

NEW DEVELOPMENTS IN JURISDICTIONS: AUSTRALIA



The NSW government has granted James Packer's Crown Resorts a 99-year licence to operate a casino within its planned hotel development at Sydney's prime Barangaroo South site, on the southern end of Sydney's Harbour Bridge. It is scheduled to open in November 2019.

The Changing Law and Regulatory Landscape in Australia

By Tony Rein & Christopher Chang

As mentioned in the Autumn 2013 (Volume 9 No.2) edition of the *Casino Lawyer* (page 18), Australia has in recent years set its focus on tackling problem gambling on many fronts. Following the Autumn 2013 edition, the Liberal party was elected as the new Australian Federal Government (AFG) in place of the previous Labor government.

The AFG's published policy to assist problem gamblers, promote responsible gambling, and properly regulate the industry indicates that it:

- Supports a national venue-based voluntary pre-commitment programme for electronic gaming machines as part of a broader plan to assist problem gamblers;

- Intends to establish an industry advisory council, comprised of representatives of gaming venues (including clubs, hotels and casinos);
- Supports targeted counselling and support services for problem gamblers at gaming venues;
- Supports the development of more effective self-exclusion programmes;

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Artist rendering of Crown Resort's proposed \$1.5 billion six star Crown Sydney Hotel Resort at Barangaroo, Sydney, which will include a VIP gaming facility, has been given the green light by the New South Wales government.

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- Will investigate methods of strengthening the enforcement of the Interactive Gambling Act 2001 (Cth) (IGA), which regulates online gambling in Australia; and
- Will legislate to control gambling advertising if current self-imposed industry regulations prove ineffective.

The Australian Communications and Media Authority (ACMA) is responsible for investigating formal complaints made under the IGA about the provision of prohibited Internet gambling content. Amendments to the IGA (and the Broadcasting Services Act 1992 (Cth)) are proposed by the Omnibus Repeal Day (Autumn 2014) Bill 2014 which, in summary, propose to replace ACMA's duty to investigate with general discretion. It appears from the explanatory memorandum to the bill that the rationale for these amendments is that ACMA's discretion will allow it to focus its resources on complaints of a more serious nature.

VENUE BASED VOLUNTARY PRE-COMMITMENT FOR ELECTRONIC GAMING MACHINES

The Federal Sphere Background

Various gambling reforms were introduced by the former Labor government in 2012 via the National Gambling Reform Act 2012 (Cth) (NGA), as well as the National Gambling Reform (Related Matters) Act (No.1) 2012 (Cth), and the National Gambling Reform (Related Matters) Act (No. 2) 2012 (Cth) (Related Matters Acts).

Developments

Many of the measures introduced by the Related Matters Acts have now been repealed by the Social Services and Other Legislation Amendment Act 2014 (Cth) (Amendment Act), which was assented to on 31 March 2014. These include the following:

- Measures requiring automatic teller machines on gaming premises (except casinos) to prevent a person from withdrawing more than \$250 cash using any one card in a twenty-four hour period;
- Measures requiring manufacturers and importers of gaming machines to ensure that such machines are capable of providing for pre-commitment systems if they are manufactured or imported on or after 31 December 2014;

- Measures requiring approved pre-commitment systems to be put in place and dynamic electronic warnings to be displayed on gaming machines that are made available for use on and after 31 December 2018; and
- Measures providing for the National Gambling Regulator, supervisory levy and gaming machine regulation levy.

In addition, provisions relating to the controversial mandatory pre-commitment scheme for gaming machines scheduled to be previewed in the Australian Capital Territory have also been repealed by the Amendment Act. Mandatory systems require all people who use gaming machines to set a limit before they can commence play.

