

GAMING ENTITLEMENTS FOR CLUBS – NEW GROUND

CURT SCHATZ



As you may or may not be aware, the State Government has been speaking about introducing a scheme for clubs to buy and sell gaming entitlements in relation to gaming machines for a long time.

As a result of those discussions and quite a bit of consultation with industry leaders, certain legislation introducing a

reallocation scheme for gaming machine entitlements for clubs commenced on the 30th November 2009.

This provided a cap for the state of Queensland at 24,705 for clubs.

This scheme is similar to the scheme for Hotel Operating Authorities in the sense that by legislation, clubs which held a Gaming Machine Licence were allocated a number of gaming machine entitlements commensurate in number to the approved number of gaming machines for their premises.

One of the methods by which a club might acquire the gaming machine entitlements is to purchase them directly from another club who wishes to reduce their number of gaming machine entitlements. In a broad sense, these arrangements can be negotiated directly between the parties and we are preparing various contracts for these arrangements to be documented.

There are quite a few regulations to be complied with in relation to any such transaction, but the major consideration is that such transactions require the consent of the Gaming Commission.

Clubs will be able to ascertain the values of these gaming machine entitlements as more and more transactions are entered into and completed. Clubs need to be very careful in negotiating these contracts to ensure that if they are the purchaser, that they have the money ready to purchase them, and that they are properly approved for the running of the gaming machines within their premises.

We strongly recommend that you speak to a legal expert in relation to such transactions.

Similarly, as a seller of these gaming machine entitlements, you should ensure that you are complying with all relevant legislation when seeking to sell them and that the contract acknowledges and requires compliance with those regulations. Once again, a legal expert experienced in these matters should be identified and used.

There are other similarities with the Operating Authorities scheme for hotels.

This includes the 'unallocated entitlements' that are held by the State. We understand there are 512 of these and the legislation provides that the State can sell these only in a way which is prescribed by regulation.

As a result, some of these 512 unallocated entitlements have been released for sale by tender through a process conducted by the Public Trustee of Queensland (similar to hotels).

We have been advised that approximately 100 entitlements per sale will be released with the first sale made in February 2010 and a second following in September 2010. The remaining sales will be conducted annually around August of subsequent years until the supply of entitlements is exhausted. The results of the first tender are set out in the table below.

Region	Average Price
South East	\$6,576.95
Coastal	\$11,345.21
Western	No sales

The Government has stated "the regional release of the 512 surplus entitlements will be apportioned to the demand across the regions before each sale is advertised. For example, if a region has 40% of the total demand, it will be allocated 40% of the release.



Any additional entitlements forfeited to the State between sales will be added to the release for the next sale in the region from which they were forfeited".

Simply put, to be able to participate in any purchase, you would first need to be approved for a certain number of gaming machines for your premises and this approval comes from the Queensland Gaming Commission.

If you are considering rationalising your assets and you have gaming machines at the moment or a surplus of gaming machines to your needs, you may consider participating in a sale process. Equally, if you have an approval for gaming machines and they are not yet in your premises, you may choose to acquire some. As indicated in this article, there are two methods to acquire them.

In either case, if you wish to obtain any further information, please do not hesitate to contact me and I would be more than happy to assist.

Contact Curt Schatz directly on (07) 3224 0230 or via email cschatz@mullinslaw.com.au.

AML Rules

- Reporting Obligations

HOLLY WHITCROFT



The *Anti-Money Laundering and Counter-Terrorism Financing Act 2006* (Cth) and the associated *Anti-Money Laundering and Counter-Terrorism Financing Rules*, constitute the Anti-Money Laundering Rules (AML Rules). The compulsory AML Rules have applied for some time, placing a number of obligations on hotels and clubs. The AML Rules apply to providers of a range of activities, however in sum, if gambling is conducted at your hotel or club, you will be classified as a 'reporting entity' and expected to adhere to the rules.

The Australian Transaction Reports and Analysis Centre (AUSTRAC), that regulates the AML Rules, is moving away from previous leniency allowed for entities that had not complied with their obligations. Entities were granted leniency by way of 'assisted compliance periods' for various obligations, which meant AUSTRAC would only take penalty action against an entity if it had not taken reasonable steps to comply with its obligations. The assisted compliance period has expired in respect of most obligations and the final assisted compliance period expires on 11 March 2010 (with the exception of reporting requirements for international funds transfer instructions). Therefore, after 11 March 2010, AUSTRAC may pursue civil or criminal penalties against entities if they have not complied with their obligations. It is very important for persons and entities caught by the AML rules to be aware of their obligations and ensure compliance.



If your hotel or club is a reporting entity, you are subject to obligations of engaging in customer due diligence, creating and maintaining an AML/CTF program, record keeping and reporting of suspicious matters and certain transactions to AUSTRAC.

We assisted many hotels and clubs with the preparation of their AML/CTF programs, when the requirements for these came into effect on 12 December 2007, however there are ongoing compliance requirements that you must be aware of. One of these is lodgement of a 2009 Compliance Report with AUSTRAC by 31 March 2010. The Compliance Report must address your hotel or club's business activities in regards to the AML Rules for the period of 1 January to 31 December 2009. The Compliance Report covers four topics, being:

- the general aspects of your AML/CTF program;
- the customer identification aspects of your AML/CTF program;
- reporting requirements and correspondent banking relationships; and
- electronic funds transfer instructions (if applicable).

As noted, if you do not meet the 31 March 2010 deadline, you may be subject to civil penalties. Criminal penalties may also apply if you supply falsely misleading information or documents to AUSTRAC.

If you require urgent assistance with meeting your compliance requirements, please contact Holly Whitcroft at hwhitcroft@mullinslaw.com.au.



CURT SCHATZ
EDITORIAL

I have a feeling that the times are changing in relation to transactional activity involving hotels and that the period of rationalisation is either over or almost over.

The activity in the sector, so far as people interested in buying or selling hotels, has definitely increased. I suspect this is due to numerous matters, but includes the fact that credit seems to be flowing again or starting to flow, and most changes to the tightening of the regulatory and compliance regime have occurred, so there is an element of certainty about the future.

It is also pleasing to observe that the reasonably repetitive run on of the harmful effects of alcohol by media articles has dissipated a little, with the focus switching to the recognition that socially unacceptable behaviour is the main cause of most of the violence and other unsavoury incidents on licensed premises.

This edition of the Mullins Lawyers Hospitality Newsletter once again highlights some of the recent changes in legislation and market sectors, and seeks to set out some basic principles for easy understanding.

The compulsory requirement for gaming licensees to comply with the *Anti-Money Laundering and Counter-Terrorism Financing Act* requires continual vigilance and compliance.

Finally, the State Government has created certainty for the trading of gaming entitlements for gaming machines in clubs. This regime has some similarities to Operating Authorities for hotels, but also allows private treaty, which is a significant difference.

These two articles are relevant to changes that are very recent, but also demonstrates that the industry continually presents challenges to stakeholders from a compliance perspective.

Until next time.