penalty units.
- (3) In this section, *promotional material* means any written material that promotes or otherwise relates to the playing of approved gaming machines in a venue.

42I Prohibition on permitting excluded persons to participate in player reward schemes

A hotelier or club must not permit an excluded person in relation to the hotel or club to participate in a player reward scheme within the meaning of section 45.

Maximum penalty—250 penalty units.

Note. An exclusion order prohibits the excluded person from entering or remaining in the whole of each venue, within 5 kilometres of the venue of the hotelier or club that made the order, in which approved gaming machines are located. Accordingly, the person is an excluded person in relation to each of the other venues. See section 42E.

42J Player accounts and Smartcards of excluded persons

- (1) A player account opened by a person with a hotelier or club is suspended while the person is an excluded person in relation to the hotel or club.
Note. An exclusion order prohibits the excluded person from entering or remaining in the whole of each venue, within 5 kilometres of the venue of the hotelier or club that made the order, in which approved gaming machines are located. Accordingly, the person is an excluded person in relation to each of the other venues. See section 42E.
- (2) The regulations may make provision for or with respect to the return to an excluded person of funds in a player account opened by, or credit stored on a Smartcard issued to, the person.
- (3) In this section, *player account* and *Smartcard* have the same meaning as in section 45B.

42K Excluded persons prohibited from playing gaming machines

- (1) An excluded person is prohibited from playing an approved gaming machine in the relevant exclusion area (a *prohibited machine*).
- (2) An excluded person is not entitled to a prize from the playing of a prohibited machine.

- (3) A prize from the playing of a prohibited machine is forfeited to the hotelier or club by operation of this section.
- (4) A hotelier or club must pay the amount of a prize forfeited to the hotelier or club by operation of this section into the Responsible Gambling Fund established under section 115 of the *Casino Control Act 1992* within 3 months after the prize was forfeited.
Maximum penalty (subsection (4))—250 penalty units.
- (5) In this section—
prize includes the monetary value of the following—
 - (a) a non-monetary prize awarded to an excluded person from the playing of a prohibited machine,
 - (b) a promotional prize offered or presented to an excluded person under section 45 in connection with the playing of a prohibited machine,
 - (c) credits appearing on a prohibited machine being played by an excluded person.

42L State-wide Exclusion Register

- (1) The Secretary is to keep a register (the *State-wide Exclusion Register*) of all excluded persons.
- (2) The State-wide Exclusion Register is to be kept in the manner approved by the Secretary.
- (3) The regulations may make provision for or with respect to the State-wide Exclusion Register and, in particular, for or with respect to the following—
 - (a) information that is required or permitted to be recorded in the State-wide Exclusion Register,
 - (b) the administration and use of the State-wide Exclusion Register,
 - (c) recording and disclosure of, and access to, information in the State-wide Exclusion Register,
 - (d) without limiting paragraph (c)—
 - (i) the exchange of information, by means of the State-wide Exclusion Register, between the Secretary and hoteliers and clubs, and
 - (ii) information reporting requirements of hoteliers and clubs, and
 - (iii) the interoperability of the State-wide Exclusion Register with other services, registers and schemes, including facial recognition services.

42M Registering and notification of exclusion breaches

- (1) A hotelier or club must—
 - (a) record in the State-wide Exclusion Register any breach or attempted breach of a self-exclusion arrangement or exclusion order by an excluded person, and
Note. The hotelier or club must also record the incident in the venue's gambling incident register—see section 48A(2)(c).
 - (b) if the hotelier or club is aware a counselling provider provides gambling counselling services to the excluded person—notify the counselling provider of the breach or attempted breach.

- (2) A counselling provider that provides gambling counselling services to an excluded person may, with the consent of the excluded person—
 - (a) record in the State-wide Exclusion Register any breach or attempted breach of a self-exclusion arrangement or exclusion order by the excluded person, and
 - (b) notify the relevant hotelier or club of the breach or attempted breach.
- (3) In this section—

counselling provider means—

 - (a) a gambling counselling service provider, or
 - (b) a personal gambling counsellor.

