



AUSTRALIAN CAPITAL TERRITORY

# **Gaming Machine (Amendment) Act (No. 3) 1990**

**No. 57 of 1990**

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## **Gaming Machine (Amendment) Act (No. 3) 1990**

**No. 57 of 1990**

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### **An Act to amend the *Gaming Machine Act 1987***

*[Notified in ACT Gazette S92: 21 December 1990]*

The Legislative Assembly for the Australian Capital Territory enacts as follows:

#### **Short title**

1. This Act may be cited as the *Gaming Machine (Amendment) Act (No. 3) 1990*.

#### **Commencement**

2. (1) Section 1 and this section commence on the day on which this Act is notified in the *Gazette*.

(2) The remaining provisions commence on 1 January 1991.

#### **Principal Act**

3. In this Act, “Principal Act” means the *Gaming Machine Act 1987*.<sup>1</sup>

**Interpretation**

4. Section 4 of the Principal Act is amended—

- (a) by omitting the definitions of “Authority”, “member”, “senior member” and “Registrar”; and
- (b) by inserting the following definitions:

“ ‘Commissioner’ means the Commissioner for Australian Capital Territory Revenue appointed under subsection 5 (1) of the *Taxation (Administration) Act 1987*;

‘Tribunal’ means the Australian Capital Territory Administrative Appeals Tribunal;”.

**Substitution**

5. Section 6 of the Principal Act is repealed and the following section substituted:

**Administration**

“6. The Commissioner has the general administration of this Act.”.

**Inspectors**

6. Section 7 of the Principal Act is amended—

- (a) by omitting from subsection (1) “administrative head” and substituting “Commissioner”;
- (b) by inserting after subsection (1) the following subsection:

“(1A) A person shall not be appointed to be an inspector unless that person is a public servant.”;
- (c) by omitting from subsection (2) “Authority or Registrar” and substituting “Commissioner”; and
- (d) by omitting from subsection (3) “administrative head” and substituting “Commissioner”.

**Register of licences**

7. Section 8 of the Principal Act is amended—

- (a) by omitting “Registrar” and substituting “Commissioner”; and
- (b) by omitting “Authority directs” and substituting “Commissioner considers appropriate”.

**Conduct of inquiries**

8. Section 9 of the Principal Act is amended—

- (a) by omitting from subsection (5) “a member”; and

- (b) by omitting subsection (6) and substituting the following subsection:

“(6) In conducting an inquiry, the Commissioner is not bound by rules of evidence but may inform himself or herself in such manner as he or she thinks fit.”.

#### **Power to summon witnesses**

9. Section 10 of the Principal Act is amended by omitting “The senior member or the Registrar” and substituting “The Commissioner”.

#### **Inspection of documents by Commissioner**

10. Section 11 of the Principal Act is amended—

- (a) by omitting from subsection (1) “A member” and substituting “The Commissioner”;
- (b) by omitting from subsection (2) “Authority” (first occurring) and substituting “Commissioner”;
- (c) by omitting from paragraph (2) (a) “by a member” and substituting “by the Commissioner”; and
- (d) by omitting from paragraph (2) (b) “Authority” and substituting “Commissioner”.

#### **Protection**

11. Section 12 of the Principal Act is amended—

- (a) by omitting from subsection (1) “a member” and substituting “the Commissioner”; and
- (b) by omitting from subsection (1) “the member” and substituting “the Commissioner”.

#### **Offences in connection with inquiries**

12. Section 13 of the Principal Act is amended—

- (a) by omitting from paragraph (2) (b) “a member” and substituting “the Commissioner”; and
- (b) by omitting from subsection (3) “Authority” and substituting “Commissioner”.

#### **Grant or refusal of licence**

13. Section 15 of the Principal Act is amended—

- (a) by omitting from subsection (2) “Authority” and substituting “Commissioner”; and
- (b) by omitting from subsection (2) “to it” and substituting “to him or her”.

**Percentage payout**

14. Section 17 of the Principal Act is amended by omitting “Authority” (wherever occurring) and substituting “Minister”.

**Conditions for issue of licences—ballots**

15. Section 19 of the Principal Act is amended—

- (a) by omitting from subsection (1) “Authority” (wherever occurring) and substituting “Commissioner”; and
- (b) by omitting from subsection (2) all the words after “conducted” and substituting “on behalf of the Commissioner in the prescribed manner”.

**Cancellation of licences—clubs**

16. Section 26 of the Principal Act is amended by omitting from subsection (4) “Registrar shall, at the request of the Authority” and substituting “Commissioner shall”.

**Register of gaming machines**

17. Section 32 of the Principal Act is amended—

- (a) by omitting from paragraph (3) (d) “Authority” and substituting “Minister”; and
- (b) by omitting from paragraph (3) (e) “Authority” and substituting “Commissioner”.

