



Speech by

Hon. D. HAMILL

MEMBER FOR IPSWICH

Hansard 19 November 1998

GAMING MACHINE AND OTHER LEGISLATION AMENDMENT BILL

Hon. D. J. HAMILL (Ipswich—ALP) (Treasurer) (8.04 p.m.): I move—

"That the Bill be now read a second time."

This Bill will amend the Gaming Machine Act 1991. The Act is the primary legislative measure regulating the operation of gaming machines in Queensland's licensed clubs and hotels. The House may recall the changes to the Act in 1997 and in March 1998 to implement a new gaming machine regulatory environment. These changes included matters such as the ownership of gaming machines and the licensing of third-party operators to monitor gaming machines, known as licensed monitoring operators, or LMOs. It also included the leasing and subleasing of gaming machines by licensed monitoring operators and approved financiers, together with related matters such as procedures for the approval of linked jackpot arrangements.

This Bill introduces a further round of changes to the Act in line with previous and continuing industry consultation. It also addresses problems clearly evident in the Act left by the previous Borbidge Government, and which has caused considerable concern to the club and hotel industries—particularly the belief the "spirit" of the Gaming Machine Act was being undermined. While the amendments are primarily administrative in nature, certain provisions have been included to ensure that licensed monitoring operators and clubs continue to act in the best interests of clubs and their clubs' members.

The key amendments will provide for the licensing of gaming nominees, changes in the licensing of machine managers, extending the term of most licences from two years to five years and a number of other minor administrative amendments. The legislation will also give effect to the Government's commitment to the club industry to implement a package of legislative changes which will prohibit entrepreneurial activities being conducted to the detriment of clubs and their members.

The introduction of gaming machines to Queensland by the Goss Labor Government in 1992 provided the catalyst for enormous growth in the club industry. Millions of dollars have been pumped into the State's economy through increased employment and the expansion and renovation programs at clubs and at a significant number of hotels. In addition, grants totalling in excess of \$66m, funded principally from gaming machine taxes, have been distributed by the Gaming Machine Community Benefit Fund since its inception in 1993, to assist some 9,000 eligible organisations throughout Queensland. Furthermore, it is projected that \$18m in grants will be distributed to approximately 2,400 projects in 1998-99. The Gaming Machine Community Benefit Fund has greatly assisted local sporting, cultural and community groups carry out their activities.

The 1996 review of Queensland gaming machine regulatory arrangements, known as the white paper, examined the long-term future of the industry and foreshadowed a number of changes. These included the introduction of LMOs which would undertake monitoring of gaming machines and provide a range of other services to gaming sites, such as management and marketing, assessment and advice, training, and sale or rental of machines.

The Gaming Machine Act 1991 was amended by the former Government in July 1997 to provide that arrangements could be made whereby an LMO could provide services to a gaming machine site in return for a share of the gaming machine revenues from the site. A number of LMOs have taken advantage of that amendment by offering linked jackpots to sites in return for a percentage

of gaming machine revenue. This practice is recognised by the Queensland club and hotel industry as putting the industry in Queensland on a par with New South Wales and Victoria as well as providing a mechanism for industry innovation.

The Government is greatly concerned, however, that LMOs are seeking to play a much wider role than the Parliament envisaged when the coalition Government amended the Act in 1997. In addition to monitoring services and linked jackpots, LMOs are seeking to enter into general financing arrangements of clubs in return for a percentage of the gaming machine revenue from the clubs.

Both the club and hotel industries have raised grave concerns at this development. The Government shares this concern that the role of LMOs, as the intermediary between club and hotel management and machine manufacturers, is being blurred by LMOs obtaining a position which is more closely aligned to that club and hotel management interests.

Licensed clubs hold to the view that clubs exist for their members, and to provide benefits to the communities they serve through funding sporting or cultural activities or social services. Funds flowing to LMOs under gaming revenue sharing arrangements are seen as reducing the capacity of clubs to meet these objectives. Further, concerns have also been raised that an inherent part of these financial arrangements may involve a diminution of the capacity of clubs to fully control their own affairs. The Beattie Government is determined that no club will lose control of its own destiny. This Government therefore stands ready to act decisively against the development of schemes that could be used to line the pockets of individuals or entrepreneurs at the expense of clubs and their members. It has never been the intention of the Government for clubs to be used as a device for individual gain.

The legislation contains a number of provisions to strengthen the powers of the Queensland Office of Gaming Regulation and the Queensland Gaming Commission to ensure that clubs continue to be controlled by appropriately elected officials and operate in the best interests of club members. First and foremost, the Bill seeks to amend section 189 of the Act. This section prohibits the provision of goods or services to a licensee in return for a direct or indirect interest in or percentage of gaming revenue. Currently, the provision also incorporates an exception to this blanket prohibition which permits a licensed operator to obtain a percentage of gaming revenue for monitoring a site's machines in conjunction with supplying other services. The Bill will provide the strongest possible message to the industry that the Government will not allow the channelling of legitimate club revenues to parties other than the club itself. This amendment will essentially restore the arrangements which existed prior to 1 July 1997 when the coalition's 1997 Act came into force. As such, this amendment will have retrospective effect to that date.

For practical reasons, this change will exclude the provision of linked jackpots where the industry recognises that there is no alternative mechanism for equitably charging for these services. However, the amendment does not prevent LMOs or indeed any other financiers entering into contracts with clubs or hotels to provide services on a fee-for-service basis, or loans on a commercial basis—it merely proscribes the taking of a share of gaming revenue as consideration in such contracts.