42N Exclusion applications on behalf of family members

- (1) A family member may request a counselling provider to make an exclusion application on behalf of the family member.
- (2) A family member who is under the age of 18 cannot make an exclusion application unless the application is made on behalf of the family member by a counselling provider.
- (3) Any thing under this Act that is permitted or required to be done by or in relation to a family member is permitted or required to be done by or in relation to a counselling provider that makes an application on behalf of the family member.
- (4) In this section—

counselling provider means—

 - (a) a gambling counselling service provider, or
 - (b) a personal gambling counsellor.

[6] Section 43 Prohibition on publishing gaming machine advertising

Omit “100 penalty units” wherever occurring in section 43(1) and (3).
Insert instead “250 penalty units”.

[7] Section 45A Disclosure of information in player activity statements

Omit “100 penalty units” wherever occurring in section 45A(2) and (3).
Insert instead “250 penalty units”.

[8] Section 45B Disclosure of information in relation to players

Omit “100 penalty units” from section 45B(3). Insert instead “250 penalty units”.

[9] Section 46, heading

Omit “**problem**”.

[10] Sections 46(1) and 194(1)(c1)

Omit “problem” wherever occurring.

[11] Section 47C Prohibition on certain cash dispensing facilities

Omit “100 penalty units” from section 47C(1). Insert instead “250 penalty units”.

[12] Sections 48A–48D

Insert after section 48—

48A Gambling incident registers

- (1) A hotelier or club authorised to keep approved gaming machines must—
- (a) keep and maintain a gambling incident register in the form approved by the Secretary, and
 - (b) ensure that the requirements of this section in relation to the register are complied with.

Maximum penalty—100 penalty units.

- (2) A gambling incident register is to record details of the following—
- (a) any incident in which a patron of the venue displays or engages in problematic gambling behaviour of the kind specified in guidelines issued by the Secretary,
 - (b) any exclusion application under Division 2A that is made, or that is proposed to be made, by or on behalf of a family member, including any occasion on which a family member makes contact or seeks information about the making of an exclusion order, and intervention by the venue in relation to a patron,
 - (c) any breach or attempted breach of a self-exclusion arrangement or exclusion order under Division 2A,
 - (d) any offence, or alleged offence, under Division 4, or any other incident involving a minor,
 - (e) any other gambling-related incident or matter of a kind prescribed by the regulations.

- (3) A gambling incident register must also record details of the action taken in response to the incidents, applications and other matters recorded in the register.

- (4) A gambling incident register must not record the identity or personal details of a family member who makes, or who proposes to make, an exclusion application under Division 2A.

- (5) The information recorded in a gambling incident register must be retained for at least 3 years from when the record was made.

- (6) A hotelier or club must, at the request by a police officer or inspector—
- (a) make any gambling incident register kept under this section available for inspection by a police officer or inspector, and
 - (b) allow a police officer or inspector to take copies of the register or to remove the register from the hotel or club premises.

Maximum penalty—100 penalty units.

- (7) A gambling incident register required to be kept by a hotelier or club under this section may be kept as part of an incident register required to be kept by the hotelier or club under section 56 of the *Liquor Act 2007*.

- (8) Guidelines issued by the Secretary for the purposes of this section must be made publicly available in a manner the Secretary considers appropriate.

48B Requirement to promote responsible gambling practices

- (1) A responsible person for a hotel or club must ensure that—

- (a) all reasonable steps are taken to promote responsible gambling practices in relation to approved gaming machines kept in the venue, and
- (b) those gambling practices are reviewed and rectified if the gambling incident register kept under section 48A identifies any misuse or abuse of gambling activities in the venue.

Maximum penalty—100 penalty units.

- (2) In this section, *responsible person* means—

- (a) for a hotel—the hotelier, the manager of the hotel or any other person engaged in the administration of the hotel or in the management of approved gaming machines in the hotel, or
- (b) for a club—the secretary of the club or any other person engaged in the administration of the club or in the management of approved gaming machines on the club premises.

48C Gambling contact officers

- (1) A hotelier or club authorised to keep approved gaming machines must ensure that at least 1 person who has completed an approved advanced RCG training course within the meaning of section 49A is on duty at the venue at all times when approved gaming machines are in operation at the venue.

Maximum penalty—250 penalty units.