The AFG however supports "voluntary pre-commitment on gaming machines in venues nationally" as part of its broader plan to encourage "responsible gambling by all gamblers," notwithstanding the above repeals. Voluntary pre-commitment allows (rather than requires) a player of a gaming machine to set a limit on the amount that the player is prepared to lose and assists the player to keep to the limit. Moving forwards, the Amendment Act indicates that the AFG will work with the state and territory governments, the gaming industry, academics and the community sector to develop a "realistic timetable" for implementing a voluntary pre-commitment scheme. It will also develop a "realistic timetable" for ensuring that all gaming machines are actually capable of supporting a venue based voluntary pre-commitment scheme in conjunction with the state and territory governments as well as the gaming industry itself. Further, it will work with the state and territory governments on the most appropriate way of administering the scheme.

Separately from the above developments, various states and territories are already advanced in implementing such schemes.

State based developments

The Gambling Regulation Amendment (Pre-commitment) Act 2014 (Victorian Act) received Royal Assent on 11 February 2014. Accordingly, Victoria is the first Australian jurisdiction to legislatively require voluntary pre-commitment technology to be connected to gaming machines (from 1 December 2015 subject to a direction by the Minister). The Victorian pre-commitment system will also enable players to track their playing history and spending over time. Venue operators will be required to provide and maintain certain player account equipment to facilitate the operation of the pre-commitment system at their venues.

It is also to be noted that other jurisdictions, such as Queensland and South Australia, have had voluntary programs for gaming machines in place by agreement with venue operators for some time now.

NEW CASINOS

Meanwhile in Sydney and in Queensland a number of new casinos are on the horizon.

Sydney, New South Wales

Crown Resorts Limited's proposed \$1.5 billion six star Crown Sydney Hotel Resort at Barangaroo, Sydney, which will include a VIP gaming facility, has been given the green light by the New South Wales government. The Casino Control Amendment (Barangaroo Restricted Gaming Facility) Act 2013 No. 100 (NSW) (Barangaroo Act) was enacted on 27 November 2013. The Barangaroo Act provides that a restricted gaming licence may be granted to operate the Barangaroo gaming facility and imposes various restrictions on gaming at the facility. It also makes related amendments to the Casino Control Act 1992 (NSW) (CCA), the Gaming Machines Act 2001 (NSW), and the Unlawful Gambling Act 1998 (NSW).

The restrictions include:

- The gaming areas in the facility must not exceed twenty thousand square meters;
 - The installation or use of "poker machines" (as defined in s.22A of the CCA) is not lawful in the gaming facility. This does not include electronic versions of traditional table games, multi-terminal games or multi-player games (such games must be approved by the Independent Liquor and Gaming Authority (ILGA)).
- The ILGA is prohibited from authorising the keeping of any gaming machines on any premises situated on the Barangaroo site outside the gaming facility itself. This could be seen as both a restriction upon and a protection for Crown, depending upon the ownership / leasing of the relevant site;
 - The conduct or the playing of any game in the gaming facility is not lawful before 15 November 2019;
 - Minimum bet limits will apply to any game in the gaming facility (for example, \$30 for baccarat, \$20 for blackjack, and \$25 for roulette or such higher amount as may be determined by the ILGA). These are designed to limit patronage to premium or VIP customers and not mass market customers (although doubts have been expressed in the media as to whether such limits are high enough to deter local gamblers); and
 - Only persons who, in accordance with the conditions of the licence, are members or guests of the gaming facility may participate in any gaming.

It is noted that the Smoke-free Environment Act 2000 (NSW) will not apply to gaming areas in the facility; therefore smoking will be permitted. However, air quality equipment that is of an international best practice standard must be installed and must be tested quarterly with the results reported annually to the Minister of Health.

Crown passed probity investigations in July 2014 and has been granted a ninety-nine year restricted gaming licence for Barangaroo by the ILGA. The resort is still subject to planning approval as well as the negotiation of final agreements with Lend Lease and the Barangaroo Delivery Authority (BDA). The BDA will oversee the development and construction of the hotel and restricted gaming facility. The resort is expected to open on or after 15 November 2019.

Queensland

The Queensland government is also offering up to three new casino licences across the State, one in Brisbane and two other regional areas. Licences are likely to only be offered as part of an integrated resort-style development.

The Queensland Government has identified a shortlist of applicants and the successful applicants are expected to be announced in 2015. ♣



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