



Australian Capital Territory

# **Gaming Machine Act 2004**

**A2004-34**

**Republication No 9**

**Effective: 5 December 2007 – 3 June 2008**

Republication date: 5 December 2007

Last amendment made by A2007-40

Not all amendments are in force: see last endnote

Authorised by the ACT Parliamentary Counsel

## About this republication

### The republished law

This is a republication of the *Gaming Machine Act 2004* (including any amendment made under the *Legislation Act 2001*, part 11.3 (Editorial changes)) as in force on 5 December 2007. It also includes any amendment, repeal or expiry affecting the republished law to 5 December 2007.

The legislation history and amendment history of the republished law are set out in endnotes 3 and 4.

### Kinds of republications

The Parliamentary Counsel's Office prepares 2 kinds of republications of ACT laws (see the ACT legislation register at [www.legislation.act.gov.au](http://www.legislation.act.gov.au)):

- authorised republications to which the *Legislation Act 2001* applies
- unauthorised republications.

The status of this republication appears on the bottom of each page.

### Editorial changes

The *Legislation Act 2001*, part 11.3 authorises the Parliamentary Counsel to make editorial amendments and other changes of a formal nature when preparing a law for republication. Editorial changes do not change the effect of the law, but have effect as if they had been made by an Act commencing on the republication date (see *Legislation Act 2001*, s 115 and s 117). The changes are made if the Parliamentary Counsel considers they are desirable to bring the law into line, or more closely into line, with current legislative drafting practice.

This republication includes amendments made under part 11.3 (see endnote 1).

### Uncommenced provisions and amendments

If a provision of the republished law has not commenced or is affected by an uncommenced amendment, the symbol **U** appears immediately before the provision heading. The text of the uncommenced provision or amendment appears only in the last endnote.

### Modifications

If a provision of the republished law is affected by a current modification, the symbol **M** appears immediately before the provision heading. The text of the modifying provision appears in the endnotes. For the legal status of modifications, see *Legislation Act 2001*, section 95.

### Penalties

The value of a penalty unit for an offence against this republished law at the republication date is—

- (a) if the person charged is an individual—\$100; or
- (b) if the person charged is a corporation—\$500.



Australian Capital Territory

# Gaming Machine Act 2004

## Contents

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	Page
<b>Part 1</b>	<b>Preliminary</b>
1	Name of Act 2
3	Dictionary 2
4	Notes 2
5	Offences against Act—application of Criminal Code etc 3
<b>Part 2</b>	<b>Licences</b>
<b>Division 2.1</b>	<b>Definitions and important concepts</b>
6	Definitions for pt 2 4
7	Meaning of <i>influential person</i> for Act 4
8	What licence authorises 5
9	Kinds of applications under pt 2 5
10	Applications to be dealt with in order of receipt 6

---

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05/12/07

Gaming Machine Act 2004  
Effective: 05/12/07-03/06/08

contents 1

		Page
<b>Division 2.2</b>	<b>Issue of licences</b>	
11	Initial licence application	7
12	Issue of licences	9
13	Additional mandatory requirements for issue of licence	11
14	Grounds for refusing initial licence application by club	12
15	Form of licence	13
16	Restrictions on what commission may authorise—non-clubs	14
17	No available gaming machines	15
<b>Division 2.3</b>	<b>Social impact assessments</b>	
18	Social impact assessment	16
19	Publication of social impact assessments by applicant	16
<b>Division 2.4</b>	<b>Eligible people</b>	
20	Eligibility of individuals	18
21	Eligibility of clubs and other corporations	20
<b>Division 2.5</b>	<b>Licence amendments</b>	
22	Licence amendment applications	21
23	Contents of licence amendment applications	22
24	Substantive licence amendments	23
25	Technical licence amendments	25
26	Temporary licence amendment	26
27	Request for return of licence	27
28	Commencement of amendments	27
29	Revocation of uncommenced licence amendments	27
<b>Division 2.6</b>	<b>Transfer and surrender of licences</b>	
30	Definitions for div 2.6	28
31	Application for transfer of licence	28
32	Transfer of licence	29
33	Current licensees obligations on proposed transfer of licence	30
34	Surrender of licences	31
<b>Division 2.7</b>	<b>Restriction on gaming machine numbers</b>	
35	Maximum number of gaming machines allowed	32
36	Minister must take into account commission's recommendation	32

	Page
<b>Division 2.8</b>	<b>Gaming machine licences</b>
37	Register of licences 33
38	Giving copy of licence 33
<b>Part 3</b>	<b>Conditions on licences</b>
<b>Division 3.1</b>	<b>Compliance with licence conditions</b>
39	Failure to comply with conditions of licence 35
<b>Division 3.2</b>	<b>General licence conditions</b>
39A	Compliance with requirements for issue of licence 35
40	Compliance with directions 36
41	Display of licence at licensed premises 36
42	Licence schedule to be kept at premises 36
43	Rules and control procedures for operation of gaming machines and peripheral equipment 36
44	Installation in accordance with Act 37
45	Installation certificate 37
46	Operation after installation 37
47	Operation subject to correct percentage payout 37
48	Percentage payout of gaming machines to be displayed 38
49	Maximum stake amount 38
50	Licensee to comply with relevant codes of practice 38
51	Licensee to use gaming machines 38
52	Accounts relating to gaming machines 39
<b>Division 3.3</b>	<b>Club licence conditions</b>
53	Conditions about inequitable benefits 39
54	Annual report of clubs 40
55	Other conditions of club licences 41
<b>Part 4</b>	<b>Disciplinary action</b>
56	Definitions for pt 4 43
57	Grounds for disciplinary action 43
58	Disciplinary action 45
59	Criteria for disciplinary action 45
60	When disciplinary notice may be given 46

## Contents

---

	Page
61	Disciplinary notices 46
62	Commission may take disciplinary action against licensee 46
63	Suspension of licences because of suspension of general and on licences 47
64	Cancellation of licences because of cancellation etc of general and on licences 47
65	Return of licence on cancellation 47
<b>Part 5</b>	<b>Centralised monitoring system</b>
66	Meaning of <i>centralised monitoring system</i> 49
67	Regulations about CMS 49
<b>Part 6</b>	<b>Approval of gaming machines, peripherals, suppliers, technicians and attendants</b>
<b>Division 6.1</b>	<b>Approval of gaming machines and peripheral equipment</b>
68	Meaning of <i>peripheral equipment</i> 50
69	Approval of gaming machines and peripheral equipment 50
70	Cancellation or suspension of gaming machine and peripheral equipment approval 51
71	Machine access register 52
<b>Division 6.2</b>	<b>Approved suppliers</b>
72	Application and approval as supplier 53
73	Giving copy of certificate about approved supplier 54
73A	Cancellation etc of supplier's approval 54
<b>Division 6.3</b>	<b>Approved technicians</b>
74	Application for approval as technician 56
75	Approval of technicians 56
76	Short-term approval of technicians 58
77	Ending short-term approvals 58
78	Transfer etc of technician's approval 59
79	Cancellation etc of technician's approval 59
80	Certificates and identity cards for approved technicians 61
81	Giving copy of certificate about approved technician or identity card 61

	Page
82	61
83	62
84	63
<b>Division 6.4</b>	
<b>Approved attendants</b>	
85	63
86	64
87	65
88	65
89	65
90	66
91	66
92	67
93	68
94	68
95	68
96	69
<b>Division 6.5</b>	
<b>Gaming machine dealings</b>	
97	70
98	70
99	71
100	71
101	72
102	73
103	73
104	74
105	75
<b>Division 6.6</b>	
<b>Repossession of gaming machines</b>	
106	76
107	76
108	77
109	77
110	78

	Page
<b>Division 6.7</b>	<b>Disposal of gaming machines</b>
111	Unapproved disposal of gaming machines 78
112	Application for approval for disposal of gaming machines 78
113	Approval of disposal of gaming machines 79
<b>Division 6.8</b>	<b>Seizure of gaming machines</b>
114	Seizure of unlawful gaming machines 79
115	Receipt for gaming machines seized 80
116	Application for order disallowing seizure 80
117	Order for return of seized gaming machine 81
118	Adjournment pending hearing of other proceedings 81
119	Forfeiture of seized gaming machines 82
<b>Division 6.9</b>	<b>Installation and operation of gaming machines</b>
120	Installation to be in accordance with approval of commission 82
121	Offence to install gaming machines 83
122	Certificate about meter readings 83
123	Sealing computer cabinet 83
124	Commission may require information 84
125	Operation to be subject to correct percentage payout 84
126	Position for percentage payout of gaming machines display 84
127	Maximum stake amount 85
<b>Part 7</b>	<b>Regulation of gaming machines generally</b>
128	Machine access generally 86
129	Interference with gaming machines 87
130	Opening computer cabinets 88
131	Rendering gaming machines inoperable on licence ceasing to be in force 88
132	Removal of gaming machines from premises 89
<b>Part 8</b>	<b>Linked-jackpot arrangements</b>
133	Operation of linked-jackpot arrangements 90
134	Single-user authorisation for linked-jackpot arrangements 90
135	Issue of multi-user permits 91
136	Conditions on multi-user permits 93



	Page
137	94
138	94
139	94
140	96
141	96
142	96
143	97
144	97
<b>Part 9</b>	
<b>Club administration</b>	
145	99
146	99
147	100
148	101
149	101
150	102
<b>Part 10</b>	
<b>Gaming areas</b>	
151	103
152	104
152A	105
153	105
154	106
155	106
156	107
157	107
<b>Part 11</b>	
<b>Finance</b>	
<b>Division 11.1</b>	
<b>General</b>	
158	108
159	108
161	109
162	110
163	110

	Page
<b>Part 12</b>	<b>Community contributions</b>
164	Approval of community contributions 111
165	Records of contributions 113
166	Report about records and finances 113
167	Commission must report to Minister 114
168	Minister must present commission's report 114
169	Required community contributions 114
170	Corporations with several licences 115
171	Women's sport community contributions 115
171A	Problem gambling community contributions 116
172	Community contribution shortfall tax 116
<b>Part 13</b>	<b>Miscellaneous</b>
173	Review of decisions 118
174	Acts and omissions of representatives 118
175	Canberra Airport 119
176	Evidentiary certificates 120
177	Determination of fees 120
178	Regulation-making power 120
<b>Schedule 1</b>	<b>Reviewable decisions</b> 121
<b>Dictionary</b>	124
<b>Endnotes</b>	
1	About the endnotes 133
2	Abbreviation key 133
3	Legislation history 134
4	Amendment history 135
5	Earlier republications 137
6	Uncommenced amendments 138



Australian Capital Territory

# Gaming Machine Act 2004

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An Act in relation to gaming machines, and for other purposes

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## Part 1 Preliminary

### 1 Name of Act

This Act is the *Gaming Machine Act 2004*.