I point out that while this change will affect the competitive activities of LMOs, it places LMOs in a similar position to other financiers in that, subject to the Act, they cannot provide finance where repayment is linked to gaming profits or turnover. Under National Competition Policy guidelines, it will be necessary to conduct a public interest test in respect of this provision. This test will be carried out over the period prior to debate on this clause, and its findings will be taken into account at that time.

The second objective of the Bill is to amend both initial club licensing provisions and provisions which state the grounds for cancellation or suspension of a club's gaming machine licence to—

- ensure the election of club management remains clearly in the hands of the club's membership;
- place control of club operations clearly in the hands of the committee or board of the club; and
- provide that contractual arrangements entered into by the club are not to be for the purpose of private profit.

This means that the Queensland Gaming Commission must refuse to grant a gaming machine licence to a club if the commission considers that the club's management committee does not have control of its own destiny. It also permits the commission to censure a club or suspend or cancel its licence if it fails to act in the best interests of the club or allows the club to be used for private profit.

Thirdly, the Bill, under clause 39, incorporates a provision that being a party to or inducing a club to commit an action which was a ground for cancellation or suspension of its licence would also be a ground for suspending or cancelling a LMO's licence. Fourthly, through clause 43 of the Bill, the Queensland Gaming Commission will be able to appoint an administrator to a LMO where its contravention of the Act warrants such action. This is in addition to powers to censure LMOs, direct them to rectify a situation, cancel or suspend their operator's licence.

Fifthly, under clause 50, the Bill will strengthen financial reporting requirements of LMOs to allow the QOGR to review all receipts and payments of the operator in the course of its dealings with sites

and machine manufacturers. Sixthly, a new section— amending clause 112—has also been included in the Bill to make it an offence for a person to be able to have control over, or the ability to control, the conduct of gaming at a club, unless the person is acting in an official capacity on behalf of the club. This will ensure that the club has the full, free and unfettered control of the conduct of gaming at the licensed premises.

Finally, another new provision, clause 93, amending section 148A, will incorporate anti-corruption measures and will target nefarious activities which have been reported in other jurisdictions, such as where secret commissions may be paid to persons in connection with the purchase, lease, sublease or financing of gaming equipment, or the provision of services. For example, an organisation will not be able to offer a person a benefit, such as a trip to Nevada, to induce the person to influence a club to purchase that organisation's equipment or services. The definition of a "person" would encompass club managers, hotel managers and board members.

In incorporating this provision I am finally able to act upon the concerns I raised when the first phase of white paper amendments were before this House in May 1997. It was then that I stated my concerns that kickbacks and other forms of corruption could seep into the industry. The Government considers that such activities strike at the heart of maintaining a clean industry in Queensland and will provide a penalty of \$75,000, or five years' imprisonment, for violation of the section.

In addition to these amendments, I draw the honourable members' attention to section 184. This section has been in the legislation since its enactment and enables the chief executive to review agreements made by licence holders, or manufacturers or suppliers. If the QOGR reviews the agreements and considers that the agreement is not in the public interest or jeopardises the integrity of gaming or the conduct of gaming, the QOGR may issue a written notice to show cause why the agreement should not be terminated. At the conclusion of the show-cause process, the Queensland Gaming Commission may terminate that undesirable agreement.

As I stated earlier, the amendments I have outlined are designed to strengthen the powers of the Queensland Office of Gaming Regulation and the Queensland Gaming Commission. This will enable the commission to take firm and comprehensive action against any individual or corporation who attempts to subvert the ability of clubs to provide services to their members and the local community.

In addition to strong provisions to support the ongoing viability of the club industry, the Bill also provides for the licensing of gaming nominees. This will mean that all clubs and hotels that conduct business under a corporate structure, or an individual hotelier with more than one gaming machine licence, will be required to identify and license an accountable person to ensure that gaming machine operations are conducted in accordance with the legislation. It is likely that the gaming nominee will in most instances be the same person as the nominee for the purposes of the Liquor Act 1992.

Other provisions in this Bill include changes in the licensing of machine managers who will be known as gaming employees, extending the term of most licences from two years to five years and a number of other minor administrative amendments. The opportunity has also been taken to make minor amendments to the Casino Control Act 1982, the Interactive Gambling (Player Protection) Act 1998, the Keno Act 1996, the Lotteries Act 1997 and the Wagering Act 1998.

In order to deal with the pressing issues concerning the role of LMOs and other entrepreneurial activities affecting the control of clubs, other amendments flowing from the white paper process have been omitted from this round of amendments. They will be considered for introduction into Parliament in a further Bill early in 1999. Because of recent uncertainty and concerns in the club and hotel industries, it is this Government's intention to comprehensively scrutinise changes that have flowed from the 1997 amendments and to monitor the changes I am introducing today.

This Bill is necessary to address the issue of entrepreneurial activities expeditiously and to continue implementing a package of changes developed in consultation with industry participants. It addresses the problems and uncertainties left in the Gaming Machine Act by the previous coalition Government, and signals the Beattie Government's intentions to foster a robust and secure club, hotel and gaming industry in this State.

In conclusion, I would like to thank the industry for providing valuable input into this Bill. I am committed to ensuring the continuation of the open dialogue which has taken place between the industry and Government. I invite further discussion to occur among the club and hotel industry, licensed operators, my Parliamentary Secretary and myself. I am aware that the Queensland Office of Gaming Regulation has offered to provide a forum for detailed analysis of the provisions of this legislation with clubs, hotels and LMO representatives, and I look forward to the outcome of these discussions. My Parliamentary Secretary will have prime responsibility for overseeing these further consultations and for monitoring the implementation of changes I am announcing today. Together, I believe that we can ensure Queensland industry continues to prosper and provide benefits to the community. I commend the Bill to the House.