



Department  
of Industry

Liquor & Gaming

# Regulatory Impact Statement

## Casino Control 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 Casino Control 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 at Annexure A.

Notice has been published in The Sydney Morning Herald, 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: [cc.regulation@liquorandgaming.nsw.gov.au](mailto:cc.regulation@liquorandgaming.nsw.gov.au)

By mail: 2019 Remake of the Casino Control 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 Should such a request not be granted, appropriate opportunity will be provided for the submission to be withdrawn.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 Casino Control Regulation 2019 (**'the proposed Regulation'**), to be made under the *Casino Control Act 1992* (**'the Act'**), has been developed by Liquor & Gaming NSW (**'L&GNSW'**). The Act and the Casino Control Regulation 2009 (**'the current Regulation'**) are administered by the Minister for Customer Service, the Hon. Victor Dominello MP. The Minister is proposing the remake of the current Regulation. 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 B) 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.

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## 2. Legislative Background

### 2.1 *Casino Control Act 1992* and regulatory instruments

The primary legislation regulating the operation of a casino and the conduct of casino gaming in NSW is the *Casino Control Act 1992*. Its subordinate legislation, the Casino Control Regulation 2009 commenced on 1 September 2009.

The major objectives of the Act include the following:

- ensuring that the management and operation of the casino remain free from criminal influence or exploitation;
- ensuring that gaming in the casino is conducted honestly; and
- containing and controlling the potential of the casino to cause harm to the public interest and to individuals and families.

The current Regulation sets out the necessary legislative framework and specific administrative detail to underpin the effective operation of the Act. The major objectives of the Act are achieved by regulating:

- the grant of a licence to operate a casino;
- the operation of a casino through inquiries, investigations and disciplinary actions;
- the licensing of casino employees;
- the contractual arrangements involving a casino;
- the approval process in relation to the system of internal controls and administrative and accounting procedures for a casino; and
- the duties and levies payable by a casino operator to the Government.

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

In addition to the Act and current Regulation, the casino is overseen by a number of other regulatory instruments, including directions issued by the Independent Liquor & Gaming Authority (**'the Authority'**) or the Minister, together with enforceable internal controls.

Directions under the Act may relate to the protection of casino gaming integrity, the establishment and operation of a casino, or the operation of gaming machines. The Authority can give a casino operator a written direction that relates to the conduct, supervision or control of operations in the casino, or for information gathering purposes.

Following the Government's response to the Casino Modernisation Review, a new set of comprehensive internal controls has been put in place to ensure greater emphasis on an approved system of proactively addressing risks in the casino environment.

Removing unnecessary requirements from the current Regulation and placing them in internal controls reduces red tape burden and provides for greater flexibility to the Authority to regulate casinos in NSW in a proactive way.

The greater use of internal controls, which can be updated to mirror changes in community standards, industry circumstances, compliance and enforcement practices, or emerging risks, reflects a modern casino regulatory regime with intelligence and risk-based approach, improved monitoring and targeted intervention for serious compliance breaches.

### 2.2 Regulatory bodies

The Authority performs regulatory functions and engages in the administration of liquor and gaming legislation. The provisions of the *Gaming and Liquor Administration (GALA) Act 2008* constitutes and specifies the functions of the Authority (including functions that can be delegated to Public Service employees), provides for the probity of persons engaged in the administration of gaming and liquor legislation, and confers investigation and enforcement powers.

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. Its vision is to support *"a NSW where people enjoy vibrant and dynamic, as well as safe and responsible, liquor and gaming environments."*

In administering the regulatory framework, L&GNSW provides policy advice to Government, supports and undertakes certain statutory decision-making, as well as supervises licensed venues and enforces gaming and liquor laws across the State.

L&GNSW also supports the effective operation of the Authority. With respect to casinos, the Authority, as a decision-making board is primarily responsible for:

- determining casino and other licence applications;
- reviewing matters connected with casinos and the activities of casino operators;
- approvals of games, game rules and gaming equipment for use in a casino; and
- overseeing disciplinary proceedings.

## **2.3 Crown Sydney**

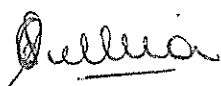
On 8 July 2014 the Authority granted Crown Sydney the Restricted Gaming Facility licence after an extensive application process. However, gaming operations by Crown Sydney are not permitted to begin until 13 November 2019 when The Star's exclusive right to operate a casino in NSW ends.

The Casino Control Regulation 2019 will apply to both casino operators, ensuring both casinos are subject to the same regulatory controls.

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### 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 under the Act are required to be dealt with by regulation to ensure the efficient operation of the Act. Failing to make a regulation would leave these matters unspecified and impair the legislative framework of the Act. The loss of provisions designed to promote industry integrity and standards, and protect the community would jeopardise the public confidence in the conduct of casino gaming.

The casino also operates gaming machines, and conducts the sale and service of liquor on licensed premises. As such the current Regulation contains gaming harm minimisation provisions adopted from the *Gaming Machines Act 2001* and specifies which provisions of the *Liquor Act 2007* apply to licensed premises at the casino and within the casino environs.

### 4. Objectives of the Proposed Regulation

The principal objective of the proposed Regulation is to give full and proper effect to the Act and help secure the policy objectives of the Act by providing the necessary legislative support and administrative detail as required or permitted under the Act.