### 3 Dictionary

The dictionary at the end of this Act is part of this Act.

*Note 1* The dictionary at the end of this Act defines certain terms used in this Act, and includes references (*signpost definitions*) to other terms defined elsewhere.

For example, the signpost definition '*associated entity*—see the *Electoral Act 1992*, section 198.' means that the term 'associated entity' is defined in that section and the definition applies to this Act.

*Note 2* A definition in the dictionary (including a signpost definition) applies to the entire Act unless the definition, or another provision of the Act, provides otherwise or the contrary intention otherwise appears (see Legislation Act, s 155 and s 156 (1)).

### 4 Notes

A note included in this Act is explanatory and is not part of this Act.

*Note* See the Legislation Act, s 127 (1), (4) and (5) for the legal status of notes.

## 5 Offences against Act—application of Criminal Code etc

Other legislation applies in relation to offences against this Act.

*Note 1 Criminal Code*

The Criminal Code, ch 2 applies to all offences against this Act (see Code, pt 2.1).

The chapter sets out the general principles of criminal responsibility (including burdens of proof and general defences), and defines terms used for offences to which the Code applies (eg *conduct*, *intention*, *recklessness* and *strict liability*).

*Note 2 Penalty units*

The Legislation Act, s 133 deals with the meaning of offence penalties that are expressed in penalty units.

## Part 2 Licences

### Division 2.1 Definitions and important concepts

#### 6 Definitions for pt 2

In this part:

*initial licence application*—see section 9.

*licence amendment application*—see section 9.

#### 7 Meaning of *influential person* for Act

(1) In this Act:

*influential person*, for a corporation—

(a) means any of the following:

(i) an executive officer of the corporation;

(ii) a related corporation;

(iii) an executive officer of a related corporation;

(iv) an influential owner; and

(b) includes a person who, though not mentioned in paragraph (a), can exercise as much influence over the actions of the corporation as someone mentioned in that paragraph.

*Note* *Corporation* includes a club (see dict).

(2) In this section:

*influential owner*, of a corporation, means a person who, whether directly or through intermediary corporate ownership or nominees—

(a) can control 5% of the votes at an annual general meeting of the corporation; or

(b) can control the appointment of a director of the corporation.

*related corporation* means a related body corporate under the Corporations Act.

## **8 What licence authorises**

- (1) A licence authorises the licensee—
- (a) to acquire and dispose of gaming machines; and
  - (b) to install gaming machines on the licensed premises under the licence; and
  - (c) to operate the gaming machines stated in the licence on the licensed premises.

*Note* This Act, and the licence, may limit or place conditions on the authority under this section.

- (2) However, a licence does not authorise the licensee to operate gaming machines on more than 1 licensed premises under the licence.
- (3) The regulations may prescribe times when licensees must not operate a gaming machine.
- (4) A licence may authorise the use of only class B and class C gaming machines.

## **9 Kinds of applications under pt 2**

A person may apply to the commission for a licence (an *initial licence application*) or amendment of a licence (a *licence amendment application*).

*Note 1* If a form is approved under the Control Act, s 53D for an application, the form must be used.

*Note 2* A fee may be determined under s 177 for this provision.

## 10 Applications to be dealt with in order of receipt

- (1) This section applies to the following applications made in accordance with this Act:
  - (a) initial licence applications;
  - (b) licence amendment applications if the application is to increase the number of gaming machines authorised to be operated under the licence.
- (2) However, this section does not apply to the application if—
  - (a) the applicant has been authorised to operate 1 or more gaming machines because of the application; or
  - (b) the application has been refused.
- (3) Applications to which this section applies must be dealt with in the order in which they are received by the commission.
- (4) However, if an application does not contain sufficient information to allow the commission to decide the application, subsection (3) applies to the application as if it were received by the commission when sufficient information is given to the commission to allow the commission to decide it.
- (5) The commission is not required to make a decision about the number of gaming machines authorised to be operated under a licence if licences that have already been issued authorise the operation of the maximum number of gaming machines allowed on all licensed premises in the ACT.

*Note* The maximum number of gaming machines on all licensed premises in the ACT is set under s 35.
- (6) The commission may, by written notice given to the applicant, require an applicant to provide updated information in an application mentioned in subsection (1), including verified updated information, if—
  - (a) subsection (5) applied to the application; and



- (b) at a later time, subsection (5) stopped applying to the application.
- (7) To remove any doubt, updated information includes an updated required document.

## **Division 2.2                    Issue of licences**

### **11                    Initial licence application**

- (1) An initial licence application must—
  - (a) be in writing signed by the applicant; and
  - (b) state the applicant's name and address; and
  - (c) if the applicant is a corporation—state the name and address of each director of the corporation; and
  - (d) state the address, and block and section number, of the premises proposed to be licensed; and
  - (e) state the class, number, kind, coin denomination and percentage payout of gaming machines for which the licence is sought; and
  - (f) for a corporation—name each influential person for the corporation and the person's relationship with the corporation; and
  - (g) be accompanied by each of the required documents for the application.
- (2) The following are *required documents* for every initial licence application:
  - (a) a social impact assessment for the application;
  - (b) a scale plan of the premises, or part of the premises, proposed to be licensed, showing where the gaming machines are to be installed (the *proposed gaming area*);

- (c) a copy of the rules the applicant has adopted to control the operation of gaming machines on the premises proposed to be licensed;

**Examples of what rules may cover**

- 1 how long a machine may be reserved for
- 2 prohibiting abuse of machines
- 3 payment of prizes by attendants
- 4 delay of payment if machine has malfunctioned or been interfered with

*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).

- (d) a copy of the control procedures the applicant has adopted to control the operation of gaming machines on the premises proposed to be licensed;

*Note* Control procedures are covered in s 97.

- (e) any other documents required for the application under the regulations.

- (3) The following are also **required documents** for an initial licence application by a club:

- (a) a copy of the club's constitution;
- (b) an alphabetical list of names and addresses of all current members of the club, certified correct by the club secretary;
- (c) a statement, signed by the club secretary, stating the grounds on which the club claims to be an eligible club;
- (d) evidence that a majority of the voting members of the club who voted in a ballot conducted under the regulations voted for the club having gaming machines.

- (4) The regulations may require—

- (a) a required document, or any information in a required document, to be verified in a particular way; or

- (b) an application to include particular information; or
  - (c) an application, or any information in an application, to be verified in a particular way.
- (5) The commission need not consider an initial licence application if—
- (a) the application does not include any information required under this section; or
  - (b) the application, or any information in the application, is not verified as required under this section; or
  - (c) the application is not accompanied by a document required under this section to accompany the application; or
  - (d) a document accompanying the application does not include any information required under this section; or
  - (e) a document accompanying the application, or any information in a document accompanying the application, is not verified as required under this section; or
  - (f) any form required to be used for the application, or any document accompanying the application is not used; or
  - (g) any requirement of a form required to be used for the application, or any document accompanying the application, is not complied with.

## **12 Issue of licences**

- (1) This section applies to an initial licence application under section 11.
- (2) The commission must issue a licence to the applicant if—
  - (a) the applicant is an eligible person;

*Note* Eligibility for individuals—see s 20. Eligibility for corporations—see s 21.

- (b) for an application by a club—a majority of the voting members of the club who voted in a ballot conducted under the regulations voted for the club having gaming machines; and
  - (c) the commission is satisfied about each additional mandatory requirement under section 13 in relation to the application; and
  - (d) authorising the use of the number of gaming machines to be authorised by the licence would not contravene section 35 (Maximum number of gaming machines allowed).
- (3) However, the commission may refuse to issue a licence to a club if a ground for refusing the licence exists under section 14.
- (4) A licence may be conditional.

**Example**

a condition that a gaming area be separated from other parts of the premises

*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).

- (5) In deciding the number and kind of gaming machines to be allowed under a licence, the commission must consider the following:
- (a) the size and layout of the premises the application relates to;
  - (b) the size and layout of the proposed gaming area;
  - (c) for an application by a club—
    - (i) the number of club members worked out under the regulations; and
    - (ii) the ratio of club members to the number and kinds of gaming machines held by the licensee; and
    - (iii) the extent to which the club has contributed to, or is likely to contribute to, the community, supported and benefited the community;

- (d) the social impact assessment for the application for the licence and any submission made on the assessment within the 6-week comment period under section 19;
  - (e) what the commission may allow under section 16.
- (6) The commission may consider any other relevant matter.

### **13 Additional mandatory requirements for issue of licence**

- (1) The following requirements are mandatory requirements under section 12 (2) (c) for an initial licence application:
- (a) for a corporation (including a club)—the rules and control procedures of the corporation to control the operation of gaming machines are adequate to control that operation;
  - (b) the size and layout of the proposed gaming area are suitable for the installation of gaming machines;
  - (c) the applicant is likely to comply with this Act;

#### **Example**

If the applicant previously held a licence, the commission may consider how well the applicant complied with its conditions in assessing whether the applicant is likely to comply with this Act.

