

Regulatory regime and the preclusion of organised crime in the Queensland gaming machine industry

Applying for a gaming machine licence

In Queensland, if you currently hold, or have applied for, a commercial hotel, community club, or commercial special facility liquor licence, you can apply to the Office of Liquor and Gaming Regulation (OLGR) for a gaming machine licence.

An application for a gaming machine licence will not be determined until an eligible liquor licence has been granted.

Gaming machine licence applications are assessed against the requirements of the *Gaming Machine Act 1991* and a recommendation is made to the Commissioner for Liquor and Gaming. The Commissioner determines whether or not to grant a licence, taking into account, amongst other things, the social and community impacts of gaming.

As part of the decision making process, individuals as well as applicant companies and companies that are associated with a gaming applicant/licensee also undergo probity and suitability checks.

Fit and proper or suitable person

Under the *Liquor Act 1992*, in order to hold a liquor licence, persons are assessed as to their suitability. Amongst other things, the Commissioner will have regard to whether the applicant demonstrates a knowledge of their responsibilities under the Liquor Act, whether they have a responsible attitude to the discharge of their financial obligations and, importantly, whether the person is of good repute.

In making such a determination the Commissioner will obtain a criminal history report from the Queensland Police Service (QPS) as well as seeking advice as to whether the applicant is a criminal organisation, or if an executive officer of the applicant has been deemed an 'identified participant' of a criminal organisation.

Liquor licensees and criminal gangs

Under the *Criminal Code (Criminal Organisations) Regulation 2013*, various entities have been declared to be criminal organisations.

As a liquor licensee, permit-holder or approval-holder, if an entity is declared to be a criminal organisation, the liquor licence will be cancelled. No gaming machine licence can be held without an eligible liquor licence.

The QPS also identifies applicants, current licensees, permit-holders and approval-holders under the Liquor Act who are, or have been, *identified participants* in declared criminal organisation.

When an individual licensee or approval-holder is confirmed as an identified participant, their licence or approval is cancelled by the Commissioner.

When an executive officer of a company or partnership is confirmed as an identified participant, a 'show cause' process begins. This process allows the licensee time to remove the identified participant from all positions of authority. Failure to do so will result in the licence being cancelled or refused.

If you are confirmed as an identified participant, you will have the opportunity to disassociate from the criminal motorcycle gang. The QPS provides information and forms on how to do this.

Gaming compliance

The Gaming Machine Act and Gaming Regulation 2002 includes a range of requirements for gaming machine venues which form part of a system of accounting and internal controls. This includes a range of prescribed forms to account for gaming machine revenues having regard to electronic meters recorded by each gaming machine and captured by centralised electronic gaming machine monitoring systems maintained by third party providers.

Each gaming machine licensee is required to have an approved accounting package, which has direct access to meters from the monitoring system of the licensed monitoring operator (LMO) engaged by the licensee.

The required system of accounting and internal controls is more extensive for community clubs, to ensure that gaming machine revenues are adequately accounted for and applied towards the objectives of the non-profit organisation for the benefit of the community. Yearly, clubs that hold a gaming machine licence are required to have their accounting records and procedures externally audited by an approved accountant.

The OLGR engages a risk-based audit and inspection program of clubs and hotels licensed to operate gaming machines. This provides for the assessment of venues by the OLGR Compliance Officers at a maximum interval of three years.

The OLGR also have a risk based auditing regime encompassing the two approved LMO currently operating in Queensland. These audits include both systems and operational compliance. The objective of each audit is to assess the efficiency and effectiveness of LMO's in achieving compliance with Government legislation, licence conditions, internal controls, policies and procedures.

The scope of operational audits include the examination of the following systems and areas of operation; internal controls; appointment of service contractors; licence conditions; premises and security; financial management, including jackpot payments; general procedures; training; escalation procedures including payout refusal reports; and meter adjustments.

The scope of technical systems audits include; information system security policy, access control pertaining to sensitive information (logical and physical), monitoring system processes including meter adjustments pertaining to electronic gaming machines and jackpots, downloadable games, data requirements for monitoring electronic gaming machines, gaming on restricted hours and days and payout refusals, IT governance including system development and testing, card based gaming system, and disaster recovery and business continuity.

Prohibited items

Recent changes to the Liquor Act prohibit people from entering or remaining on licensed premises if they are wearing or carrying certain prohibited items associated with a declared criminal organisation.

These new laws also place obligations on liquor licensees and their staff to tell a person wearing or carrying prohibited items to immediately leave the premises. It is an offence for that person to remain on the premises if they have been asked to leave.

Prohibited items are defined in section 173EA of the Liquor Act.

A prohibited item includes an item of clothing or jewellery or an accessory that displays the name of a declared criminal organisation, the club patch, insignia or logo of a declared criminal organisation (i.e. 'colours'), any image, symbol, abbreviation, acronym or other form of writing that indicates membership of, or an association with, a declared criminal organisation, including the symbol '1%', the symbol '1%er', any other image, symbol, abbreviation, acronym or other form of writing prescribed under the Liquor Act.

The maximum penalty for a licensee or staff member for knowingly allowing a person wearing or carrying prohibited items to enter or remain on the premises is \$11,780.

Taskforce into organised crime legislation 2015

While the comments above are correct at this time, there may be changes that follow the work of the Taskforce into Organised Crime Legislation 2015 which is expected to report back to the Queensland Government by December 2015.

<http://www.justice.qld.gov.au/taskforce-into-organised-crime/terms-of-reference>

Extracts from the terms of reference:

The Taskforce will note the Queensland Government's intention to repeal, and replace the 2013 legislation, whether by substantial amendment and/or new legislation, and will advise:

- if provisions in the 2013 legislation are effectively facilitating the successful detection, investigation, prevention and deterrence of organised crime;
- if provisions in the 2013 legislation are effectively facilitating the successful prosecution of individuals;
- if the 2013 legislation strikes an appropriate balance between ensuring the safety, welfare and good order of the community and protecting individual civil liberties, including in relation to the anti-association provisions in the 2013 legislation; and
- how best to replace or amend the 2013 legislation, in accordance with the Queensland Government's election commitments.

In undertaking this reference, the Taskforce will:

1. review the provisions in the following legislation:
 - *Criminal Law (Criminal Organisations Disruption) Amendment Act 2013;*
 - *Tattoo Parlours Act 2013;*
 - *Vicious Lawless Association Disestablishment Act 2013;*
 - *Criminal Law (Criminal Organisations Disruption) and Other Legislation Act 2013;* and
 - *Criminal Code (Criminal Organisations) Regulation 2013.*