The specific objectives of the proposed Regulation are to ensure:

- that casino operations are conducted in the public interest and to the highest standards of integrity;
- that the management and operation of the casino remains free from criminal influence or exploitation;
- that any potential harm to the public interest or to individuals and families is contained and controlled;
- that gaming in the casino is conducted honestly, and that the potential for fraudulent practices within the casino is prevented by appropriate and effective controls;
- that the State's liquor laws are applied to the casino in an appropriate manner;
- that the efficient and effective performance of functions by the Authority is promoted;
- that penalties, where proposed, reflect the seriousness of the offence;
- that the harm minimisation principles are maintained and the potential for gambling-related harm is minimised;
- that gaming is conducted in accordance with the legislation and approved rules; and
- that the casino operators promote a transparent and effective regulatory environment.

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 proposed Regulation provides for the administrative and machinery matters contemplated by the Act. The proposed Regulation offers the best option to support a rigorous, risk-based regulatory approach that can also be flexible and responsive to changes in community expectations.

The proposed Regulation includes only those clauses necessary to give effect to the proper administration of the Act, ensure the implementation of gaming harm minimisation measures, and impose appropriate controls on the sale and service of alcohol within the casino environs.

Without the proposed Regulation, there would be much less clarity and transparency about what is required to support the objectives of the Act.

The regulatory framework for the administration and oversight of casino operations in NSW through the Act and regulations is already in place. Therefore, the governmental costs of the proposed Regulation are low. Many matters not dealt with through the proposed Regulation will continue to be managed administratively where that is possible, in support of government policy to minimise the number and complexity of regulations.

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

Failing to remake the current Regulation in advance of its repeal on 1 September 2019 would impair the efficient operation of the Act.

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 undermine the capacity of Government to fulfil the policy objectives of the Act and carry out its regulatory responsibilities under the Act.

Allowing the current Regulation to lapse without replacement would reduce transparency and accountability for government, community and industry stakeholders, which would not have access to clear statutory rules about crucial matters relating to the responsible operation of casinos in NSW.

This option would lead to the loss of provisions designed to promote industry integrity and standards and community protection measures, and may pose significant threats to public confidence in the conduct of casino gaming.

While the absence of a regulation would remove compliance costs from casino operators in NSW, the potential costs to the community arising from an absence of mandatory gambling harm minimisation measures, controls on the service and supply of alcohol, or measures to ensure that the management and operation of the casino remains free from criminal influence or exploitation, are significantly greater.

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

This option would involve a system of industry self-regulation. While a self-regulation approach would reduce the regulatory compliance costs for casino operators, casino operators would have to meet the cost of developing appropriate codes of practice and implementing systems to ensure compliance with those codes.

Another factor to be considered is that self-regulation does not have the force of law. There is a community expectation that there will be effective and appropriate controls where casino gaming is concerned.

The aim of maintaining the integrity of gaming operations would be difficult to achieve through self-regulation. Self-regulation would hinder the statutory powers of the Authority, and the Government generally, with regard to the oversight of casino operations.

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Co-regulation could involve the industry developing and administering similar arrangements, with the government providing legislative backing to enable the arrangements to be enforced.

The costs of this option are high for the matters addressed by the proposed Regulation. The Act does not envisage, or provide for, self-regulatory or co-regulatory approaches as a primary regulatory method to achieve its objectives.

While self-regulation and co-regulation are not considered appropriate for the regulation of casinos in NSW, the continued use of enforceable internal controls under the current regulatory framework will ensure a more modern casino regulatory regime based on an intelligence-led and risk-based regulatory approach. Placing greater emphasis on the approved system of internal controls provides an opportunity for the casino operators to manage regulatory risks associated with their businesses and for the casino regulator to establish best practice to oversee the operation of casinos in NSW. The system of internal controls is subject to regular review to ensure it remains relevant and reflects community and industry standards. The use of internal controls would continue to be used under Option 1.

#### **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.

This approach has been adopted as far as possible. Matters that may be properly controlled by a system of internal controls, and by administrative and accounting procedures, have been identified. However, there are limits to the matters that can be dealt with administratively, as the Act requires that regulations be made in some circumstances.

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

#### **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, based on the evaluation of the respective impacts on government, community and industry stakeholders and overall comparison of options 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. Impact Assessment of the Proposed Regulation

This section of the RIS will discuss the provisions of the proposed Regulation and weigh up the costs and benefits of the proposed Regulation on the government, casino operators and the general community.

The main features of the proposed Regulation are:

- supervision over the change of affairs of a casino operator;
- identification of casino employees;
- contracts exempt from the definition of controlled contracts;
- implementation of responsible gambling practices;
- provisions for the sale and supply of liquor in a casino;
- a range of miscellaneous and machinery provisions.

The proposed Regulation is broken up into Parts and Schedules. Each of the Parts and Schedules will be analysed separately below.

### 6.1 Part 1 – Preliminary

#### 6.1.1 Overview of provisions

Part 1 provides essential machinery and procedural provisions. Clause 1 specifies the name of the proposed Regulation as the Casino Control Regulation 2019 and clause 2 provides for the commencement of the proposed Regulation on 1 September 2019. Clause 3 contains definitions of terms used throughout the proposed Regulation.