*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).

- (d) if an on licence applies to the premises to which the application relates—the premises are used by people mainly for drinking alcohol;
- (e) taking into consideration the social impact assessment for the application and any submission made on the assessment within the 6-week comment period under section 19, the issue of the licence is appropriate.

**Example for par (e)**

the issue of a licence for the premises to which a general licence or on licence applies may not be appropriate if it would adversely affect the nature or character of the premises and the general use and enjoyment of the premises

- (2) In deciding whether a proposed gaming area is suitable for the installation of gaming machines, the commission must consider the safety and comfort of, and harm minimisation strategies for, patrons.

**14 Grounds for refusing initial licence application by club**

- (1) The commission may refuse to issue a gaming machine licence to an applicant that is a club if satisfied that—
- (a) payments for the rental or lease of the club's premises are unreasonable or are related to the level of gaming machine performance; or
  - (b) someone, other than the lessor or leasing agent, will receive a payment or benefit during or at the end of a lease, agreement or arrangement entered into by the club for its premises; or
  - (c) the election of a member of the club's management committee or board has been decided, controlled or influenced in a significant way, or to a significant degree, by—
    - (i) people who are not voting members of the club; or
    - (ii) only some voting members of the club; or
  - (d) the voting members of the club, taken as a group, do not have complete control over the election of all members of the club's management committee or board; or
  - (e) each voting member of the club does not have an equal right to elect people, and to nominate or otherwise choose people for election, to the club's management committee or board; or

- (f) if the club does not own its premises—an executive officer or employee of the club is also the club’s lessor, or an associate of the club’s lessor; or
  - (g) an executive officer or employee of the club is a creditor, or an associate of a creditor, of the club; or
  - (h) the club’s management committee or board does not, for any reason, have complete control over the club’s business or operations, or a significant aspect of the club’s business or operations; or
  - (i) the club is being, or may be, used as a device for individual gain or commercial gain by someone other than the club.
- (2) However, the commission must not refuse to issue a gaming machine licence under subsection (1) (c), (d) or (e) only because—
- (a) the commission is satisfied that the election of a member of the club’s management committee or board has been decided, controlled or influenced in a significant way, or to a significant degree, by an associated organisation; or
  - (b) the voting members of the club, taken as a group, do not have complete control over the election of all members of the club’s management committee or board because an associated organisation has some control; or
  - (c) each voting member of the club does not have an equal right to elect people, and to nominate or otherwise choose people for election, to the club’s management committee or board because an associated organisation has a right to elect, nominate or otherwise choose people for election.

## **15 Form of licence**

- (1) A licence must—
- (a) state the number and class of gaming machines that the licensee is allowed to operate; and

**Example**

3 class B gaming machines

*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).

- (b) state the premises, and each part of the premises (the ***gaming areas***), where the licensee is allowed to operate the gaming machines; and
  - (c) include a schedule that contains the serial number of each gaming machine authorised to be operated under the licence.
- (2) The regulations may prescribe other requirements in relation to the form of a licence.

**16 Restrictions on what commission may authorise—non-clubs**

- (1) This section applies if the commission must issue a licence under section 12 on an initial licence application.
- (2) The commission may issue a licence that authorises the use of no more than 10 class B gaming machines, and no class C gaming machines, if—
- (a) a general licence applies to the premises to which the application relates; and
  - (b) the premises have at least 12 rooms that are used for residential accommodation for lodgers or guests.
- (3) The commission may issue a licence that authorises the use of no more than 2 class B gaming machines, and no class C gaming machines, if—
- (a) a general licence applies to the premises to which the application relates; but



- (b) the premises have fewer than 12 rooms (including no rooms) that are used for residential accommodation for lodgers or guests.
- (4) The commission may issue a licence that authorises the use of 2 class B gaming machines, and no class C gaming machines, if an on licence applies to the premises to which the application relates.

## **17 No available gaming machines**

- (1) This section applies to an applicant for an initial licence if—
  - (a) the maximum number of gaming machines allowed on all licensed premises in the ACT has been reached; and
  - (b) the commission would otherwise have issued a licence to the applicant.

*Note* The maximum number of gaming machines on all licensed premises in the ACT is set under s 35.

- (2) The commission must—
  - (a) tell the applicant that the maximum number of gaming machines allowed on all licensed premises in the ACT has been reached; and
  - (b) give the applicant a certificate (a *certificate of suitability*) stating that the commission would otherwise have issued a licence to the applicant and that the number of machines the applicant is to be authorised to operate will be determined when—
    - (i) the number of gaming machines allowed to be operated on all licensed premises in the ACT falls below the maximum number of gaming machines allowed on all licensed premises in the ACT; or
    - (ii) the commission is considering the transfer of a licence to the applicant under section 32 (Transfer of licence).

## Division 2.3 Social impact assessments

### 18 Social impact assessment

- (1) A social impact assessment for an initial licence application or licence amendment application is a written assessment of the likely economic and social impact of the operation of gaming machines under the proposed licence or the licence as proposed to be amended.

*Note* A social impact assessment is required for an initial licence application (see s 11 (2) (a)) and certain licence amendment applications (see s 22 (2)).

- (2) The regulations may make provision in relation to social impact assessments, including, for example—
- (a) the requirements that must be satisfied by a social impact assessment; and
  - (b) the matters to be addressed by a social impact assessment; and
  - (c) the information to be given in a social impact assessment.

*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).

### 19 Publication of social impact assessments by applicant

- (1) This section applies if an applicant for a licence or amendment of a licence is required to provide a social impact assessment.
- (2) The applicant must publish an advertisement about the application in a newspaper published and circulating in the ACT.

*Note* If a form is approved under the Control Act, s 53D for an advertisement, the form must be used.

- (3) The advertisement must state that—
- (a) the social impact assessment for the application will be available for inspection by members of the public at the commission's office during ordinary business hours for 6 weeks after a day stated in the advertisement (the **6-week comment period**); and
  - (b) any written submissions about the social impact assessment may be made to the commission within the 6-week comment period.
- (4) Before the beginning of the 6-week comment period, the applicant must give the commission—
- (a) the social impact assessment for the application; and
  - (b) a copy of the advertisement for the application mentioned in subsection (2).
- (5) On or before the day the advertisement is published, the applicant must place a sign (the **information sign**) containing information about the application in a prominent position outside each public entrance to the premises to which the application relates, and ensure that the sign stays at the entrance for the 6-week comment period.
- (6) The information sign for an application must include the following:
- (a) a description of the application;
  - (b) a statement of when and where the social impact assessment for the application will be available;
  - (c) an invitation to make written submissions to the commission about the social impact assessment within the 6-week comment period;
  - (d) when the 6-week comment period ends;
  - (e) details of where to get more information about the application.

- (7) The commission must make the social impact assessment available for inspection by members of the public at the commission's office during ordinary business hours during the 6-week comment period.
- (8) The commission must not decide the application until the 6-week comment period has ended.

## Division 2.4 Eligible people

### 20 Eligibility of individuals

- (1) For this Act, an individual, other than an applicant for a licence, is an *eligible person* if there is not a disqualifying ground in relation to the individual.
- (2) For this Act, an individual who is an applicant for a licence is an *eligible person* for the application if—
  - (a) the individual—
    - (i) is an adult; and
    - (ii) holds a general licence or on licence; and
  - (b) there is not a disqualifying ground in relation to the individual.
- (3) Each of the following is a *disqualifying ground* in relation to an individual:
  - (a) the individual has been convicted, or found guilty, within the previous 5 years, whether in the ACT or elsewhere, of an offence—
    - (i) involving fraud or dishonesty; or
    - (ii) punishable by imprisonment for at least 1 year; or
    - (iii) against a law about gaming;
  - (b) the individual is an undischarged bankrupt or, at any time in the last 5 years—

- (i) was an undischarged bankrupt; or
  - (ii) applied to take the benefit of a law for the relief of bankrupt or insolvent debtors; or
  - (iii) compounded with creditors or made an assignment of remuneration for their benefit;
- (c) at any time in the last 5 years the individual was involved in the management of a corporation when—
- (i) the corporation became the subject of a winding-up order; or
  - (ii) a controller or administrator was appointed.
- (d) at any time in the last 12 months the individual had—
- (i) a licence cancelled under section 58 (Disciplinary action); or
  - (ii) a licence cancelled under section 64 (Cancellation of licences because of cancellation etc of general and on licences); or
  - (iii) an application for approval as a supplier refused, on the basis that the person provided false or misleading information, under section 72 (Application and approval as supplier); or
  - (iv) approval as a supplier cancelled under section 73A (Cancellation etc of supplier's approval); or
  - (v) an application for approval as a technician refused, on the basis that the person provided false or misleading information, under section 75 (Approval of technicians); or
  - (vi) approval as a technician cancelled under section 79 (1) (a) or (c) (Cancellation etc of technician's approval); or

- (vii) an application for approval as an attendant refused, on the basis that the person provided false or misleading information, under section 86 (Approval of attendants); or
  - (viii) approval as an attendant cancelled under section 91 (1) (a) or (c) (Cancellation etc of attendant's approval).
- (4) Despite subsection (3), the commission may decide that the individual is an *eligible person* even though there is a disqualifying ground in relation to the individual.
- (5) However, the commission must not make a decision under subsection (4) unless satisfied that—
- (a) if the individual is an applicant for a licence—the operation of gaming machines by the individual would not adversely affect the public; and
  - (b) it is otherwise in the public interest that the individual be treated as an eligible person.

## 21 Eligibility of clubs and other corporations

- (1) A corporation is an *eligible person* if—
- (a) each executive officer and influential person of the corporation is an eligible person; and
  - (b) for a club—it is an eligible club; or
  - (c) for a corporation that is not a club—the corporation holds a general licence or on licence; and
  - (d) the corporation is not the subject of a winding-up order, and has not been the subject of a winding-up order in the last 3 years; and
  - (e) a controller or administrator has not been appointed for the corporation in the last 3 years.

