

ISSUES PAPER 1

Training and Employment Requirements

INQUIRY INTO MONEY LAUNDERING THROUGH
ELECTRONIC GAMING MACHINES IN LICENSED PREMISES IN NSW

8 July 2022



New South Wales
Crime Commission

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ISSUES PAPER 1:

Training and Employment Requirements

The purpose of this issues paper is to seek information relevant to the Inquiry into Money Laundering through Electronic Gaming Machines in Licensed Premises in New South Wales (the Inquiry). The Inquiry is being conducted by the NSW Crime Commission in conjunction with the Australian Criminal Intelligence Commission (ACIC), the Independent Liquor and Gaming Authority (ILGA) represented by Liquor & Gaming NSW, and the Australian Transaction Reports and Analysis Centre (AUSTRAC), with assistance from other law enforcement agencies.

This paper focuses on issues relating to the employment and training of staff in licensed venues with approved electronic gaming machines (EGMs). The Inquiry has received information to suggest that there are deficiencies in relation to employment and training requirements in the gaming sector, which may increase the vulnerability of licensed clubs and hotels to exploitation by money launderers.

This issues paper is informed by current information, is not intended to be prescriptive or exhaustive and should be read with the Inquiry Terms of Reference.¹ The questions at the end are intended to guide persons who wish to make submissions to the Inquiry in response to the specific issues raised.

The issues paper is seeking to elicit additional information regarding the subjects that have been raised; however, the raising of a matter in this paper does not necessarily indicate that it will be the subject of findings or recommendations in any report arising from the Inquiry. Any submissions made in response to this issues paper will be assessed in light of other material and evidence gathered during the course of the Inquiry.

¹ Terms of Reference: www.crimecommission.nsw.gov.au/inquiry-into-money-laundering-in-pubs-and-clubs

1. Responsible Conduct of Gambling (RCG) training

Under current legislation it is a requirement for any employee of a licensed club or hotel “whose duties are concerned in the conduct of activities” involving EGMs to complete an approved Responsible Conduct of Gambling (RCG) training course.² This requirement extends to club secretaries and hoteliers,³ but does not extend to club Board members or hotel management staff, unless those persons’ duties involve EGM activities. A person who successfully completes an approved RCG training course is granted an interim RCG certificate, which is valid for 90 days and allows them to work with EGMs immediately. During the 90-day period, the person may apply to Service NSW to obtain a recognised competency card with an RCG endorsement indicating they have completed an approved RCG training course within the last five years. An RCG endorsement expires after five years, unless it is renewed.⁴

At present, approved RCG training courses focus on gambling safety and harm to raise awareness of problem gambling and addiction. Courses are required to cover topics such as harm minimisation; detection of problem gambling; communication with and management of patrons using EGMs; and ensuring that minors are not permitted to use EGMs. Courses are not required to cover topics relating to money laundering or the *Anti-Money Laundering and Counter-Terrorism Financing Act 2006* (Cth) (AML/CTF Act).

Under the AML/CTF Act licensed clubs and hotels which operate EGMs are reporting entities,⁵ which means they are required to have an AML/CTF risk awareness training program for employees delivered at appropriate intervals.⁶ Individuals who work with EGMs or who are involved in the governance and management of those venues should therefore be receiving formal training on money laundering behaviours and risks, including their compliance and reporting obligations under the AML/CTF Act. That training should be tailored to each venue’s individual circumstances and risk factors.

The Inquiry has received information indicating that individuals who work with EGMs, or who are involved in the governance and management of licensed clubs and hotels, would benefit from further formal training on anti-money laundering issues. The Inquiry is considering whether it should be mandatory for approved RCG training courses to include an anti-money laundering component and whether that training should extend to club Board members and hotel managers. Building this education into the RCG process could provide a practical and far-reaching avenue for increasing awareness of money laundering issues that are relevant to the sector broadly. It is noted that this would only partially comply with existing requirements on AML/CTF reporting entities under Commonwealth law, given it would likely not address the circumstances and risks of individual venues.

² *Gaming Machines Act 2001* (NSW) (GM Act) Pt 4, Div. 3A; and *Gaming Machines Regulation 2019* (NSW) (GM Regulation), Pt 3, Div. 5.

³ *GM Regulation*, cl. 57.

⁴ *GM Act*, Pt 4 Div. 3A; *GM Regulation*, Pt 5 Div. 3A.

