



Australian Capital Territory

Gaming Machine (Club Governance) Amendment Act 2011

A2011-24

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Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

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Australian Capital Territory

Gaming Machine (Club Governance) Amendment Act 2011

A2011-24

An Act to amend the *Gaming Machine Act 2004* and the *Gaming Machine Regulation 2004* in relation to the governance of clubs in the ACT

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

Part 1 Preliminary

1 Name of Act

This Act is the *Gaming Machine (Club Governance) Amendment Act 2011*.

2 Commencement

- (1) This Act (other than sections 9, 10, 11, 21, 26 and 28) commences, or is taken to have commenced, on 1 July 2011.

Note The naming and commencement provisions automatically commence on the notification day (see Legislation Act, s 75 (1)).

- (2) Sections 9, 10, 11, 21, 26 and 28 commence on 1 July 2012.

3 Legislation amended

This Act amends the *Gaming Machine Act 2004* and the *Gaming Machine Regulation 2004*.

6 New section 21 (4)

insert

(4) In this section:

AUASB means the Auditing and Assurance Standards Board established under the *Australian Securities and Investments Commission Act 2001* (Cwlth), section 227AA (1).

Auditing Standard ASA 705 means Auditing Standard ASA 705 *Modifications to the Opinion in the Independent Auditor's Report* made by the AUASB on 27 October 2009 under the Corporations Act, section 336 (1) (Auditing standards).

Note A copy of the standard is accessible at www.comlaw.gov.au.

**7 Conditions about inequitable benefits
Section 53 (4) (a)**

substitute

(a) the person is offered the benefit (whether or not under the rules of the club) in the course of acting on behalf of the club while performing the person's normal duties as an employee or director of the club; and

8 New section 53 (4) (b) (iii)

insert

(iii) an expense relating to the person's duties paid by someone else and authorised by a resolution of the club's management committee or board.

Example—expense paid by someone else

conference fees

Note An example is part of the Act, is not exhaustive and may extend, but does not limit, the meaning of the provision in which it appears (see Legislation Act, s 126 and s 132).

9 New sections 53A and 53B

insert

53A Condition about club's constitution—consistency with gaming laws

It is a condition of a licence for a club that the club's constitution is consistent with the gaming laws.

53B Condition about club's constitution—amendment if inconsistent with gaming laws

- (1) It is a condition of a licence for a club that the club's constitution provides for the constitution to be amended in accordance with a direction by the commission under section 148B (Club constitution—consistency with gaming laws) without an election of the voting members of the club.
- (2) This section is declared to be a corporations legislation displacement provision for the Corporations Act, section 5G (Avoiding direct inconsistency arising between the Corporations legislation and State and Territory laws).

Note Subsection (2) ensures that any provision of the Corporations Act or the *Australian Securities and Investment Commission Act 2001* (Cwlth) with which this section would otherwise be inconsistent does not apply to the extent necessary to avoid the inconsistency.

**10 Annual report of clubs
Section 54 (a)**

substitute

- (a) any contractual arrangement or consultancy entered into with an influential person during the year, including—
 - (i) the position the influential person occupies in the club;
and

- (ii) the purpose of the arrangement or consultancy; and
 - (iii) the total amount of the arrangement or consultancy for the year;
- (aa) any contractual arrangement or consultancy entered into during the year for more than the amount prescribed by regulation, including—
- (i) the purpose of the arrangement or consultancy; and
 - (ii) the total amount of the arrangement or consultancy for the year;

11 New section 54 (c)

insert

- (c) if any benefits have been taken by a person during the financial year—
- (i) the person's position in the club; and
 - (ii) a description of the benefit taken by the person; and
 - (iii) the purpose for which the benefit was taken; and
 - (iv) the monetary value of the benefit; and
 - (v) the name of the person who offered the benefit.

**12 Other conditions of club licences
Section 55 (d)**

omit

13 New section 144A

in part 9, insert

144A Definitions—pt 9

In this part:

associated organisation declaration means a declaration under section 147 (Associated organisations—declaration) that an entity is an associated organisation for a club.

warning notice, for an associated organisation—see section 147B (1).

14 Section 147 heading

substitute

147 Associated organisations—declaration**15 Section 147 (2)**

after

declaration

insert

(an *associated organisation declaration*)

16 New section 147 (2) (ba)

insert

(ba) it does not have the power to remove a director from the club's board; and

17 Section 147 (2) (f)

omit

approval

substitute

declaration

18 New section 147A to 147D

insert

147A Associated organisation declaration—condition

It is a condition of an associated organisation declaration that the entity declared to be an associated organisation for a club—

- (a) continually meets each requirement for the declaration; and

Note For the requirements for the declaration of an entity as an associated organisation for a club—see s 147 (2).