- (2) Despite subsection (1), the commission may decide that the corporation is an eligible person even though a provision of that subsection does not apply in relation to the corporation.
- (3) However, the commission must not make a decision under subsection (2) in relation to the corporation unless satisfied that—
  - (a) the operation of gaming machines by the corporation would not adversely affect the public; and
  - (b) it is otherwise in the public interest that the corporation be treated as an eligible person.

## **Division 2.5                    Licence amendments**

### **22                    Licence amendment applications**

- (1) A licensee may apply in writing to amend the licence only—
  - (a) to increase or reduce the number of licensed gaming machines allowed under the licence; or
  - (b) to change the licensed premises, whether structurally, by changing a part of the premises where the licensee is allowed to operate gaming machines or by moving the gaming machines to different premises; or
  - (c) to change the percentage payout of a licensed gaming machine used under the licence; or
  - (d) to change the basic stake denomination of a licensed gaming machine used under the licence; or

- (e) to change the kind of a licensed gaming machine used under the licence; or

**Examples**

to change from King of the Thames mk 2 gaming machines to King of the Thames mk 3 gaming machines or to Magnificent Mel gaming machines

*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).

- (f) to change any other detail mentioned in the schedule to the licence.

- (2) The application must be accompanied by—

- (a) if the application is for a change to licensed premises—a plan of the part of the premises where the machines are to be installed; or
- (b) for an application mentioned in subsection (1) (a) for an increase in the number of machines or subsection (1) (b) to change the licensed premises by moving the gaming machines to different premises—a social impact assessment.

*Note* A fee may be determined under s 177 for this provision.

## 23 Contents of licence amendment applications

- (1) A licence amendment application must—
- (a) be in writing signed by the applicant; and
- (b) set out the proposed amendment to the licence; and
- (c) explain why the applicant is seeking the amendment.
- (2) The regulations may require an application to include particular information or be accompanied by particular documents.
- (3) The commission need not decide the licence amendment application if the application is not in accordance with this section.



## **24 Substantive licence amendments**

- (1) This section applies if a licensee has applied under section 22 for—
  - (a) an amendment of the licence mentioned in section 22 (1) (a) to increase the number of gaming machines allowed under the licence; or
  - (b) an amendment of the licence mentioned in section 22 (1) (b) to move the gaming machines to different premises.
- (2) However, this section does not apply to an amendment mentioned in subsection (1) (b) if the commission is satisfied that—
  - (a) the gaming machines need to be moved from the licensed premises for a good reason; and
  - (b) if the amendment is approved—
    - (i) the gaming machines are to be moved to different premises temporarily; and
    - (ii) the gaming machines will not be operated in the different premises.
- (3) The commission must amend the licence in accordance with the application if—
  - (a) for an application by a club—a majority of the voting members of the club who voted in a ballot conducted under the regulations voted for the amendment; and
  - (b) for an application for an amendment mentioned in section 22 (1) (a) to increase the number of gaming machines allowed to be operated under the licence—
    - (i) the commission is satisfied that the size and layout of each gaming area are suitable for the installation of the number of extra gaming machines applied for; and

- (ii) the authorisation of the number of extra gaming machines would not exceed the maximum number of gaming machines allowed on all licensed premises in the ACT; and
  - (iii) if the licensee is a club—the commission is satisfied that the number of club members worked out under the regulations, and the pattern of use of gaming machines by club members, is sufficient to justify the number of extra gaming machines; and
  - (iv) if the licensee is a club—the extent to which the club has contributed to, or is likely to contribute to, the community, and supported and benefited the community; and
- (c) for an application for an amendment mentioned in section 22 (1) (b)—the commission is satisfied that the size and layout of the different premises are suitable for the operation of the gaming machines allowed under the licence; and
- (d) the commission is satisfied that, taking into consideration the social impact assessment for the application and any submission made on the assessment within the 6-week comment period under section 19, the approval of the amendment is appropriate; and
- (e) the licensee does not owe an amount to the Territory under a tax law or a gaming law.
- (4) If an application is made under subsection (1) (a), the commission may amend a licence to allow the licensee to operate more gaming machines than the licensee was previously allowed to operate (the ***new number*** of gaming machines), but less than the number applied for, if the commission is satisfied that—

- (a) taking into account the application, and any submissions made in relation to the social impact assessment for the application—amendment of the licence to allow the new number of gaming machines is appropriate; and
- (b) the size and layout of each gaming area is suitable for the installation of the new number of gaming machines; and
- (c) the authorisation of the new number of gaming machines would not exceed the maximum number of gaming machines allowed on all licensed premises in the ACT; and
- (d) if the licensee is a club—the number of club members, and the pattern of use of gaming machines by club members, is sufficient to justify the new number of gaming machines; and
- (e) if the licensee is a club—the extent to which the club has contributed to, or is likely to contribute to, the support and benefit of the community; and
- (f) the licensee does not owe an amount to the Territory under a tax law or a gaming law.

## **25 Technical licence amendments**

- (1) This section applies if a licensee has applied under section 22 for an amendment of the licence of the following kind:
  - (a) an amendment mentioned in section 22 (1) (a) to reduce the number of gaming machines allowed under the licence;
  - (b) an amendment mentioned in section 22 (1) (b) to structurally change a gaming area on licensed premises;
  - (c) an amendment mentioned in section 22 (1) (c), (d), (e) or (f).
- (2) The commission must amend the licence in accordance with the application.

- (3) However—
- (a) the commission must not amend the licence to structurally change a gaming area on the licensed premise unless satisfied that after the changes the gaming area will be suitable for the installation of gaming machines; and
  - (b) the commission must not amend the licence in accordance with an application under section 22 (1) (c), (d), (e) or (f) if the commission considers that the change to the gaming machine applied for is technically unsuitable.
- (4) In deciding whether a change to a gaming machine is technically unsuitable, the commission must take into account each technical evaluation of the gaming machine.

*Note* **Technical evaluation** means a technical evaluation under s 69.

- (5) In deciding whether a gaming area will be suitable for the installation of gaming machines, the commission must consider the safety and comfort of, and harm minimisation strategies for, patrons.

## 26 Temporary licence amendment

- (1) This section applies if a licensee has applied under section 22 for an amendment of the licence mentioned in section 22 (1) (b) if the commission is satisfied that—
- (a) the gaming machines need to be moved from the licensed premises for a good reason; and
  - (b) if the amendment is approved—
    - (i) the gaming machines are to be moved to different premises temporarily; and
    - (ii) the gaming machines will not be operated in the different premises.
- (2) The commission may amend the licence (the *temporary licence amendment*) for a stated period.

- (3) To remove any doubt, the temporary licence amendment does not affect the number of gaming machines licensed to the licensee.

## **27 Request for return of licence**

- (1) If the commission proposes to amend a licence under this division, the commission must give the licensee written notice of the proposed amendment and ask for the licence to be given to the commission for amendment.
- (2) The commission need not amend a licence under this division unless—
- (a) the licensee returns the licence to the commission; or
  - (b) the licensee has told the commission about the loss, theft or destruction of the licence, and given any statement required, under section 38.

## **28 Commencement of amendments**

If the commission amends a licence under section 24, section 25 or section 26, the licence as amended must state the date the amendment commences.

### **Examples**

- 1 The amendment commences on the day the machines are modified by an approved technician.
- 2 The amendment commences on the day an installation certificate is issued for the new gaming machine.

*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).

## **29 Revocation of uncommenced licence amendments**

- (1) This section applies if—
- (a) the commission has amended a licence under section 24 or section 25; and

- (b) the amendment does not commence within a time the commission is satisfied is reasonable; and
  - (c) the commission is satisfied that it is appropriate to take action under this section.
- (2) The commission may give written notice to the licensee—
- (a) stating that the amendment has not commenced; and
  - (b) stating that the commission intends to revoke the amendment; and
  - (c) telling the licensee that the licensee may make written submissions to the commission about the commission's intention within 3 weeks after the day the notice is given to the licensee.
- (3) The commission may revoke the amendment if, after considering any submissions made within the 3-week period, the commission is satisfied on reasonable grounds that the licensee has not implemented the changes authorised by the amendment.

## Division 2.6 Transfer and surrender of licences

### 30 Definitions for div 2.6

In this division:

*current licensee*—see section 31 (1).

*prospective licensee*—see section 31 (1).

### 31 Application for transfer of licence

- (1) A person (the *prospective licensee*) may apply to the commission for the transfer of a licence from the licensee (the *current licensee*).
- (2) An application for the transfer of a licence must—
  - (a) be in writing signed by the applicant; and

- (b) state the full name and address of—
  - (i) for an application by an individual—the applicant; and
  - (ii) for an application by a corporation—each executive officer of the corporation; and
- (c) must be accompanied by—
  - (i) a signed consent to transfer by the current licensee; and
  - (ii) anything else prescribed under the regulations.

*Note 1* If a form is approved under the Control Act, s 53D for an application, the form must be used.

*Note 2* A fee may be determined under s 177 for this provision.

## **32 Transfer of licence**

- (1) The commission may, on application under section 31, transfer a licence if—
    - (a) the licence is not suspended; and
    - (b) a disciplinary notice has not been given in relation to the licence; and
    - (c) if the prospective licensee is a club—the prospective licensee is a licensee or has a certificate of suitability; and
    - (d) if the prospective licensee is a club—a majority of the voting members of the club who voted in a ballot conducted under the regulations voted for the transfer; and
    - (e) the licence would be issued to the prospective licensee on an initial licence application; and
- Note* Subsection (2) deals with considerations the commission must not take into account.
- (f) if the current licensee is a club—a majority of the voting members of the club who voted in a ballot conducted under the regulations voted for the transfer; and

- (g) the current licensee has done everything required to be done under section 33.
- (2) In considering whether a licence would be issued on an initial licence application for subsection (1) (e), the commission—
  - (a) must not take into consideration the requirement under section 11 (1) (g) to provide a social impact assessment; and
  - (b) when considering under section 13 (1) (e) whether the issue of the licence is appropriate—must not take into consideration the lack of a social impact statement and submissions.
- (3) If the commission transfers a licence under this section, the commission must give the prospective licensee—
  - (a) the licence as amended to mention—
    - (i) the prospective licensee rather than the current licensee; and
    - (ii) the number of machines the prospective licensee is authorised to operate; and
  - (b) the machine access register for the gaming machines covered by the licence.