There are no economic and social costs or benefits associated with Part 1 of the proposed Regulation. These are machinery matters that are necessary for a proper understanding and functioning of the proposed Regulation. There are no proposed amendments.

### 6.2 Part 2 – Casino Operator and Casino Employees

#### 6.2.1 Overview of provisions

Provisions of Part 2 specify:

- the major and minor changes in the state of affairs of a casino operator that are to be advised to the Authority;
- the changes in the state of affairs of a licensed casino employee that are to be advised to the Authority;
- the type of casino employees exempted from the normal requirement to be licensed as a special employee;
- the identification requirements for casino employees who are exempt from the requirement to be licensed; and
- the fees for special employee licence applications and renewals.

#### 6.2.2 Clauses 4 & 5 – Major and minor changes in state of affairs

Under section 12(1) of the Act, the Authority must not grant an application for a casino licence unless it is satisfied that the applicant and each close associate of the applicant is a suitable person to be concerned in or associated with the management and operation of a casino.

However, section 35 of the Act recognises that the basis upon which the assessment was made may change – e.g. there may be a change in the circumstances of the casino operator. The section therefore establishes a requirement for the Authority to be informed of any major or minor changes in the state of affairs of the casino operator.

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These changes are prescribed in clauses 4 & 5 of the proposed Regulation. Furthermore, Schedules 1 & 2 of the proposed Regulation describes the major and minor changes in state of affairs of a casino operator, respectively.

A minor amendment has been made by adding the casino operator's email address to Schedule 2 to capture a more current means of communication between the casino operator and the Authority.

#### **Assessment of costs and benefits of clauses 4 & 5**

These provisions are currently in force. The operator may incur minor economic costs in supplying this type of information to the Authority. However, these costs are not onerous and the operator already has processes in place to comply with this requirement. There are clear public interest benefits in obtaining such information, and doing so in a timely manner.

This information is essential to ensuring the ongoing probity and financial viability of the casino operator, and in acting as a safeguard against the operator being subject to improper influence.

### **6.2.3 Clauses 6 to 8 – Casino employees**

Under Part 4 of the Act, a "special employee" of a casino (a class of employees that are required to go through additional suitability assessments) is required to be licensed by the Authority.

In accordance with section 43(2) of the Act, the regulations may exempt persons employed or working in a casino in any specified capacity from being a "special employee". The purpose of clause 6 is to give effect to section 43(2).

A person licensed by the Authority as a special employee is required by section 63 of the Act to inform the Authority in writing about any prescribed change in the employee's state of affairs.

The purpose of clause 7 is to prescribe the changes and the particulars, which are to be notified to the Authority. The list of the changes and particulars is included in Schedule 3 of the proposed Regulation.

A new approach will be introduced to enable the fees prescribed in clause 8 to be automatically adjusted each year for inflation, in line with the Consumer Price Index (All Groups Index) for Sydney, published by the Australian Statistician. The fee will be expressed in fee units instead of dollar amounts. This concept is similar to the penalty units system used in NSW to describe the amount payable for a fine.

The fee for an application or renewal of a special employee licence has been maintained at its current level. As the fee unit for the 2019-20 financial year is set at \$100, and the fee unit for an application or renewal of a special employee licence is 10, the fee remains \$1000 (10 x \$100). As fees will be adjusted annually before 1 July each year from 2020-21 financial year onwards, the first full year in which CPI growth will occur is 2019-20 year. This will give time for industry to adjust to the new arrangements and will provide business certainty going forward.

#### **Assessment of costs and benefits of clauses 6 to 8**

While there is a clear benefit to ensuring that certain employees that work in a casino have gone through additional suitability assessments, it is appropriate that this additional process is only imposed where there is a regulatory need. The proposed approach strikes that balance, and only imposes a licence fee that reflects a partial cost recovery for the process undertaken by the Authority. These provisions also provide important social benefits to the community in protecting the integrity of casino gaming.

## **6.3 Part 3 – Contracts**

### **6.3.1 Overview of provisions**

Sections 36 to 42 of the Act enable the Authority to control contracts that are related to the supply or servicing of gaming equipment to the casino or materially significant to the integrity

of the casino. The purpose of these controls is to ensure an appropriate level of regulatory oversight with regard to contracts that have the potential to adversely affect the integrity of casino operations.

Clauses 9 to 12 provide the procedural framework for this regulatory oversight. Under the Act, the proposed Regulation may prescribe a contract of a class as an exception to the definition of a controlled contract.

### **6.3.2 Clauses 9 to 12 – Form, serial number, fee and exemptions**

Clause 9 requires the Authority to provide the casino operator with an identifying serial number for a proposed controlled contract as soon as it has received notification of the contract.

For the purpose of section 37(1), clause 10 will provide for a fee to accompany the lodgement of a controlled contract for approval by the Authority. The fee has not been increased since 2009. With the proposed adoption of fee units under the proposed Regulation, it is proposed that the lodgement of a controlled contract is accompanied by a fee of 25 fee units (\$2,500 as at 1 September 2019).

Under Schedule 3(12) to the Act, the form of controlled contracts is a matter for the regulations. Clause 11 prescribes the form that controlled contracts and variations must take.