- (2) The person required to be on duty is referred to in this Act and the regulations as the *gambling contact officer* for the venue.

- (3) In the case of a club with more than 1 set of premises, the club complies with subsection (1) only if at least 1 gambling contact officer is on duty at each set of premises.

- (4) The regulations may make provision for or with respect to the functions of gambling contact officers.

- (5) A hotelier or club must—

- (a) take reasonable steps to ensure that a gambling contact officer for the venue exercises the functions conferred or imposed on the officer under this Act or the regulations, and
- (b) ensure that the gambling contact officer for the venue is informed by members of staff about those patrons whom the staff members reasonably believe are experiencing problems with gambling.

Maximum penalty—250 penalty units.

- (6) The Secretary is to issue guidelines to assist a hotelier or club in determining the reasonable steps required to be taken for the purposes of subsection (5)(a).

- (7) The guidelines are to be made publicly available in a manner the Secretary considers appropriate.

48D Whistleblower protection for staff

- (1) A person must not engage in discriminatory conduct if the main reason for the discriminatory conduct is a prohibited reason.

Maximum penalty—250 penalty units.

- (2) For the purposes of this section, a person engages in *discriminatory conduct* if the person—

- (a) dismisses a member of staff of a hotel or club (a *staff member*), or

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- (b) terminates a contract for services with a staff member, or
 - (c) changes a staff member's position or working hours to the member's detriment, or
 - (d) refuses or fails to offer to engage a person as a prospective staff member, or
 - (e) treats a prospective staff member less favourably than another prospective staff member would be treated.
- (3) A person also engages in discriminatory conduct for the purposes of this section if the person organises to take any action referred to in subsection (2) or threatens to organise or take that action.
- (4) Conduct referred to in this section is engaged in for a *prohibited reason* if it is engaged in because the staff member or prospective staff member has disclosed or proposes to disclose to the Authority, the Secretary or an inspector—
- (a) the contravention by the hotelier or club of a gambling harm minimisation requirement, or
 - (b) concerns about the manner in which the hotelier or club is complying with a gambling harm minimisation requirement.
- (5) If, in proceedings for an offence under this section, the prosecution—
- (a) proves that the discriminatory conduct was engaged in, and
 - (b) adduces evidence that the discriminatory conduct was engaged in for a prohibited reason,
- the reason alleged for the discriminatory conduct is presumed to be the main reason for that conduct unless the accused proves on the balance of probabilities that the reason was not the main reason for the conduct.
- (6) In subsection (4), *gambling harm minimisation requirement* means a requirement imposed by or under this Division or Division 2 or 2A of this Part.

[13] Section 49 Self-exclusion of patrons from hotels and clubs

Omit the section.

[14] Section 49A Definitions

Insert in alphabetical order—

approved advanced RCG training course means an advanced course of responsible conduct of gambling training for the management and supervision of gambling operations in hotels and on club premises and that is provided—

- (a) by an approved training provider approved by the Secretary in accordance with the regulations in relation to the course, or
- (b) by or on behalf of the Secretary.

[15] Sections 49A (definition of “interim RCG certificate”), 49C and 49D

Insert “or approved advanced RCG training course” after “approved RCG training course” wherever occurring.

[16] Section 50 Minors prohibited from operating gaming machines in hotels or clubs

Insert after section 50(2)—

- (3) A minor is not entitled to a prize from the playing of an approved gaming machine that the minor is prohibited from playing under this section (a *prohibited machine*).
- (4) A prize from the playing of a prohibited machine is forfeited to the hotelier or club by operation of this section.
- (5) A hotelier or club must pay the amount of a prize forfeited to the hotelier or club by operation of this section into the Responsible Gambling Fund established under section 115 of the *Casino Control Act 1992* within 3 months after the prize was forfeited.
Maximum penalty (subsection (5))—250 penalty units.
- (6) In this section—
prize includes the monetary value of the following—
 - (a) a non-monetary prize awarded to a minor from the playing of a prohibited machine,
 - (b) a promotional prize offered or presented to a minor under section 45 in connection with the playing of a prohibited machine,
 - (c) credits appearing on a prohibited machine being played by a minor.