### **33 Current licensees obligations on proposed transfer of licence**

If the commission proposes to transfer a licence, the current licensee must give the commission—

- (a) the licence; and
- (b) the current licensee's machine access register; and
- (c) the accounts kept by the current licensee under section 52 (Accounts relating to gaming machines) that relate to amounts taken during the month when the transfer is made; and



(d) any other accounts kept in connection with the licence under that section that the commission requires; and

(e) any outstanding amount payable by the licensee under this Act.

*Note* Amounts are payable by licensees under provisions including s 143, s 159 and s 172.

### **34 Surrender of licences**

(1) This section applies to a licensee if the licensee does not owe the Territory an amount under this Act.

(2) The licensee may surrender the licence by—

(a) giving the commission a written notice stating that the licensee surrenders the licence; and

(b) if the licensee is a club—giving the commission evidence—

(i) that a majority of the voting members of the club who voted in a ballot conducted under the regulations voted for the club surrendering the licence; or

(ii) that a vote would not be practical; and

(c) returning the licence to the commission.

#### **Example for par (b) (ii)**

all memberships have expired and the club does not propose to continue operating

*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).

(3) The surrender of the licence takes effect 4 weeks after the day the notice under subsection (2) (a) is given to the commission or, if the notice states a later date of effect, that date.

## Division 2.7 Restriction on gaming machine numbers

### 35 Maximum number of gaming machines allowed

- (1) The maximum number of gaming machines allowed on all licensed premises in the ACT is 5 200.
- (2) However, if the Minister declares, in writing, a number of gaming machines to be the maximum number of gaming machines allowed on all licensed premises in the ACT, that number is the maximum number of gaming machines allowed on all licensed premises in the ACT.
- (3) A declaration is a disallowable instrument.

*Note* A disallowable instrument must be notified, and presented to the Legislative Assembly, under the Legislation Act.

- (4) Subject to any disallowance or amendment under the Legislation Act, chapter 7, the declaration commences—
  - (a) if there is a motion to disallow the declaration and the motion is negated by the Legislative Assembly—the day after the day the disallowance motion is negated; or
  - (b) the day after the 6th sitting day after the day it is presented to the Legislative Assembly under that chapter; or
  - (c) if the declaration provides for a later date or time of commencement—on that date or at that time.
- (5) This section is subject to section 36.

### 36 Minister must take into account commission's recommendation

- (1) The Minister may make a declaration under section 35 only if—

- (a) the commission has made a written recommendation to the Minister about the maximum number of gaming machines that should be allowed on all licensed premises in the ACT; and
  - (b) the Minister has taken the recommendations into account.
- (2) The commission may at any time make a recommendation to the Minister under subsection (1) (a) and must make a recommendation if the Minister asks it to do so.
- (3) In making a recommendation to the Minister under this section, the commission must have regard to the following:
- (a) the use on licensed premises of existing gaming machines;
  - (b) the public demand for gambling in the community;
  - (c) the incidence of problem gambling in the community and the availability of support services for problem gamblers.
- (4) Subsection (3) does not limit the matters the commission may have regard to.

## **Division 2.8            Gaming machine licences**

### **37            Register of licences**

- (1) The commission must keep a register of licences.
- (2) The commission must enter in the register details of the following:
  - (a) the issue, amendment or transfer of a licence;
  - (b) the suspension or cancellation of a licence;
  - (c) any other details prescribed under the regulations.

### **38            Giving copy of licence**

- (1) This section applies if a licensee tells the commission, in writing, about the loss, theft or destruction of the licence.

- (2) The commission may, by written notice given to the licensee, require the licensee to give the commission, within a stated period and in a stated form, a statement confirming, and explaining the circumstances of, the loss, theft or destruction.
- (3) If the commission is satisfied that the licence has been lost, stolen or destroyed, the commission may give a replacement licence to the licensee.

*Note* A fee may be determined under s 177 for this provision.

## **Part 3**                      **Conditions on licences**

### **Division 3.1**              **Compliance with licence conditions**

#### **39**              **Failure to comply with conditions of licence**

- (1) A licensee commits an offence if—
- (a) the licensee's licence is subject to a condition; and
  - (b) the licensee fails to comply with a requirement of the condition.

Maximum penalty: 100 penalty units.

- (2) An offence against this section is a strict liability offence.

*Note*      Licence conditions are imposed by the commission and by other parts of the Act, as well as by this part.

### **Division 3.2**              **General licence conditions**

#### **39A**              **Compliance with requirements for issue of licence**

It is a condition of a licence that the licensee—

- (a) continually meets each requirement for the issue of a gaming machine licence; and

*Note*      For the requirements for the issue of a gaming machine licence—see s 12 and s 13.

- (b) continues not to do anything that would, if the licensee were applying for a gaming machine licence, cause the licensee to be refused the licence.

*Note*      For the grounds for refusing to issue a gaming machine licence to an applicant that is a club—see s 14.

**40                    Compliance with directions**

It is a condition of a licence that the licensee complies with a written direction given to the licensee by the commission.

**41                    Display of licence at licensed premises**

- (1) It is a condition of a licence that the licensee displays the licence, or a copy of the licence, at each entrance to each gaming area of the licensed premises.
- (2) However, the licensee need not display the schedule to the licence.
- (3) Subsection (1) does not apply if the licensee has given the licence to the commission under section 27 (which is about a request for return of licences for amendment) or section 33 (1) (which is about obligations on licensee on transfer).
- (4) Also, subsection (1) does not apply if—
  - (a) the licence has been lost, stolen or destroyed; and
  - (b) the licensee gave the commission prompt notice under section 38 (Issue of copy of licence) of the loss, theft or destruction; and
  - (c) if the commission required the licensee to give a statement under section 38—the licensee gave the statement as required.

**42                    Licence schedule to be kept at premises**

It is a condition of a licence that the licensee keeps a copy of the schedule to the licence at the licensed premises.

**43                    Rules and control procedures for operation of gaming machines and peripheral equipment**

It is a condition of a licence that the licensee must not operate a gaming machine or peripheral equipment on its licensed premises otherwise than in accordance with licensee's rules and control procedures.

**44 Installation in accordance with Act**

It is a condition of a licence that the licensee must not allow the installation of a gaming machine on the licensed premises otherwise than in accordance with this Act.

**45 Installation certificate**

- (1) This section applies if—
  - (a) a gaming machine is installed on licensed premises; and
  - (b) the commission gives the licensee a notice under section 124 for the gaming machine.
- (2) It is a condition of the licence that the licensee gives the commission written notice of the stated details for the gaming machine as soon as practicable, but not later than 3 days after the later of the following:
  - (a) the day the machine is installed;
  - (b) the day the commission gives the notice.

**46 Operation after installation**

- (1) This section applies if a gaming machine is operated on licensed premises.
- (2) It is a condition of the licence that the licensee not allow the gaming machine to be operated on the licensed premises unless the licensee has given the commission a notice under section 45 (2) for the machine.
- (3) However, subsection (2) does not prevent the operation of the gaming machine for maintenance.

**47 Operation subject to correct percentage payout**

- (1) It is a condition of a licence that the licensee not operate a gaming machine on the licensed premises if the percentage payout on a

gaming machine on the licensed premises is not the percentage payout under the licence for the machine.

- (2) Subsection (1) does not prevent the operation of the gaming machine to correct the percentage payout.

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

It is a condition of a licence that each licensed gaming machine has the percentage payout under the licence for the gaming machine clearly displayed on the machine in a position approved by the commission under section 126.

**49 Maximum stake amount**

It is a condition of the licence that the licensee not operate a gaming machine with a stake amount that is more than the amount prescribed under the regulations.

**50 Licensee to comply with relevant codes of practice**

It is a condition of a licence that the licensee comply with the relevant code of practice (if any) prescribed under the Control Act.

**51 Licensee to use gaming machines**

- (1) It is a condition of a licence that the licensee use the licensed gaming machines.
- (2) However, a licensee does not contravene the condition under subsection (1) if—
- (a) the period for which the gaming machine is not used is 1 month or less; or
  - (b) the gaming machine is not used because it is broken or damaged and the licensee has taken, or is taking, all reasonable steps to make the machine operational again; or



- (c) the licensee has the commission's written approval for the gaming machine not to be used.
- (3) On written application by the licensee, the commission may approve the non-use of a gaming machine for a stated period if satisfied that the gaming machine is not being used for a good reason.

## **52 Accounts relating to gaming machines**

It is a condition of a licence that the licensee must—

- (a) keep full and separate accounts of all amounts taken from each gaming machine on the licensed premises; and
- (b) keep the accounts in a way that allows them to be conveniently and properly audited; and
- (c) correctly balance the accounts at the end of each month.