- (b) continues not to do anything that would, if the commission were considering whether to declare the entity as an associated organisation for a club, cause the commission to refuse to make the declaration; and

- (c) does not attempt to remove a director (including do anything a purpose of which is to remove a director) from the club's board.

Note 1 The Control Act, s 22 provides that the commission may, for a purpose related to the administration or enforcement of a gaming law, require a person to give or produce to the commission the things mentioned in that section.

Note 2 The Control Act, s 23 provides that an authorised officer may enter and inspect the premises of an associated organisation at any reasonable time to do the things mentioned in that section.

147B Associated organisation—warning notice

- (1) If the commission is satisfied on reasonable grounds that an entity declared to be an associated organisation for a club has stopped meeting a requirement for the associated organisation declaration, the commission may give the entity a notice (a *warning notice*).
- (2) A warning notice given to the entity must—
 - (a) state that the commission is not satisfied that the entity is meeting a requirement for the associated organisation declaration; and
 - (b) tell the entity that the entity may, within 3 weeks after the day the entity is given the notice (or a longer period stated in the notice), give a written response to the commission about the notice.

147C Associated organisation declaration—suspension or repeal

- (1) This section applies if—
 - (a) an associated organisation has been given a warning notice; and
 - (b) after considering any responses given within the period stated in the warning notice, the commission is satisfied on reasonable grounds that the associated organisation has stopped meeting a requirement for the associated organisation declaration applying to the organisation.
- (2) The commission may—
 - (a) suspend the declaration; or
 - (b) repeal the declaration.

- (3) If the commission suspends or repeals the declaration, the suspension or repeal takes effect—
 - (a) when the entity receives written notice of the suspension or repeal; or
 - (b) on a later stated date.
- (4) If the commission suspends the declaration, the suspension ends—
 - (a) on a date stated in the written notice of the suspension; or
 - (b) when an event stated in the written notice happens.

147D Club elections—election of board directors

- (1) This section applies if a club holds an election of directors to the club's board.
- (2) The club must ensure that at least 25% of the directors are elected by the voting members of the club.

19 Section 148 heading

substitute

148 Club elections—record-keeping

20 New section 148A

insert

148A Club directors—acting in good faith

A director of a club must exercise the director's powers and discharge the director's duties—

- (a) in good faith in the best interests of the club; and
- (b) for a proper purpose.

21 New section 148B

insert

148B Club constitution—consistency with gaming laws

- (1) This section applies if the commission believes on reasonable grounds that—
 - (a) a provision of a club's constitution is inconsistent with a gaming law; or
 - (b) a function under a provision of a club's constitution would, if exercised, be inconsistent with a provision of a gaming law.
- (2) The commission must, in writing, direct the club to amend the constitution to remove the inconsistency.
- (3) A club must comply with a direction under subsection (2) within the reasonable time stated in the direction.
- (4) In this section:

club means a club in relation to whose premises a licence is in force.

**22 Approval of community contributions
Section 164 (3), definition of *contribution*,
new paragraph (b) (xvi)**

insert

- (xvi) the payment of a tax, fee or levy, other than a payment required under section 163A (1) (Required payment to problem gambling assistance fund).

**23 Required community contributions
Section 169 (2) (a) and (3) (b)**

omit

7%

substitute

8%

**24 Problem gambling community contributions
New section 171A (1A)**

insert

(1A) This section does not apply to a payment required under section 163A (1) (Required payment to problem gambling assistance fund).

**25 Reviewable decisions
Schedule 1, new items 34A and 34B**

insert

34A	147C (2) (a)	suspend declaration of associated organisation	entity given warning notice
34B	147C (2) (b)	repeal declaration of associated organisation	entity given warning notice

26 Schedule 1, new item 34C

insert

34C	148B (2)	give direction to amend club's constitution	club given direction
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27 Dictionary, new definitions

insert

associated organisation declaration, for part 9 (Club administration)—see section 144A.

gaming law—see the Control Act, dictionary.

warning notice, for an associated organisation, for part 9 (Club administration)—see section 144A.

Part 3 Gaming Machine Regulation 2004

28 Section 73 heading

substitute

73 Contractual arrangements and consultancies in annual report of clubs—Act, s 54 (aa)

Endnotes

1 Presentation speech

Presentation speech made in the Legislative Assembly on 5 May 2011.

2 Notification

Notified under the Legislation Act on 7 July 2011.

3 Republications of amended laws

For the latest republication of amended laws, see www.legislation.act.gov.au.

I certify that the above is a true copy of the Gaming Machine (Club Governance) Amendment Bill 2011, which was passed by the Legislative Assembly on 28 June 2011.

Clerk of the Legislative Assembly

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