[17] Section 194 Evidentiary provisions

Omit section 194(1)(c2).

[18] Section 210 Regulations

Omit section 210(2)(g1). Insert instead—

- (g1) the establishment and conduct of self-exclusion arrangements under section 42B,
- (g2) the making and operation of exclusion orders under section 42C, including the matters to be considered when determining exclusion applications,
- (g3) the administration and use of the Online Exclusion Portal within the meaning of Part 4, Division 2A,



New South Wales

Gaming Machines Amendment (Gambling Harm Minimisation) Regulation 2020

under the

Gaming Machines Act 2001

[The following enacting formula will be included if this Regulation is made—]

Her Excellency the Governor, with the advice of the Executive Council, has made the following Regulation under the *Gaming Machines Act 2001*.

Minister for Customer Service

Explanatory note

[This draft Regulation is related to the proposed *Gaming Machines Amendment (Gambling Harm Minimisation) Bill 2020* and should be read in conjunction with that Bill.]

Gaming Machines Amendment (Gambling Harm Minimisation) Regulation 2020 [NSW]

Gaming Machines Amendment (Gambling Harm Minimisation) Regulation 2020

under the

Gaming Machines Act 2001

1 Name of Regulation

This Regulation is the *Gaming Machines Amendment (Gambling Harm Minimisation) Regulation 2020*.

2 Commencement

This Regulation commences on the commencement of the *Gaming Machines Amendment (Gambling Harm Minimisation) Act 2020* and is required to be published on the NSW legislation website.

Schedule 1 Amendment of Gaming Machines Regulation 2019

[1] Part 3, Division 3A

Insert after Division 3—

Division 3A Exclusion of persons from hotels and clubs

40A Self-exclusion arrangements—general

- (1) A self-exclusion arrangement may be entered into—
 - (a) by using the Online Exclusion Portal, whether at a venue or elsewhere, or
 - (b) by any other means made available by a hotelier or club.
- (2) A self-exclusion arrangement must be signed or otherwise authenticated by the excluded person.

40B Self-exclusion arrangements—exclusion periods

- (1) A self-exclusion arrangement must specify the period that the arrangement is to be in force (the *exclusion period*).
- (2) The exclusion period—
 - (a) for an excluded person's first self-exclusion arrangement in relation to a venue—must be not less than 6 months, and
 - (b) for an excluded person's second or subsequent self-exclusion arrangement in relation to a venue—may be for any period.
- (3) The excluded person may extend the exclusion period on or before its expiration.
- (4) The exclusion period may be extended on more than 1 occasion.
- (5) An extension of the exclusion period must be for at least 1 month.

40C Self-exclusion arrangements—relevant exclusion areas

- (1) A self-exclusion arrangement must specify the relevant exclusion area.
Note. Under section 42B of the Act a self-exclusion arrangement may relate to more than 1 venue.
- (2) The excluded person may, during the exclusion period, do either or both of the following—
 - (a) add further areas or venues to the relevant exclusion area,
 - (b) vary the relevant exclusion area so that it includes only the gaming area of a venue instead of a whole venue.
- (3) However, the excluded person cannot reduce the number of venues that the excluded person has undertaken to be excluded from during the exclusion period.

40D Self-exclusion arrangements—additional requirements for hoteliers and clubs

- (1) A hotelier or club must, if a person enters into a self-exclusion arrangement that relates to, or varies a self-exclusion arrangement so that it relates to, more than 1 venue, ensure that the hotelier or club for each of the other venues is notified of the arrangement.

- (2) A hotelier or club must, if a self-exclusion arrangement applies in relation to the venue, ensure that each responsible person for the hotel or the club can readily identify the excluded person, whether by means of access to a recent photograph of the person or otherwise.

40E Exclusion applications—general

- (1) An exclusion application must identify the family member's concerns about the gambling behaviour of the relevant person.
- (2) An exclusion application may include other information that the family member considers relevant.

Note. An exclusion order may also be made at the hotelier's or club's own initiative under section 42C of the Act.

40F Exclusion applications—procedure for considering and deciding

- (1) The procedure specified in this clause must be complied with if an exclusion application is made by a family member.

Note. An exclusion order may also be made at the hotelier's or club's own initiative under section 42C of the Act.