## **Division 3.3 Club licence conditions**

### **53 Conditions about inequitable benefits**

- (1) It is a condition of a licence for a club that nobody, whether or not a member of a club, directly or indirectly derives a benefit from the club other than a benefit that—
- (a) is available equally to all voting members of the club; or
  - (b) arises under an agreement in which the parties are dealing with each other at arm's length; or
  - (c) is given to a member under a resolution passed at a general meeting of voting members.
- (2) It is a condition of a licence for a club that nobody, whether or not a member of a club, directly or indirectly derives a benefit that is not available equally to all voting members of the club from—
- (a) the club having applied for a licence; or

- (b) a licence being issued to the club; or
  - (c) any added value that may accrue to the premises of the club because of a licence being issued to the club.
- (3) For this section, a person is not taken to be not dealing with the club at arm's length only because—
- (a) the person and the club are corporations that are related under the Corporations Act, section 50; or
  - (b) the person, or an individual representing the person in dealings with the club, is an influential person for the club.
- (4) This section does not prevent a person taking a benefit if—
- (a) the person is entitled (whether or not under the rules of the club) to the benefit in the course of acting on behalf of the club; and
  - (b) the benefit consists only of—
    - (i) reasonable food or refreshment; or
    - (ii) out-of-pocket expenses reasonably incurred and authorised by a resolution of the club's management committee or board.

## **54 Annual report of clubs**

It is a condition of a licence for a club that the club's annual report for a financial year of the club include information about the following for the financial year:

- (a) any contractual arrangement or consultancy entered into during the year—
  - (i) with an influential person; or
  - (ii) for more than the amount prescribed under the regulations;

- (b) any remuneration given to a person the value of which is equal to or more than the amount prescribed under the regulations.

**Example for par (b)**

A person may be remunerated by salary plus the use of a car.

*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).

## **55 Other conditions of club licences**

Each of the following is a condition of a licence for a club:

- (a) the proceeds from the conduct of gaming are used in a way that promotes the objects of the licensee;
- (b) the licensee follows its objects or purposes honestly and seriously;
- (c) payments made under the licensee's objects are in the best interests of the licensee's members;
- (d) payments made for things bought by the licensee are reasonable;
- (e) salaries, wages, allowances or benefits paid or payable by the licensee to the licensee's executive officers and employees are reasonable;
- (f) payments for services provided to the licensee are reasonable and necessary, particularly in relation to the scale of the licensee's licensed business;

**Example**

The licensee has 4 gaming machines and pays \$150 000 a year for gaming machine advice. This payment is not reasonable because the payment is disproportionately large given the revenues from the 4 machines in relation to which the advice is being given.

*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).

- (g) guests must be signed in by a club member and accompanied by the member who signed them in;
- (h) only members and signed-in guests can play gaming machines in the club.

## Part 4                      Disciplinary action

### 56                      Definitions for pt 4

In this part:

*disciplinary action*—see section 58.

*disciplinary notice*—see section 61.

*ground for disciplinary action* against a licensee—see section 57.

*licence*—

- (a) in relation to a person who is authorised to conduct a linked-jackpot arrangement under section 134, means the authorisation;
- (b) in relation to a permit-holder under part 8 (Linked-jackpot arrangements), means a multi-user permit.

*licensee* includes a permit-holder under part 8.

### 57                      Grounds for disciplinary action

- (1) Each of the following is a *ground for disciplinary action* against a licensee:
  - (a) the licensee has given information to the commission that was false or misleading;
  - (b) the licensee has failed to give information required to be given under this Act or the Control Act;
  - (c) the licensee, or an agent or employee of the licensee, has contravened this Act;
  - (d) the licensee is not, or is no longer, an eligible person;

- (e) for a corporation—an influential person is not an eligible person;
  - (f) for a licence issued to a club—
    - (i) the club has been or is about to be wound up; or
    - (ii) the club has not operated for 3 months or, if the commission approves a longer period, that longer period; or
    - (iii) the club has ceased to be an eligible club;
  - (g) for a licence issued in relation to premises to which an on licence applies—the premises are not being used by people mainly for drinking alcohol;
  - (h) the licensee has been given a reprimand that included a direction and has not complied with the direction;
  - (i) the licensee has failed to pay to the Territory a financial penalty imposed under section 62.
- (2) In subsection (1) (c), a reference to a *contravention* of this Act includes a reference to the following:
- (a) a contravention of the Criminal Code, part 2.4 (Extensions of criminal responsibility) in relation to an offence against this Act or otherwise in relation to this Act;
  - (b) a contravention of the Criminal Code in relation to a document completed, kept or given, or required to be completed, kept or given, under or in relation to this Act;
  - (c) a contravention of the Criminal Code in relation to anything done, or not done, under or in relation to this Act.
- (3) The commission may, in writing, approve a period longer than 3 months for subsection (1) (f) (ii) if satisfied that—
- (a) there is a good reason why the club is not operating; and

- (b) the club will operate again after the end of the longer period.

## **58 Disciplinary action**

- (1) Each of the following is a *disciplinary action* when taken against a person:
  - (a) reprimanding the person;
  - (b) imposing conditions on, or amending the conditions of, the person's licence;
  - (c) ordering the person to pay to the Territory a financial penalty of not more than \$100 000;
  - (d) suspending the person's licence for a stated period or until a stated thing happens;
  - (e) cancelling the person's licence.
- (2) A reprimand may include a direction by the commission that the licensee, within a stated time—
  - (a) cease contravening this Act; or
  - (b) rectify something that contributes to the ground for disciplinary action.
- (3) A financial penalty imposed under this section may be recovered as a debt payable to the Territory.

## **59 Criteria for disciplinary action**

- (1) In deciding what disciplinary action to take under section 58, the commission must consider the following:
  - (a) whether disciplinary action has been taken against the licensee before;
  - (b) whether the disciplinary ground on which the disciplinary action is to be taken endangered the public or the public interest;

- (c) the seriousness of the disciplinary ground;
  - (d) the likelihood of further disciplinary action needing to be taken.
- (2) The commission may also consider any other relevant matter.

## 60 When disciplinary notice may be given

If the commission is satisfied that a ground for disciplinary action exists, or may exist, in relation to a licensee, the commission may give the licensee a disciplinary notice.

*Note* The commission need not give a disciplinary notice if the grounds for disciplinary action are the contravention of a direction in a reprimand (see s 62).

## 61 Disciplinary notices

A notice (a *disciplinary notice*) given to the licensee must—

- (a) state the ground for disciplinary action that caused the notice to be given; and
- (b) tell the licensee that the licensee may, within 3 weeks after the day the licensee is given the notice, give a written response to the commission about the notice.

## 62 Commission may take disciplinary action against licensee

- (1) This section applies if the commission is satisfied that a licensee has contravened a direction in a reprimand.
- (2) This section also applies if—
  - (a) a licensee has been given a disciplinary notice; and
  - (b) after considering any responses given within the 3-week period in relation to the notice under section 61, the commission is satisfied that a ground for disciplinary action exists in relation to a licensee.



- (3) The commission may take disciplinary action against the licensee.
- (4) To remove any doubt, the disciplinary action may consist of 2 or more of the actions mentioned in section 58.
- (5) Disciplinary action takes effect when the licensee receives written notice of the action, or on a later stated date.

**63      Suspension of licences because of suspension of general and on licences**

If a general licence or on licence relating to premises to which a gaming machine licence applies is suspended under the *Liquor Act 1975*, the gaming machine licence is suspended by force of this section for the period of suspension of the general licence or on licence.

**64      Cancellation of licences because of cancellation etc of general and on licences**

- (1) If a general licence or on licence relating to premises to which a gaming machine licence applies is not renewed under the *Liquor Act 1975*, the gaming machine licence is cancelled by force of this section.
- (2) If a general licence or on licence relating to premises to which a gaming machine licence applies is cancelled under the *Liquor Act 1975*, the gaming machine licence is cancelled by force of this section.
- (3) However, a licence cancelled under this section is taken to be in force again if the decision to cancel the general or on licence because of which the gaming machine licence was cancelled is reversed on appeal.

**65      Return of licence on cancellation**

- (1) This section applies if—
  - (a) the commission cancels a person's licence under this part; and

(b) the person is given notice of the cancellation.

(2) This section also applies if—

(a) a person's licence is cancelled under section 64 (1); or

(b) the person's licence is cancelled under section 64 (2) and the person has notice of the cancellation of the person's general or on licence.

(3) The person must return the licence to the commission as soon as practicable, but in any case not later than 1 week after the day the cancellation under this part takes effect.

Maximum penalty: 50 penalty units.

(4) An offence against this section is a strict liability offence.

## Part 5 Centralised monitoring system

### 66 Meaning of *centralised monitoring system*

- (1) In this Act:

*centralised monitoring system* (or *CMS*) means a system approved in writing by the commission that—

- (a) monitors the operation and performance of approved gaming machines; and
  - (b) facilitates the working out and checking for accuracy of tax liability, and the collection of tax, under this Act; and
  - (c) can perform other related functions.
- (2) An approval is a notifiable instrument.

*Note* A notifiable instrument must be notified under the Legislation Act.

### 67 Regulations about CMS

- (1) The regulations may provide for the approval and operation of a CMS.
- (2) In particular, the regulations may fix a date, or allow the commission to fix a date, by which stated machines must be connected to the CMS.

**Part 6** Approval of gaming machines, peripherals, suppliers, technicians and attendants

**Division 6.1** Approval of gaming machines and peripheral equipment

Section 68

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## **Part 6** Approval of gaming machines, peripherals, suppliers, technicians and attendants

### **Division 6.1** Approval of gaming machines and peripheral equipment

#### **68** Meaning of *peripheral equipment*

In this Act:

*peripheral equipment*, for a gaming machine, means equipment, or a device, that is incidental to the basic operation of the gaming machine.

##### **Examples**

- 1 note acceptors
- 2 links
- 3 card readers
- 4 ticket readers

*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).

#### **69** Approval of gaming machines and peripheral equipment

- (1) The commission may, in writing, approve—
  - (a) a gaming machine; and
  - (b) any peripheral equipment for the gaming machine.

- (2) However, the commission must not approve something under subsection (1) unless the commission has considered—
- (a) the results of a technical evaluation of the gaming machine and any peripheral equipment by an approved entity; and
  - (b) any available research on the consumer protection and harm minimisation implications of the gaming machine or peripheral equipment proposed to be approved.