⁵ *Anti-Money Laundering and Counter Terrorism Financing Act 2006* (Cth) (AML/CTF Act), s. 6.

⁶ *Anti-Money Laundering and Counter Terrorism Financing Rules Instrument 2007* (No. 1) (Cth) (AML/CTF Rules), Pt 8.2.

2. Criminal record checks for employment involving EGMs

In some licensed clubs and hotels, it is a condition of employment for staff who work with EGMs to undergo a National Police Check. The *Anti-Money Laundering and Counter-Terrorism Financing Rules Instrument 2007 (No. 1) (Cth)* (AML/CTF Rules) require reporting entities to have an employee due diligence program to determine whether and in what manner to screen prospective employees, and to re-screen existing employees, who pose AML/CTF risks.⁷ While this may result in the performance of criminal record checks by venues, there is presently no requirement under NSW law for all persons who work with EGMs to undergo a criminal history check.

The Inquiry is considering whether undergoing a National Police Check to prove the absence of a relevant criminal record should be a requirement incorporated into the RCG competency card process. If this requirement were introduced, it could prevent individuals with certain criminal records from working with EGMs in licensed clubs and hotels – for example, if they were found to have any convictions for fraud, financial or other serious crimes. An alternative or additional requirement could be for individuals seeking employment in the sector to make an enforceable declaration that they have no connection with any persons they know or reasonably suspect to be part of, or connected to, any organised criminal groups or involved in serious crime.

3. Disqualification based on criminal organisation associate ground

Under Part 9 of the *Liquor Act 2007 (NSW)* (*Liquor Act*), the ILGA is empowered to disqualify licensees and managers of licensed clubs and hotels if satisfied that any of the grounds for a complaint against that person apply.⁸ While the ILGA's power to disqualify licensees and managers is discretionary in respect of a number of grounds, it is mandatory if the ILGA is satisfied that the "criminal organisation associate ground" applies.⁹ In other words, if the ILGA is satisfied that there are reasonable grounds to suspect a licensee or manager of a licensed club or hotel is a member or associate of a declared criminal organisation, the ILGA must either disqualify that person for a period of time, cancel their licence or withdraw their approval to manage licensed premises. Disciplinary actions taken by the ILGA under Part 9 of the *Liquor Act*, including disqualifications of licensees and managers, are reviewable by the NSW Civil and Administrative Tribunal (NCAT).

The Inquiry considers that employees of licensed clubs and hotels who are members or associates of declared criminal organisations and whose duties involve working with EGMs may present risks to the integrity of those venues. The Inquiry is therefore exploring whether the disqualification powers under the *Liquor Act*, insofar as they arise from the criminal organisation associate ground, should be expanded to include employees.

⁷ *AML/CTF Rules*, Pt 8.3.

⁸ The grounds for a complaint are set out in s. 139 of the *Liquor Act 2007 (NSW)* (*Liquor Act*).

⁹ *Liquor Act*, s. 141. The "criminal organisation associate ground" is defined in s. 45(5) of the *Liquor Act* (in respect of licensees) and in s. 68(4A) of the *Liquor Act* (in respect of managers of licensed venues).

Written submissions are sought from interested individuals and organisations on these issues. Of particular interest to the Inquiry are the following questions:

Issues Paper 1 – Questions:

1. Should approved RCG training courses include a compulsory unit on money laundering and compliance and reporting obligations under the *AML/CTF Act*?
2. Should it be a requirement to undergo a National Police Check to prove the absence of a relevant criminal record before obtaining a competency card with an RCG endorsement?
3. Should individuals who work with EGMs in licensed clubs and hotels be required to declare that they have no connection with organised criminal groups or persons involved in serious crime as part of pre-employment screening checks?
4. Should there be a legislative power to disqualify employees of licensed clubs and hotels who work with EGMs if there are reasonable ground to suspect that they are a member or associate of a declared criminal organisation?

When providing a response to this issues paper please confirm whether you are content for your submission, or any parts of it, to be made public.

Submissions should be made by 22 July 2022 (preferably by email) to:

Email: egminquiry@crimecommission.nsw.gov.au or
Post: Electronic Gaming Machine Inquiry
NSW Crime Commission
453-463 Kent Street, Sydney NSW 2000

Michael Barnes
NSW Crime Commissioner

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