Clause 12 prescribes the contracts that come within the definition of 'controlled contract' under the Act but are not required to be treated as a controlled contract. The proposed threshold and other categories of exemptions represent a sensible balancing of the regulatory burden and the commercial decision-making by the casino operator.

#### **Assessment of costs and benefits of clauses 4 & 5**

The social benefits flowing from the controlled contract provisions are appropriate scrutiny and regulation of contracts with the potential to influence the integrity of the casino operations. These are machinery provisions that support the efficient operation of the legal framework attached to controlled contracts.

The fee in clause 10 is intended to be a contribution to the Authority's costs in reviewing controlled contracts. This approach ensures that costs are apportioned to those who directly benefit from the Authority's approval of controlled contracts.

## **6.4 Part 4 – Responsible gambling practices**

### **6.4.1 Overview of provisions**

Division 1 of the proposed Regulation controls a casino's involvement in junkets and prohibits the offering of gambling inducements.

Division 2 of the proposed Regulation prescribes the mandatory signage and information requirements, and payment procedures that a casino operator must provide to gaming machine players.

Division 3 of the proposed regulation applies to casino advertising and publicising the names of prize winners.

Division 4 of the proposed Regulation gives effect to section 72A of the Act and requires that the casino operator must ensure that problem gambling counselling services are made available to patrons of the casino.

### **6.4.2 Division 1 – Junkets and Gambling inducements**

#### **Clauses 13 & 14 – Junkets and inducements**

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A junket means any arrangement for the promotion of gaming in a casino by a group of people (usually involving the supply of transport, accommodation, food, drink and entertainment to the



participants in the arrangement, some or all of which are paid for by the casino operator or are otherwise provided on a complimentary basis).

The term "inducement" is generally considered to be an offer to a person designed to encourage that person to gamble.

Under section 76(2)(a) of the Act, the regulations may impose restrictions on who may organise or promote a junket. Clause 13 prohibits a casino operator or a casino employee from acting as the promoter of a junket, or as a representative of a promoter.

Section 76(1) of the Act enables regulations to be made for or with respect to the regulation or prohibition of the offer of inducements to persons individually to take part in gambling at a casino.

In particular, the regulations may impose restrictions on who may offer inducements and may require any contract or other agreement that relates to an inducement to be expressed in a form and contain provisions approved by the Authority. Clause 15 specifies the imposed restrictions on inducements.

This Division has been amended and the majority of the provisions in relation to junkets have been moved from the Regulation into the Internal Controls Manual. The new offence for breaching an internal control commenced on 21 December 2018, and regulating junkets through Internal Controls and Standard Operating Procedures provides greater flexibility under this risk-based approach.

#### Assessment of costs and benefits of clauses 13 & 14

The intention of clause 13, which is currently in force, is to prevent a conflict of interest arising in relation to commission payments payable to the operator. A conflict, if it arose, would have the potential to adversely affect a junket participant. This clause would be of benefit to junket players frequenting the casino by maintaining the integrity of casino operations and would involve no economic cost to the casino operator.

Restrictions around the offering inducements detailed in clause 14 are intended to ensure that appropriate restrictions are in place to address actions that may lead to irresponsible gambling and other inappropriate behaviour. Problem gambling imposes a cost on the community, and a significant cost (financial and emotional) on the individuals and families directly affected. Therefore prohibiting the offering of inducements to gamble provides a benefit to the community.

### **6.4.3 Division 2 – Player Information**

#### **Clauses 15 to 25 – player information brochures, notices, ATMs, and cheques**

These clauses adopt the provisions on harm minimisation measures contained in the *Gaming Machines Act 2001* and Gaming Machines Regulation 2019. It is proposed that the requirements specified in the clauses are consistent with the requirements placed on hotels and registered clubs which operate gaming machines.

These provisions are part of a comprehensive gambling harm minimisation regulatory framework that applies to casino operators in NSW. The provisions contained in the proposed Regulation are intended to ensure that patrons using gaming machines are well informed about how gaming machines operate and to provide players with additional information to discourage problematic gambling behaviour, including unrealistic expectations of winning significant amount of money from playing a gaming machine.

The player information brochures and the information provided to players on the chances of winning a major prize and the potential dangers of gambling on poker machines are factual and fundamental to the product being offered by the casino operator. These provisions have been included to provide robust consumer protection and safeguards.

The amendments introduced to this Division ensure a flexible and evolving approach to mandatory signage as well as to player information brochures. The prescribed wording of

mandatory signage has been removed from the provisions of the proposed Regulation and the content of the notices and signs is proposed to be approved by the Authority. The removal of specific wording contained in the clauses and streamlining the provisions provide an opportunity to move away from the prescriptive regulatory approach, and would allow the Authority to change the wording as the evidence based in this field progresses. Similar amendments have been included in the Gaming Machines Regulation 2019.

#### Assessment of costs and benefits of clauses 15 to 25

The provision of free information to players of gaming machines and other forms of gambling concerning the risks associated with gambling and the availability of counselling services are important from a gambling harm minimisation and responsible gambling perspective. These measures can help reduce the social and economic costs that arise from problem gambling.

Some provisions impose no cost on a casino operator but provide a social benefit by ensuring that information standards are maintained. In relation to other clauses of Division 2, the cost of complying with the regulatory requirements is not considered to be significant in the context of the annual turnover of a casino.