- (3) The approval of a gaming machine or any peripheral equipment for a gaming machine is a notifiable instrument.

*Note* A notifiable instrument must be notified under the Legislation Act.

- (4) In this section:

***approved entity*** means an entity approved (however described) under a law of a local jurisdiction about gaming machines to undertake technical evaluations for the law.

## **70 Cancellation or suspension of gaming machine and peripheral equipment approval**

- (1) The commission may, in writing, cancel or suspend the approval of a gaming machine or peripheral equipment if—
- (a) the machine no longer operates as designed; or
  - (b) the machine no longer operates as intended.
- (2) To remove any doubt, if the approval of a machine is cancelled or suspended under this section, it applies to all machines of that kind, whether or not a particular machine is operating as designed or intended.

**Example**

A King of the Thames gaming machine stops operating in accordance with its design. The commission suspends the approval of King of the Thames gaming machines, even though not all King of the Thames gaming machines have stopped operating in accordance with their design.

*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).

- (3) A cancellation or suspension under subsection (1) is a notifiable instrument.

*Note* A notifiable instrument must be notified under the Legislation Act.

**71 Machine access register**

- (1) A licensee must keep a register (the *machine access register*) for the licensed gaming machines on the licensed premises.
- (2) If a gaming machine on the licensed premises is not working for a reason peculiar to the machine, the machine access register must record when and why the machine is not working.

**Examples**

- 1 technical problems peculiar to the machine, not a problem that affects all machines, eg a blackout
- 2 maintenance
- 3 door open for coin filling or removal
- 4 inspection by authorised officer

*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).

- (3) If an approved supplier, approved technician or approved attendant opens or maintains a gaming machine on the licensed premises in any way, whether or not by opening the machine, the person must enter the following details in the machine access register:
- (a) information that clearly identifies the machine;

- (b) the date when the machine was opened, repaired, adjusted or altered;
  - (c) if the machine was repaired or adjusted—a description of the repair or adjustment;
  - (d) the time when, and reason why, the machine was not working;
  - (e) the signature and number of the certificate of approval of the person making the entry;
  - (f) any other information required under the regulations.
- (4) A person commits an offence if—
- (a) the person enters anything in the machine access register; and
  - (b) the person is not an approved supplier, approved technician, approved attendant or authorised person.

Maximum penalty: 10 penalty units.

- (5) An offence against subsection (4) is a strict liability offence.

## **Division 6.2                      Approved suppliers**

### **72                      Application and approval as supplier**

- (1) A person may apply in writing for approval as a supplier.

*Note 1* If a form is approved under the Control Act, s 53D for an application, the form must be used.

*Note 2* A fee may be determined under s 177 for this provision.

- (2) The commission may approve the person as a supplier if satisfied that—
- (a) the person sells, installs or maintains gaming machines, peripheral equipment for gaming machines or systems (including a CMS) designed for use with gaming machines; and

- (b) for an individual—the individual is an eligible person; and
  - (c) for a corporation—each influential person for the corporation is an eligible person; and
  - (d) the person has not, in the last 12 months, provided false or misleading information in an application under subsection (1); and
  - (e) the person satisfies any other requirement prescribed by regulation.
- (3) If the commission approves a person as a supplier, the commission must give the person a certificate stating that the person is an approved supplier.

### **73 Giving copy of certificate about approved supplier**

- (1) This section applies if an approved supplier tells the commission, in writing, about the loss, theft or destruction of a certificate given to the person under section 72 (3).
- (2) The commission may, by written notice given to the supplier, require the supplier to give the commission, within a stated period and in a stated form, a statement confirming, and explaining the circumstances of, the loss, theft or destruction.
- (3) If the commission is satisfied that the certificate has been lost, stolen or destroyed, the commission may give a replacement to supplier.

*Note* A fee may be determined under s 177 for this provision.

### **73A Cancellation etc of supplier's approval**

- (1) This section applies if—
  - (a) the commission stops being satisfied that the supplier meets the conditions for approval stated in section 72 (2); or



- 
- (b) the commission is satisfied that the supplier has contravened this Act.
- (2) In subsection (1) (b), a reference to a *contravention* of this Act includes a reference to the following:
- (a) a contravention of the Criminal Code, part 2.4 (Extensions of criminal responsibility) in relation to an offence against this Act or otherwise in relation to this Act;
  - (b) a contravention of the Criminal Code in relation to a document completed, kept or given, or required to be completed, kept or given, under or in relation to this Act;
  - (c) a contravention of the Criminal Code in relation to anything done, or not done, under or in relation to this Act.
- (3) The commission may, by written notice given to the approved supplier—
- (a) cancel the supplier's approval; or
  - (b) suspend the supplier's approval; or
  - (c) reprimand the supplier.
- (4) In considering whether to take action under this section, the commission must consider the following:
- (a) whether action has been taken against the approved supplier under this section before;
  - (b) the seriousness of any contravention of this Act;
  - (c) the likelihood of further action needing to be taken against the supplier;
  - (d) the public benefit of suppliers being regulated under this Act.
- (5) The commission may also consider any other relevant matter.

## **Division 6.3 Approved technicians**

### **74 Application for approval as technician**

- (1) An individual may apply in writing for approval as a technician for 1 or more suppliers.

*Note 1* If a form is approved under the Control Act, s 53D for an application, the form must be used.

*Note 2* A fee may be determined under s 177 for this provision.

- (2) The application must be accompanied by—
- (a) a statement by each approved supplier for which the applicant is applying for approval that—
    - (i) the supplier is satisfied that the applicant is competent to exercise the functions of an approved technician; and
    - (ii) the supplier employs, or has offered to employ, the applicant as a technician; and
  - (b) if the applicant is an approved supplier and is applying for approval to be a technician for his or her own business—a statement to that effect; and
  - (c) an undertaking by the applicant to—
    - (i) ask the police to check the applicant's criminal record using the applicant's fingerprints; and
    - (ii) authorise the police to report the results of the check to the commission; and
  - (d) 4 recent passport-size photographs of the applicant.

### **75 Approval of technicians**

- (1) The commission may, on application under section 74, approve the applicant as a technician for 1 or more suppliers if satisfied that—

- (a) the applicant is qualified to exercise the functions of an approved technician; and
  - (b) the applicant has not, in the last 12 months, provided false or misleading information in an application under section 74; and
  - (c) either—
    - (i) the applicant is employed, or will be employed, by each supplier; or
    - (ii) the applicant is an approved supplier; or
    - (iii) the applicant is employed, or will be employed, by each supplier and is an approved supplier.
- (2) An approval is for 2 years.
- (3) If a short-term approval is in force in relation to the applicant, the approval under this section starts when the short-term approval under section 76 began.

**Example**

Jo was given a short-term approval as a technician on 1 January 2005 before the results of her police check came through. Her results were satisfactory and she was approved as a technician on 25 February 2005. Her approval ends on 1 January 2007.

- (4) A person is *qualified* to exercise the functions of an approved technician for a supplier if the person—
- (a) is an individual; and
  - (b) is competent to maintain gaming machines supplied by the supplier; and
  - (c) is an eligible person; and
  - (d) satisfies any requirement prescribed under the regulations.

- (5) To remove any doubt, an approved supplier may be approved as a technician under this section for themselves as supplier, another supplier or both.

## **76 Short-term approval of technicians**

- (1) This section applies to a person who has applied for approval as a technician if—
- (a) the commission has not received the results of the police check of the person's criminal record; but
  - (b) the commission would approve the person if the results of the police check did not show that the person was not an eligible person.
- (2) The commission may approve the applicant as a technician.
- (3) An approval under this section (a *short-term approval*) is for 6 months, and cannot be renewed.

## **77 Ending short-term approvals**

- (1) This section applies to a person if—
- (a) the person has a short-term approval as a technician; and
  - (b) the commission receives the results of the police check of the person's criminal record; and
  - (c) after considering the results of the police check, the commission is satisfied that the person is not an eligible person.
- (2) The commission must, by written notice given to the technician—
- (a) refuse the person's application for approval as a technician; and
  - (b) cancel the person's short-term approval as a technician.

## **78 Transfer etc of technician's approval**

- (1) On written application by an approved technician, the commission may—
  - (a) approve the technician for another supplier (the *new supplier*); or
  - (b) transfer the approval of the technician from 1 supplier to another (the *new supplier*).

*Note 1* If a form is approved under the Control Act, s 53D for an application, the form must be used.

*Note 2* A fee may be determined under s 177 for this provision.

- (2) The application must be accompanied by a written statement by the new supplier stating that the supplier employs, or has offered to employ, the applicant as a technician.

## **79 Cancellation etc of technician's approval**

- (1) This section applies if—
  - (a) the commission stops being satisfied that an approved technician is qualified to exercise the functions of an approved technician for each supplier for whom the technician is approved; or
  - (b) the approved technician is not an approved supplier and is not employed by an approved supplier; or
  - (c) the commission is satisfied that the technician has contravened this Act.
- (2) In subsection (1) (c), a reference to a *contravention* of this Act includes a reference to the following:
  - (a) a contravention of the Criminal Code, part 2.4 (Extensions of criminal responsibility) in relation to an offence against this Act or otherwise in relation to this Act;

- (b) a contravention of the Criminal Code in relation to a document completed, kept or given, or required to be completed, kept or given, under or in relation to this Act;
  - (c) a contravention of the Criminal Code in relation to anything done, or not done, under or in relation to this Act.
- (3) The commission may, by written notice given to the approved technician—
- (a) cancel the technician's approval; or
  - (b) suspend the technician's approval; or
  - (c) reprimand the technician.
- (4) In considering whether to take action under this section, the commission must consider the following:
- (a) whether action has been taken against the approved technician under this section before;
  - (b) the seriousness of any contravention of this Act;
  - (c) the likelihood of further action needing to be taken against the technician;
  - (d) the public benefit of technicians being regulated under this Act.
- (5) The commission may also consider any other relevant matter.
- (6) In this section:

***approved supplier***—a person is not an ***approved supplier*** if the person's approval as a supplier is suspended.

***qualified***, to exercise the functions of an approved technician—see section 75 (4).

**80 Certificates and identity cards for approved technicians**

- (1) This section applies if the commission approves a technician under section 75 (Approval of technicians) or section 76 (Short-term approval of technicians).
- (2) The commission must give—
  - (a) a certificate (the technician's *approval certificate*) to each approved supplier for the technician containing details of the approval; and
  - (b) an identity card to the approved technician containing details of the approval.