- (2) The gambling contact officer for the hotel or club must consider the following—

- (a) information provided by the family member in or with the application,
(b) other information the hotel or club has in relation to the relevant person.

- (3) Without limiting the information the gambling contact officer must consider, other information the hotel or club has in relation to the relevant person includes the following—

- (a) observations of, or interactions with, the relevant person by staff of the hotel or club,
(b) incidents involving the relevant person that are recorded in the gambling incident register of the hotel or club,
(c) information, of a kind referred to in section 45B of the Act, about the relevant person held by the club.

- (4) The gambling contact officer must engage with the relevant person about undertaking counselling and entering into a self-exclusion arrangement.

- (5) If the relevant person chooses not to enter into a self-exclusion arrangement, the gambling contact officer must recommend—

- (a) if the gambling contact officer believes on reasonable grounds that the relevant person is at risk of harm, or is at risk of causing harm to a family member, because of gambling—that the hotelier or club should make an exclusion order in relation to the relevant person,
(b) in all other cases—that the hotelier or club should not make an exclusion order in relation to the relevant person.

- (6) If the gambling contact officer recommends that the hotelier or club should make an exclusion order, the gambling contact officer must—

- (a) provide the relevant person the reasons for making the recommendation, and

Note. The identity of the family member must be kept secret under clause 40J.

- (b) give the relevant person the opportunity to make representations to the hotelier or club on the matter.

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Schedule 1 Amendment of Gaming Machines Regulation 2019

- (7) In deciding whether to make an exclusion order, the hotelier or club must consider the following—
 - (a) the recommendation by the gambling contact officer,
 - (b) the information provided by the family member,
 - (c) representations made by the relevant person.
- (8) The hotelier or club must make an exclusion order if the hotelier or club believes on reasonable grounds that the relevant person is at risk of harm, or is at risk of causing harm to a family member, because of gambling.

40G Independent advice

- (1) A hotelier or club may, on application in the form approved by the Secretary and payment to the Secretary of the fee specified in subclause (3), obtain an independent adviser's opinion on whether a proposed decision to make or not make an exclusion order is, in a particular case, reasonable.
- (2) The independent adviser is, after considering the information provided by the hotelier or club, to provide the hotelier or club the independent adviser's opinion.
- (3) The fee payable for use of an independent adviser is—
 - (a) \$200, or
 - (b) for a case that is, in the opinion of the Secretary, complicated—\$400.

40H Registering and giving notice of exclusion order

- (1) If a hotelier or club makes an exclusion order, the hotelier or club must—
 - (a) within 24 hours, make a record of the order in the State-wide Exclusion Register, including the information specified in subclause (2), and
 - (b) as soon as reasonably practicable, and no later than the next occasion on which the excluded person attends the venue, give the excluded person notice of the making of the order, including the information specified in subclause (3), in the manner, if applicable, specified in subclause (4).

Maximum penalty—50 penalty units.
- (2) The record in the State-wide Exclusion Register must—
 - (a) contain the name and address of the excluded person, and
 - (b) specify the exclusion period, and
 - (c) include a recent photograph of the excluded person, if the hotelier or club has one.
- (3) The notice to the excluded person must—
 - (a) contain information about gambling counselling services, including the name and contact details of a gambling counselling service provider, and
 - (b) contain information about the operation and effect of the order, including its duration, the excluded person's obligations under the order and provisions relating to forfeiture of prizes from the playing of gaming machines that the person is prohibited from playing, and
 - (c) advise the excluded person of the right to a review by the Authority under clause 40I.
- (4) The notice to the excluded person must be by email if the hotelier or club has the excluded person's email address.