### **6.4.4 Division 3 - Advertising**

#### **Clauses 26 to 29 – gambling-related advertising and publicity for prize-winners**

Clauses in Division 3 outline the prohibitions on casino advertising, gambling related signs and identifying prize winners that apply to casino operators. Further, the provisions limit the casino operators' rights to enter into or extend the duration of any contract or arrangement in relation to advertisements or signs that do not comply with these provisions. Any such contract or arrangement is of no effect.

The purpose of clause 29 is to specify those advertising activities that are excluded from the prohibition to publish gaming machine related advertisements.

The requirements and obligations in these provisions are consistent with the harm minimisation measures detailed in the gaming machines legislation which applies to hotels and registered clubs operating gaming machines.

#### Assessment of costs and benefits of clauses 13 & 14

The purpose of this Division is to provide security for prize winners and prevent casino advertising that encourage problem gambling behaviour. It does not impose additional costs on the casino operator. However, the benefits to the community of preventing advertising causing problem gambling behaviour are considerable. There is a significant body of evidence that that these types of advertising provide an incentive that can influence a person to gamble beyond their means and can lead to problematic gambling behaviour.

### **6.4.5 Division 4 – Problem gambling counselling services**

#### **Clauses 30 & 31 – Provision of problem gambling counselling services and gambling contact cards**

The casino operator is required to ensure that counselling services and detailed information of the service provider (name and contact details) are available at all times to the patrons of the casino.

The casino operator must also provide the information on how to access counselling services to each person who has voluntarily self-excluded under section 79 (3) of the Act and to any other person who is requested to do so.

The casino operator must display gambling contact cards in a card holder that is attached to each bank of gaming machines. The holder must be positioned so that patrons can clearly see the contact cards.

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These statutory obligations are consistent with the requirements placed on hotels and registered clubs which operate gaming machines.



## Assessment of costs and benefits of clauses 30 & 31

Providing counselling services for problem gamblers, and potential problem gamblers who use the casino is an important gambling harm minimisation strategy. The contact cards are intended to maximise the effectiveness of the self-exclusion schemes run in hotels, clubs and the casinos.

Alleviating problem gambling and reducing the risk of individuals becoming problem gamblers provide a considerable benefit to the community.

While fulfilling its statutory obligations under these provisions imposes a cost on the casino operator, there is a net benefit to the community. The Responsible Gambling Fund funds a number of services across the State, including face-to-face gambling treatment and free online and telephone services, which are available to anyone who experiences gambling problems, and to friends and family of those experiencing gambling problems.

## **6.5 Part 5 – Responsible Service of Alcohol (RSA) training**

### **6.5.1 Overview of provisions**

Clauses 32 to 39 contain provisions regarding the mandatory conduct of RSA training for casino employees who sell, supply or serve alcohol, and the engagement of persons in relation to carrying out security activities.

The amendments made to this Part reflect the specific requirements of the new industry training framework outlined in the Liquor Regulation 2018.

### **6.5.2 Proposed RSA provisions**

#### **Clauses 32 to 37 – Requirements to sell, supply or serve liquor; promotional activities; crowd controllers and bouncers**

Clause 32 contains the definition of terms to be used in this part of the proposed Regulation. Definitions have been updated and new definitions included to provide for the new industry training framework introduced by the Liquor Regulation 2018.

Clause 33 introduces a new requirement for licensees and approved managers of licensed premises to undertake training targeted at licensees, i.e. the licensee training course. They also need to participate in the advanced licensee training course if their venue operates after midnight. This will lift related standards in respect to the management of licensed premises within the casino precinct to promote RSA.

Clauses 35 and 36 set out the RSA training requirements for crowd controllers and RSA marshals respectively. The proposed new clause provides that all persons employed as RSA marshals have to undertake industry RSA training.

#### **Clauses 38 to 39 - Inspection, suspension and revocation of recognised competency cards**

These clauses deal with the inspection of recognised competency cards, and the suspension and revocation of recognised competency card endorsements.

Clause 39 prescribes that competency cards (and all of its endorsements) or individual recognised competency card endorsements can be suspended or revoked by the Authority. For instance, a licensee RSA endorsement could be suspended for a period of time, which would prevent a licensee from continuing to work in that capacity during the suspension period.

## Assessment of costs and benefits of clauses 32 to 39

Part 5 seeks to ensure that those who sell, supply or serve liquor within the casino environs are appropriately trained, and are well placed to ensure compliance with the laws concerning liquor. These laws seek to reduce irresponsible consumption of alcohol, which can lead to individual and community harms, including alcohol-related violence.

Part 5 imposes a number of penalties for failure to comply with RSA training and competency card requirements. While this imposes costs on industry, this is offset by the improved skillset people completing the required RSA training will possess, and their improved ability to manage and mitigate alcohol-related risks, harm and violence.

Clause 39 creates a power to suspend or revoke competency cards or competency card endorsements. This power may impose costs on individuals from responding to processes initiated under this provision, as well as to the consequences if their competency card is suspended or revoked.

However, there are significant benefits that flow to regulators and the community. The threat to a licensee or approved manager of losing their licensee RSA training competency (and thus losing the ability to be a licensee or approved manager) through regulatory suspension or revocation provides a significant incentive for licensees and approved managers to comply with the law.