**Operation to be subject to correct percentage payout**

18. Section 44 of the Principal Act is amended by omitting “Authority” and substituting “Minister”.

**Interference with gaming machines**

19. Section 47 of the Principal Act is amended by omitting from paragraph (1) (c) “Authority” and substituting “Minister”.

**Percentage payout of gaming machines to be displayed**

20. Section 49 of the Principal Act is amended by omitting “Authority” and substituting “Minister”.

**Sealing of gaming machines**

21. Section 50 of the Principal Act is amended—

- (a) by omitting “Authority” (wherever occurring) and substituting “Commissioner”; and

- (b) by omitting from subparagraph (c) (ii) “an appeal against that decision, set aside by the Supreme Court” and substituting “an application for review of that decision, set aside by the Tribunal”.

**Removal of gaming machines from premises**

22. Section 51 of the Principal Act is amended—

- (a) by omitting from subparagraph (2) (b) (ii) “appeal against” and substituting “application for review of”;
- (b) by omitting from subparagraph (2) (b) (iii) “appeal has not been instituted” and substituting “application for review has not been made”;
- (c) by omitting subparagraph (2) (c) (ii) and substituting the following subparagraph:
  - “(ii) an application for review of the relevant decision having been made, the application has been withdrawn, dismissed or determined otherwise than by a decision of the Tribunal after a hearing; or”;
- (d) by omitting subparagraph (2) (d) (ii) and substituting the following subparagraph:
  - “(ii) an application for review of the relevant decision having been made, the application has been determined by the Tribunal by affirming the decision of the Commissioner.”;
- (e) by omitting from paragraph (a) of the definition of “relevant decision” in subsection (3) “Authority” and substituting “Commissioner”;
- (f) by omitting from paragraph (b) of the definition of “relevant decision” in subsection (3) “Authority” and substituting “Liquor Licensing Board”;
- (g) by omitting from paragraph (c) of the definition of “relevant period” in subsection (3) “appeal is withdrawn, struck out” and substituting “application for review is withdrawn, dismissed”;
- (h) by omitting from paragraph (d) of the definition of “relevant period” in subsection (3) “appeal” and substituting “review”; and
- (i) by omitting from subsection (3) “Authority” (last occurring) and substituting “Commissioner”.

**Heading**

23. The heading to Part VI is omitted and the following heading substituted:

**“PART VI—REVIEW”.**

**Review by Tribunal**

24. Section 52 of the Principal Act is amended—

- (a) by omitting from subsection (1) “Authority” (wherever occurring) and substituting “Commissioner”; and
- (b) by omitting subsections (2), (3), (4) and (5) and substituting the following subsections:

“(2) A notice referred to in subsection (1) shall—

- (a) include a statement to the effect that, subject to the *Administrative Appeals Tribunal Act 1989*, an application may be made to the Tribunal for a review of the decision to which the notice relates; and
- (b) except where subsection 26 (11) of that Act applies—include a statement to the effect that a person whose interests are affected by the decision may request a statement pursuant to section 26 of that Act.

“(3) The validity of a decision referred to in subsection (1) shall not be taken to have been affected by a failure to comply with subsection (2).

“(4) Application may be made to the Tribunal for review of a decision of the Commissioner referred to in subsection (1).”.

**Revocation of certain decisions of Commissioner**

25. Section 53 of the Principal Act is amended—

- (a) by omitting from paragraph (b) “an appeal is instituted against the decision of the Authority” and substituting “an application is made for review of a decision of the Liquor Licensing Board”; and
- (b) by omitting paragraph (c) and substituting the following paragraph:

“(c) the review of that decision is determined by the Tribunal by setting aside the decision;”.

**Repeal**

26. Sections 58, 59 and 65 of the Principal Act are repealed.



### **Interpretation**

27. Section 68 of the Principal Act is amended by inserting the following definitions:

“ ‘Authority’ means the Australian Capital Territory Gaming and Liquor Authority established under the *Australian Capital Territory Gaming and Liquor Authority Act 1987*;

‘former Act’ means the *Gaming Machine Act 1987* as in force immediately before 1 January 1991;”.

### **Registrar**

28. Section 69 of the Principal Act is amended by inserting “of the former Act” after “section 6”.

### **Inspectors**

29. Section 70 of the Principal Act is amended by inserting “of the former Act” after “section 7”.

### **Licences**

30. Section 71 of the Principal Act is amended—

- (a) by inserting in subsection (1) “of the former Act” after “section 16”; and
- (b) by omitting from subparagraph (3) (b) (i) “section 17 of this Act” and substituting “section 17 of the former Act”.