40I Review by Authority

- (1) A person who is aggrieved by the decision of a hotelier or club to make, or not to make, an exclusion order (the *reviewable decision*) may apply in writing to the Authority for a review of the decision.
- (2) An application for review must be made—
 - (a) by an excluded person—within 14 days of being given notice of the exclusion order, and
 - (b) by a family member—within 14 days of being informed of a decision not to make an exclusion order.
- (3) An application for review does not operate to stay the reviewable decision.
- (4) The Authority is to consider any relevant material submitted by the applicant for review and any information that was made available to, or relied on by, the hotelier or club in making the reviewable decision.
- (5) The Authority may also have regard to any other information that it considers relevant.
- (6) In determining an application under this clause, the Authority may—
 - (a) confirm the reviewable decision, or
 - (b) overturn the decision not to make an exclusion order and direct the hotelier or club to make an exclusion order, or
 - (c) overturn the decision to make an exclusion order and direct the hotelier or club to revoke the order.
- (7) The Authority is to notify, as applicable, the following of its decision under this clause—
 - (a) the relevant person or excluded person,
 - (b) the family member who made the relevant exclusion application.
- (8) A hotelier or club must comply with a direction of the Authority under subclause (6).
Maximum penalty—50 penalty units.

40J Protection of identity of family members

A responsible person for a hotel or club or a gambling contact officer for a venue must not disclose the identity or personal details of a family member who makes an exclusion application unless the disclosure—

- (a) is made, in the course of exercising the person's or officer's duties, to another responsible person for the hotel or club or to another gambling contact officer for the venue, or
- (b) is made with the consent of the family member, or
- (c) is ordered by a court, or another body or person exercising judicial functions, for the purposes of the hearing or determination by the court, body or person of any matter, or
- (d) is authorised or required by or under the Act or any other law.

Maximum penalty—50 penalty units.

40K Protection of information in State-wide Exclusion Register

- (1) A person must not access or disclose information about an excluded person recorded on the State-wide Exclusion Register unless the person is an authorised person and the access or disclosure—

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- (a) is made in the course of exercising the authorised person's duties, or
 - (b) is made with the consent of the excluded person, or
 - (c) is ordered by a court, or another body or person exercising judicial functions, for the purposes of the hearing or determination by the court, body or person of any matter, or
 - (d) is authorised or required by or under the Act or any other law.
- Maximum penalty—50 penalty units.

(2) In this clause—

authorised person means—

- (a) a responsible person for a hotel or club, or
- (b) a personal gambling counsellor, or
- (c) a Public Service employee engaged in the administration of the gaming and liquor legislation within the meaning of the *Gaming and Liquor Administration Act 2007*.

40L Return of funds to excluded person

- (1) A hotelier or club must, as soon as reasonably practicable after a person becomes an excluded person in relation to the venue, return to the person—
- (a) funds in a player account opened by the person with the hotelier or club, and
 - (b) credit stored on a Smartcard issued to the person by the hotelier or club.
- Maximum penalty—50 penalty units.

Note. An exclusion order prohibits the excluded person from entering or remaining in the whole of each venue, within 5 kilometres of the venue of the hotelier or club that made the order, in which approved gaming machines are located. Accordingly, the person is an excluded person in relation to each of the other venues. See section 42E of the Act.

- (2) In this clause, **player account** and **Smartcard** have the same meaning as in section 45B of the Act.

40M Gambling counselling service providers

For the purposes of the definition of **gambling counselling service provider** in section 42A of the Act, the following bodies are prescribed—

- (a) Australian Hotels Association (NSW),
- (b) ClubsNSW,
- (c) BetSafe,
- (d) any other body that receives funding from the Responsible Gambling Fund under the *Casino Control Act 1992* for the specific purpose of providing gambling-related counselling or treatment services.

[2] Clause 41 Gaming machine advertising and signs—exclusions

Omit clause 41(4)(g).

[3] Clause 44

Omit clauses 44 and 45. Insert instead—

44 Personal gambling counsellors to provide gambling counselling services

- (1) Personal gambling counsellors are to provide gambling counselling services as referred to in section 46 of the Act.

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- (2) A hotelier or club must—
- (a) make available at all times to the patrons of the hotel or club, including on request, the name and contact details of a gambling counselling service made available by or through a gambling counselling service provider, and
 - (b) display in each gaming area of the hotel or club a notice containing the name and contact details of the gambling counselling service.

Maximum penalty (subclause (2))—50 penalty units.

- (3) In this clause—
- gambling counselling service provider*** has the same meaning as in Part 4, Division 2A of the Act.
- Note.** See clause 40M.
- personal gambling counsellor*** has the same meaning as in Part 4, Division 2A of the Act.