## 6.6 Part 6 - Miscellaneous

### 6.6.1 Overview of provisions

Part 6 sets out miscellaneous provisions regarding the casino.

### 6.6.2 Proposed miscellaneous provisions

#### Clauses 40 to 44 – Application of liquor laws

Clauses 41 to 44 provides for a number of miscellaneous provisions that relate to the application of the State's Liquor laws to the casino and the casino environs. This includes:

- The application of the *Liquor Act 2007* to the casino and casino environs.
- Requirement that free drinking water be available on licensed premises within the casino or casino environs.
- Addressing discount liquor promotions, undesirable liquor products
- Providing the Secretary with the power to approve codes of practice on the responsible sale, supply, service and promotion of liquor.
- General requirements about the availability of licence and licence-related authorisations on licensed premises within the casino environs.

For the purpose of section 89 of the Act, clause 41 states that provisions of the *Liquor Act 2007* specified in Part 1 and 2 of Schedule 5 of the proposed Regulation apply to the licensed premises within the casino and casino environs.

This clause also specifies that the provisions of Schedule 6, which are sections of the *Liquor Act 2007* modified to make them suitable for application to the casino, apply to the licensed premises within the casino and casino environs.

#### Assessment of costs and benefits of clauses 40 to 44

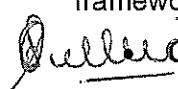
The economic and social costs or benefits associated with these clauses have been the subject of the RIS in connection with the making of the Liquor Regulation 2018 published in June 2018 by Liquor & Gaming NSW.

Approved by the  
Clauses 40 to 44 – Curious

These clauses provide for a number of various provisions that support the casino regulatory framework, including:

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- Reporting requirement when gaming equipment is delivered to the casino.
- Prescribed offences for detention of suspected person in accordance with section 88(2) of the Act.
- List of documents that can provide evidence of age.
- Provision of offences for which penalty notices can be issued.
- Provision of offences for which the court can issue remedial orders.
- Provision for delegation of Secretary's functions.
- Provision for casino supervisory levy for the purpose of section 115A(2) of the Act.

These clauses are carried forward from the current Regulation. Minor amendments have been made to prescribe the Australia Post Keypass identity card and digital driver licence as valid 'evidence of age' documents.

#### Assessment of costs and benefits of clauses 45 to 54

There are no economic and social costs or benefits associated with these provisions as these clauses cover machinery matters necessary for the proper functioning of the casino legislation.

### **6.7 Schedule 1 – Description of major change in state of affairs of a casino operator**

#### **6.7.1 Overview of provisions**

Schedule 1 specifies and itemises the major changes in state of affairs of a casino operator that the casino operator has to report to the Authority.

#### Assessment of costs and benefits of Schedule 1

Schedule 1 has been assessed in line with clause 4 (detailed above) and no significant additional economic and social costs or benefits associated with this Schedule have been identified.

### **6.8 Schedule 2 – Description of minor change in state of affairs of a casino operator**

#### **6.8.1 Overview of provisions**

Schedule 2 describes the minor changes in state of affairs of a casino operator that the casino operator has to report to the Authority.

#### Assessment of costs and benefits of Schedule 2

Schedule 2 has been assessed in line with clause 5 (detailed above) and no significant additional economic and social costs or benefits associated with this Schedule have been identified.

### **6.9 Schedule 3 – Change in state of affairs of licensee**

#### **6.7.1 Overview of provisions**

For the purpose of section 63 of the Act and in accordance with clause 7 of the proposed Regulation Schedule 3 prescribes the changes and the particulars that are the subject of notification provided to the Authority in writing.

#### Assessment of costs and benefits of Schedule 3

Schedule 3 has been assessed in line with clause 7 (detailed above) and no significant additional economic and social costs or benefits associated with this Schedule have been identified.

## **6.10 Schedule 4 – Notices in controlled contracts**

### **6.10.1 Overview of provisions**

Schedule 4 provides the precise form of the written notice for controlled contract (Notice 1) and the variation of control contract (Notice 2) that the casino operator must present to the Authority in accordance with section 37(1) of the Act.

#### Assessment of costs and benefits of Schedule 4

Schedule 4 has been assessed in line with clause 11 (detailed above) and no significant additional economic and social costs or benefits associated with this Schedule have been identified.

## **6.11 Schedule 5 – Application of *Liquor Act 2007* to casino**

### **6.11.1 Overview of provisions**

Part 1 specifies the provisions of the *Liquor Act 2007* that apply to licensed premises within the casino environs.

Part 2 specifies the additional provisions of the *Liquor Act 2007* that apply to licensed premises that are not operated by the casino operator or operated by the casino operator under section 61 of the *Liquor Act 2007* as modified in Schedule 6.

#### Assessment of costs and benefits of Schedule 5

No significant additional economic and social costs or benefits associated with this Schedule have been identified.

## **6.12 Schedule 6 – Applied modified provisions of *Liquor Act 2007***

### **6.12.1 Overview of provisions**

Schedule 6 sets out the modified versions of the *Liquor Act* provisions specified in Schedule 5 to make them suitable for application to the casino. These clauses are carried forward from the current Regulation.