### **Rules**

31. Section 72 of the Principal Act is amended by inserting in paragraph (1) (a) “of the former Act” after “section 31”.

### **Certificates**

32. Section 73 of the Principal Act is amended by inserting in subsections (1) and (2) “of the former Act” after “section 34”.

### **Further amendments of Principal Act**

33. The Principal Act is amended as set out in the Schedule.

### **Special Appropriation**

34. The sum of \$185,000 is payable out of the Consolidated Revenue Fund for services provided during the period commencing on 1 January 1991 and ending at the expiration of 30 June 1991 in relation to the administration of the *Gaming Machine Act 1987* and the Consolidated Revenue Fund is appropriated accordingly.

**Transitional**

**35. (1)** Subject to this section, where, immediately before the commencement date, a decision had not been made in respect of an application or request to the Authority in respect of a matter under the former Act, after the commencement date that application or request is to be taken to have been made to the Commissioner in respect of that matter under the amended Act and that Act applies in relation to any decision in respect of that application or request, as the case requires.

**(2)** In its application to a decision in respect of an application or request referred to in subsection (1), the amended Act applies in relation to circumstances arising before and after the commencement date.

**(3)** Where, before the commencement date—

- (a)** an inquiry had been commenced before the Authority for the purpose of hearing oral argument or receiving evidence in relation to a matter under the former Act; and
- (b)** the inquiry had not been concluded;

the inquiry may be continued after the commencement date before the Authority, as constituted at the commencement of the inquiry and continued in existence after that date for that purpose, and the former Act shall, by force of this section, continue to apply to and in relation to that inquiry.

**(4)** Notwithstanding sections 24 and 25, where—

- (a)** an appeal lay to the Supreme Court in respect of a decision of the Authority in relation to a matter under or for the purposes of the former Act; and
- (b)** immediately before the commencement date—
  - (i)** no appeal had been lodged in respect of that decision; and
  - (ii)** the time for appeal had not expired;

on and after the commencement date an application may be made to the Australian Capital Territory Administrative Appeals Tribunal for review of that decision as if it were a decision of the Commissioner in respect of that matter, and the amended Act applies to and in relation to any decision by the Tribunal in respect of that matter.

**(5)** Notwithstanding sections 24 and 25, where, before the commencement date, appeal proceedings had been instituted against the Authority in the Supreme Court in respect of a decision of the Authority under the former Act but those proceedings had not been completed before that date, those proceedings may be continued against the Commissioner and determined as if the former Act had continued in force.

(6) Subject to subsection (7), the amended Act applies to and in relation to an act or thing done, or deemed to have been done, by the Authority before the commencement date under a provision of the former Act as if that act or thing had been done by the Commissioner under the corresponding provision of the amended Act.

(7) A percentage payout in respect of a gaming machine determined by the Authority before the commencement date under section 17 of the former Act shall, after that date, be taken to continue to apply, until superseded, as if it had been determined by the Minister under section 17 of the amended Act.

(8) In this section—

“amended Act” means the former Act as amended by this Act;

“Authority” means the Australian Capital Territory Gaming and Liquor Authority established under section 4 of the *Australian Capital Territory Gaming and Liquor Authority Act 1987*;

“commencement date” means 1 January 1991;

“Commissioner” means the Commissioner for Australian Capital Territory Revenue;

“former Act” means the Principal Act as in force immediately before the commencement date.

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**SCHEDULE**

Section 33

**FURTHER AMENDMENTS OF PRINCIPAL ACT**

1. The following provisions of the Principal Act are amended by omitting “Authority” (wherever occurring) and substituting “Commissioner”:

Sections 4 (definition of “inquiry”) and 9, subsection 15 (1), sections 16, 19, 20, 22, 23 and 24, subsections 26 (1), (3) and (5), sections 28, 29, 30, 31, 33, 34, 35, 36, 37, 38, 39, 41, 45, 56 and 57.

2. The following provisions of the Principal Act are amended by omitting “it” and substituting “he or she”:

Subsection 16 (1), section 29 and subsection 35 (3).

3. The following provisions of the Principal Act are amended by omitting “it” and substituting “him or her”:

Subsection 22 (4), paragraph 23 (5) (a) and subsection 35 (4).

4. The following provisions of the Principal Act are amended by omitting “Registrar” (wherever occurring) and substituting “Commissioner”:

Paragraphs 14 (2) (b), 23 (2) (b) and 26 (2) (c), subsections 26 (3) and 26 (4) and section 64.

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**NOTE**

1. Ordinance No. 34, 1987 as amended by Nos. 25 and 26, 1988; Nos. 21 and 38, 1989; Act No. 14, 1989; Nos. 31 and 49, 1990.

*[Presentation speech made in Assembly on 29 November 1990.]*