[4] Clause 46 Provision of gambling contact cards

Omit “problem” from paragraph (b) of the definition of ***gambling contact card*** in clause 46(2).

[5] Clause 50A

Insert after clause 50—

50A Functions of gambling contact officers

Without limiting the functions conferred or imposed on gambling contact officers under Division 3A of this Part, a gambling contact officer for a venue has the following functions—

- (a) to oversee, in conjunction with the hotelier or club secretary, the gambling harm minimisation requirements under the Act and this Regulation that relate to the venue,
- (b) to promote, in conjunction with other hotel or club staff, responsible gambling best practice,
- (c) to assess the gambling behaviour of patrons,
- (d) to engage with patrons displaying or experiencing problematic gambling behaviour,
- (e) to refer patrons to support and gambling counselling services,
- (f) to facilitate the process for entering into self-exclusion arrangements,
- (g) to consider whether the hotelier or club should make exclusion orders in relation to persons on the hotelier’s or club’s own initiative.

[6] Clause 51 Definitions

Insert in alphabetical order in clause 51(1)—

advanced RCG endorsement—see clause 53(1A).

general RCG endorsement—see clause 53(1).

[7] Clause 51(1)

Insert “***approved advanced RCG training course***,” after “***approved RCG training course***,”.

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[8] Clause 51(1), definition of “RCG endorsement”

Omit the definition. Insert instead—

RCG endorsement means a general RCG endorsement or an advanced RCG endorsement.

[9] Clauses 52(1) and (2), 54(2)(b), 55(1) and (2) and 58(5) and (6)(a) and (c)

Insert “or approved advanced RCG training course” after “approved RCG training course” wherever occurring.

[10] Clause 53 Issue and replacement of recognised competency card with RCG endorsement

Omit “(an *RCG endorsement*)” from clause 53(1).

Insert instead “(a *general RCG endorsement*)”.

[11] Clause 53(1A)

Insert after clause 53(1)—

- (1A) The Secretary may, on the basis of an interim RCG certificate, issue a person a recognised competency card with a notation that the person has completed an approved advanced RCG training course within the previous 3 years (an *advanced RCG endorsement*).

[12] Clause 54 Expiry of RCG endorsement

Omit “An RCG endorsement” and “the RCG endorsement” wherever occurring in clause 54(1).

Insert instead “A general RCG endorsement” and “the general RCG endorsement”, respectively.

[13] Clause 54(1A)

Insert after clause 54(1)—

- (1A) An advanced RCG endorsement expires—
- (a) on the third anniversary of the issue of the interim RCG certificate that was the basis for the advanced RCG endorsement being included on the recognised competency card, or
 - (b) if the advanced RCG endorsement is renewed—on the third anniversary of the date the advanced RCG endorsement would otherwise have expired.

[14] Clause 57, heading

Insert “, **gambling contact officers**” after “**secretaries**”.

[15] Clause 57(1)–(3)

Insert “advanced” after “current” wherever occurring.

[16] Clause 57(3A) and (3B)

Insert after clause 57(3)—

- (3A) A hotelier or club must ensure that the gambling contact officer for the venue holds a recognised competency card with a current advanced RCG endorsement.
Maximum penalty—

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- (a) if the advanced RCG endorsement on the recognised competency card of the person has expired—25 penalty units, or
 - (b) in any other case—50 penalty units.
- (3B) A hotelier or club must ensure that the gambling contact officer for the venue completes, at least once every 3 years, an advanced RCG refresher training course—
- (a) for the management and supervision of gambling operations in venues, and
 - (b) that is provided by the Secretary.
- Maximum penalty—50 penalty units.

[17] Clause 57(4)

Omit the subclause. Insert instead—

- (4) A hotelier or registered club must not employ a person—
 - (a) whose duties are concerned in the conduct of activities involving approved gaming machines in the hotel or on the club premises, and
 - (b) who is not the gambling contact officer for the venue,unless the person holds a recognised competency card with a current general RCG endorsement.
- Maximum penalty—
- (a) if the general RCG endorsement on the recognised competency card of the person has expired—25 penalty units, or
 - (b) in any other case—50 penalty units.