#### Assessment of costs and benefits of Schedule 6

This clause reflects the requirement of the *Liquor Act 2007* as they should apply to casino operators in NSW. Schedule 6 has been updated to reflect changes to the *Liquor Act 2007* that are considered appropriate to apply to casino operators. Proposed changes to Schedule 6 are considered to impose minor economic costs on the casino operator, and have been appropriately applied to the casino and the casino environs.

Licensed premises within the casino environs provide social and economic benefits to the community. To allow for these benefits, and to meet community expectations, a robust yet flexible liquor regulatory framework is essential for these licensed premises. This ensures that there are opportunities to develop and grow in vibrant ways, while also prioritising the need to minimise harms that can arise from irresponsible practises and alcohol misuse, and to ensure public safety within the casino environs.

## **6.13 Schedule 7 – Fees**

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### **6.7.1 Overview of provisions**

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Schedule 7 contains the fee unit provisions. Part 1 of this schedule determines the fees payable. Part 2 of the schedule introduces the 'fee unit' model and explains the calculation to adjust the fees for inflation. The fee unit approach makes it easier to make annual adjustments

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to the prescribed fees. The fee unit is initially priced at \$100 and all fees are expressed as a multiple or fraction of that unit.

The fee unit will be adjusted in line with CPI increases every year on 1 July, allowing each of the respective fees to be automatically updated. The updated fees will be published by the Secretary annually on the NSW Legislation and Liquor & Gaming NSW websites.

#### Assessment of costs and benefits of Schedule 7

The introduction of the fee unit model will substantially simplify the annual updating of fees for inflation, providing greater transparency and predictability of costs for industry, and the regulator, Liquor & Gaming NSW.

### **6.14 Schedule 8 – Penalty notice offences**

#### **6.7.1 Overview of provisions**

Part 1 of this schedule provides a summary of penalty costs and their relevant sections of the Act.

Part 2 of the schedule provides a summary of penalty costs and their relevant clauses of the Casino Control Regulation 2019.

Part 3 of this schedule lists the penalty costs for the relevant sections of Schedule 6 which are the modified provisions of the *Liquor Act 2007* as applied.

#### Assessment of costs and benefits of Schedule 8

No significant additional economic and social costs or benefits associated with this Schedule have been identified.

## Summary of the proposed changes

Current Regulation	Proposed Regulation	Reason for Change
3 - Definitions	3 - terms were removed and new ones added	Removed terms that are redundant and added key terms that appear in the proposed Regulation.
8A - Fees for application and renewal of special employee licences	8 - <b>Minor change</b> Introduction of fee units	The introduction of the fee unit model will substantially simplify the annual updating of fees for inflation, providing greater transparency and predictability of costs for industry.
10 - Form of controlled contracts and variations of controlled contracts	11 - <b>Minor change</b> facsimile has been replaced with email in cl 11(1)(c) & 11(2)(c)	Modernisation of technology
12 - Fee to accompany contract notice	10 - <b>Minor change</b> Introduction of fee units	The introduction of the fee unit model will substantially simplify the annual updating of fees for inflation, providing greater transparency and predictability of costs for industry
20 - Gambling inducements	14 - <b>Minor change</b> inserted "cause or permit to be offered or supplied"	Amendments are in line with corresponding provisions of Gaming Machines Regulation 2010.
21 - Display of information concerning chances of winning prizes on gaming machines	15 - <b>Minor change</b> 1. The specific wording of the notice has been removed. The provision provides that notices must be in a form approved by the Authority. 2. 'by means of letter box flyers, shopper dockets, or any other similar means,' is omitted in subclause 1(b).	Removal of prescriptive provisions and specific wording will provide flexibility to update mandatory signage. Letter box flyers & shopper dockets are no longer relevant in the digital age. Email communication and social media also need to be considered. Changes are consistent with corresponding provisions Gaming Machines Regulation 2019.
22 - Approval of English and other community language player information brochures	16 - <b>Minor change</b> Listing the specified community languages is removed	Authority has the power to determine the languages other than English. Flexible approach by removing the prescriptive list.
23 - Provision of player information brochures	17 - <b>Minor change</b> Provision is streamlined.	
24 - Provision of player information brochures in community languages	18 - <b>Minor change</b> Listing the specified community languages is removed and provision is streamlined	Authority has the power to determine the languages other than English. Flexible approach by removing the prescriptive list.
25 - Dangers of gambling - notice to be displayed on gaming machines	19 - <b>Minor change</b> The specific wording of the notice has been removed. The provision provides that notices must be in a form approved by the Authority and may be displayed as a single notice.	Removal of prescriptive provisions and specific wording will provide flexibility to update mandatory signage. Consistent with Gaming Machines Regulation 2019.
26 - Counselling signage - notice to be displayed	20 - <b>Minor change</b> The specific wording of the notice has been removed. The provision provides that notices must be in a form approved by the Authority.	Removal of prescriptive provisions and specific wording will provide flexibility to update mandatory signage. Consistent with Gaming Machines Regulation 2019.



Current Regulation	Proposed Regulation	Reason for Change
27 - Signage to be displayed on ATMs and cash-back terminals	<b>21 – Minor change</b> The specific wording of the notice has been removed. The provision provides that notices must be in a form approved by the Authority.	Removal of prescriptive provisions and specific wording will provide flexibility to update mandatory signage. Consistent with Gaming Machines Regulation 2019.
33 - Prohibitions on gambling-related advertising	<b>26 - Minor change</b> Provision is streamlined	
34 - Gaming machine advertising - exclusions	<b>27 – Minor change</b> Provision is streamlined	
37 - Provision of problem gambling counselling services	<b>30 – Minor change</b> 'any part of the casino' is replaced with term 'each part of the casino'	
39 - Definitions	<b>32 – Minor change:</b> new terms have been included.	New key terms are used in this Part.
40 - Obligations of licensee as to responsible service of alcohol	<b>33 – Major change:</b> Establishes requirement to obtain licensee endorsement and advanced licensee endorsement for licensees and managers of specific licensed premises	Change is consistent with the new RSA training requirements introduced by the Liquor Regulation 2018
41 - Obligations of staff members as to responsible service of alcohol	<b>34 – Minor change:</b> amendments made in accordance with the corresponding provision of the Liquor Regulation 2018	The provision is to be consistent with the corresponding provision of the Liquor Regulation 2018.
42 - Obligations in relation to persons carrying on certain security activities	<b>35 – Minor change</b> 'crowd controller or a similar capacity' inserted	Change is consistent with amendments made to the corresponding provision of the <i>Security Industry Act 1997</i> .
N/A - Requirements for RSA Marshals	<b>36 – Major change</b> - New provision: RSA marshals need to have RSA training across the industry.	Provision is necessary in line with regulatory requirements under the liquor laws.
44A - Inspection of recognised RSA certification	<b>38 – Minor change:</b> amendments made in accordance with the corresponding provision of the Liquor Regulation 2018	The provision is to be consistent with the corresponding provision of the Liquor Regulation 2018.
44B - Suspension or revocation of recognised RSA certification	<b>39 – Minor change:</b> amendments made in accordance with the corresponding provision of the Liquor Regulation 2018	The provision is to be consistent with the corresponding provision of the Liquor Regulation 2018.
49 - Codes of practice	<b>43 – Minor change:</b> "The Authority" is replaced with "The Secretary"	The amendment is consistent with clause 87 of the Liquor Regulation 2018.
50 - Display and availability of licence etc.	<b>44 – Minor change:</b> title is amended and "the Secretary" is added in clause 50(2)(c)	Maintain consistency with clause 44 of the Liquor Regulation 2018.
53 - Evidence of age	<b>48 – Minor change:</b> to allow usage of Keypass and digital licence as proof of age	Change maintains consistency with the Liquor Regulation 2018.
56C - Casino supervisory levy 2015–2016 and following financial years	<b>53 – Minor change:</b> 2015-2016 financial year is replaced with 2019-2020 financial year and the specific amount is updated.	To ensure that the provision will be effective from 1 September 2019.



Current Regulation	Proposed Regulation	Reason for Change
Schedule 2 - Description of minor change in state of affairs of a casino operator	<b>Minor change:</b> email included and replaced facsimile	Modernisation of technology
84 of Sch 6 - Order by Authority for long-term closure of premises	<b>Minor change:</b> maximum penalties to individuals and corporations are differentiated	The provision is to be consistent with the corresponding section of the <i>Liquor Act 2007</i> .
92 of Sch 6 - Control of business conducted on licensed premises	<b>Major change:</b> modified provisions of section 92 of the <i>Liquor Act 2007</i> is included (s92(3)&(4))	It provides multiple lease holders with the opportunity of being granted a liquor license. Requirements (security monitoring, RSA, midnight cease service and food being primary purpose) ensure that this will be a low risk regulatory environment.
Schedule 7 - Penalty notice offences	<b>Schedule 7 - Fees</b>	This schedule introduces and explains the fee unit model.

### Removed clauses

Current Regulation	Reason for Removal
8 - Identification of employees	This requirement has been placed in the Internal Controls Manual to reflect the modern casino regulatory regime with a risk-based approach
28 - Display of clocks	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.  Provision is not relevant any longer.
56A - Casino supervisory levy 2013–2014: section 115A	Provision is not relevant any longer.
56B - Casino supervisory levy 2014–2015: section 115A	Provision is not relevant any longer.

## 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 Casino Control Regulation 2019:

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

- ❖ Alliance for Gambling Reform
- ❖ Anglicare
- ❖ Aristocrat
- ❖ Australian Hotel Association NSW
- ❖ Catholic Care
- ❖ ClubsNSW
- ❖ Crown Ltd
- ❖ Financial Counselling Australia
- ❖ Gambling Help NSW
- ❖ Gambling Impact Society
- ❖ Gaming Technologies Association
- ❖ NSW Council for Social Services (NCOSS)
- ❖ Red Cross
- ❖ Relationships Australia NSW
- ❖ Responsible Wagering Australia
- ❖ St Vincent de Paul
- ❖ Tabcorp
- ❖ The Salvation Army
- ❖ The Star
- ❖ Wesley Mission

### **Government Agencies:**

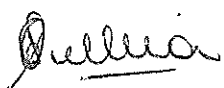
- ❖ City of Sydney Council
- ❖ Department of Premier and Cabinet
- ❖ NSW Department of Customer Service
- ❖ NSW Police (including LACS)



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