**81 Giving copy of certificate about approved technician or identity card**

- (1) This section applies if an approved supplier or approved technician tells the commission, in writing, about the loss, theft or destruction of a certificate or identity card given to the person under section 80.
- (2) The commission may, by written notice given to the person, require the person to give the commission, within a stated period and in a stated form, a statement confirming, and explaining the circumstances of, the loss, theft or destruction.
- (3) If the commission is satisfied that the certificate or identity card has been lost, stolen or destroyed, the commission may give a replacement to the person.

*Note* A fee may be determined under s 177 for this provision.

**82 Notice by supplier if technician no longer employed**

- (1) This section applies if—
  - (a) a supplier is the supplier for an approved technician; and
  - (b) the supplier stops employing the technician.

- (2) The supplier must tell the commission in writing that the supplier no longer employs the technician within 1 week after the day the supplier stops employing the technician.

Maximum penalty: 5 penalty units.

- (3) An offence against this section is a strict liability offence.

**83 Return of approval certificates and identity cards for approved technicians**

- (1) This section applies if—
- (a) a technician's approval expires or is cancelled or suspended; or
  - (b) a technician stops working for an approved supplier.

- (2) The supplier must return the technician's approval certificate to the commission within 1 week after—

- (a) the day the technician's approval expires; or
- (b) the day the technician is given notice of the cancellation or suspension; or
- (c) the day the approved technician stops working for the supplier.

Maximum penalty: 5 penalty units.

- (3) The technician must return the technician's identity card to the commission within 1 week after—

- (a) the day the technician's approval expires; or
- (b) the day the technician is given notice of the cancellation or suspension; or
- (c) the day the technician no longer works for at least 1 supplier.

Maximum penalty: 5 penalty units.

- (4) Strict liability applies to an offence against this section.



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## **84 Renewal of technician's approval**

- (1) An approved technician may apply to the commission for renewal of his or her approval no later than 1 month, and no earlier than 3 months, before the approval expires.

*Note* If a form is approved under the Control Act, s 53D for an application, the form must be used.

- (2) The application must be accompanied by an undertaking by the applicant to—
  - (a) ask the police to check the applicant's criminal record using the applicant's fingerprints; and
  - (b) authorise the police to report the results of the check to the commission.
- (3) On application under this section, the commission must renew the approval if satisfied that it would approve the applicant if the application were an application for initial approval.
- (4) The renewal of the approval begins on the day after the approval being renewed expires.
- (5) An approval that is suspended may be renewed, but the renewed approval is suspended until the end of the suspension.

## **Division 6.4 Approved attendants**

### **85 Application for approval as attendant**

- (1) An individual may apply in writing for approval as an attendant for 1 or more licensees.

*Note 1* If a form is approved under the Control Act, s 53D for an application, the form must be used.

*Note 2* A fee may be determined under s 177 for this provision.

- (2) The application must be accompanied by—

**Part 6** Approval of gaming machines, peripherals, suppliers, technicians and attendants

**Division 6.4** Approved attendants

Section 86

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- (a) a statement from each licensee stating that the licensee employs, or has offered to employ, the applicant as an attendant; and
- (b) an undertaking by the applicant to—
  - (i) ask the police to check the applicant's criminal record using the applicant's fingerprints; and
  - (ii) authorise the police to report the results of the check to the commission; and
- (c) 4 recent passport-size photographs of the applicant.

## **86 Approval of attendants**

- (1) The commission may, on application under section 85, approve the applicant as an attendant for 1 or more licensees if satisfied that—
  - (a) the applicant is an eligible person; and
  - (b) the applicant has not, in the last 12 months, provided false or misleading information in an application under section 85; and
  - (c) the applicant is employed, or will be employed, by each licensee.
- (2) An approval is for 2 years.
- (3) If a short-term approval is in force in relation to the applicant, the approval under this section starts when the short-term approval under section 87 began.

### **Example**

Joe was given a short-term approval as an attendant on 1 January 2005 before the results of his police check came through. His results were satisfactory and he was approved as an attendant on 25 February 2005. His approval ends on 1 January 2007.

**87 Short-term approval of attendants**

- (1) This section applies to a person who has applied for approval as an attendant if—
  - (a) the commission has not received the results of the police check of the person's criminal history; but
  - (b) the commission would approve the person if the results of the police check did not show that the person was not an eligible person.
- (2) The commission may approve the applicant as an attendant.
- (3) An approval under this section (a *short-term approval*) is for 6 months, and cannot be renewed.

**88 Ending short-term approvals**

- (1) This section applies to a person if—
  - (a) the person has a short-term approval as an attendant; and
  - (b) the commission receives the results of the police check of the person's criminal history; and
  - (c) after considering the results of the police check, the commission is satisfied that the person is not an eligible person.
- (2) The commission must, by written notice given to the person—
  - (a) refuse the person's application for approval as an attendant; and
  - (b) cancel the person's short-term approval as an attendant.

**89 Transfer etc of attendant's approval**

- (1) On written application by an approved attendant, the commission may—

- (a) approve the attendant for another licensee (the *new licensee*);  
or
- (b) transfer the approval of the attendant from 1 licensee to another (the *new licensee*).

*Note 1* If a form is approved under the Control Act, s 53D for an application, the form must be used.

*Note 2* A fee may be determined under s 177 for this provision.

- (2) The application must be accompanied by a written statement by the new licensee stating that the licensee employs, or has offered to employ, the applicant as an attendant.

## **90 Suspension of attendant's approval for short-term unemployment**

On written application by an approved attendant, the commission may suspend the attendant's approval for up to 3 months from the day the application is given to the commission if the attendant is not employed by a licensee.

## **91 Cancellation etc of attendant's approval**

- (1) This section applies if—
  - (a) the commission stops being satisfied that an approved attendant is an eligible person; or
  - (b) the attendant is not employed by a licensee and his or her approval is not suspended under section 90; or
  - (c) the commission is satisfied that the attendant has contravened this Act.

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- (2) In subsection (1) (c), a reference to a *contravention* of this Act includes a reference to the following:
- (a) a contravention of the Criminal Code, part 2.4 (Extensions of criminal responsibility) in relation to an offence against this Act or otherwise in relation to this Act;
  - (b) a contravention of the Criminal Code in relation to a document completed, kept or given, or required to be completed, kept or given, under or in relation to this Act;
  - (c) a contravention of the Criminal Code in relation to anything done, or not done, under or in relation to this Act.
- (3) The commission may, by written notice to the approved attendant—
- (a) cancel the attendant's approval; or
  - (b) suspend the attendant's approval; or
  - (c) reprimand the attendant.
- (4) In considering whether to take action under this section, the commission must consider the following:
- (a) whether action has been taken against the approved attendant under this section before;
  - (b) the seriousness of any contravention of this Act;
  - (c) the likelihood of further action needing to be taken against the attendant;
  - (d) the public benefit of attendants being regulated under this Act.
- (5) The commission may also consider any other relevant matter.

## **92 Certificates for approved attendants**

- (1) This section applies if the commission approves an attendant under section 86 (Approval of attendants) or section 87 (Short-term approval of attendants).

- (2) The commission must give—
  - (a) a certificate (the attendant's *approval certificate*) containing details of the approval to the attendant; and
  - (b) a copy of the certificate to each licensee for the attendant.

### **93 Giving copy of certificate about approved attendant**

- (1) This section applies if an approved attendant or licensee tells the commission, in writing, about the loss, theft or destruction of an approval certificate given to the person under section 92.
- (2) The commission may, by written notice given to the person, require the person to give the commission, within a stated period and in a stated form, a statement confirming, and explaining the circumstances of, the loss, theft or destruction.
- (3) If the commission is satisfied that the certificate has been lost, stolen or destroyed, the commission may give a replacement to the person.

*Note* A fee may be determined under s 177 for this provision.

### **94 Notice by licensee if attendant no longer employed**

- (1) This section applies if—
  - (a) a licensee is the licensee for an approved attendant; and
  - (b) the licensee stops employing the attendant.
- (2) The licensee must tell the commission in writing that the licensee no longer employs the attendant within 1 week after the day the licensee stops employing the attendant.

### **95 Return of approval certificates for approved attendants**

- (1) This section applies if—
  - (a) an attendant's approval expires or is cancelled or suspended; or
  - (b) the attendant no longer works for at least 1 licensee.

- (2) The attendant must return the attendant's approval certificate to the commission within 1 week after—
- (a) the day the attendant's approval expires; or
  - (b) the day the attendant is given notice of the cancellation or suspension; or
  - (c) the day the attendant no longer works for at least 1 licensee.

Maximum penalty: 5 penalty units.

- (3) An offence against this section is a strict liability offence.

## **96 Renewal of attendant's approval**

- (1) An approved attendant may apply to the commission for renewal of his or her approval no later than 1 month, and no earlier than 3 months, before the approval expires.

*Note* If a form is approved under the Control Act, s 53D for an application, the form must be used.

- (2) The application must be accompanied by an undertaking by the applicant to—
- (a) ask the police to check the applicant's criminal record using the applicant's fingerprints; and
  - (b) authorise the police to report the results of the check to the commission.
- (3) On application under this section, the commission must renew the approval if satisfied that it would approve the applicant if the application were an application for initial approval.
- (4) The renewal of the approval begins on the day after the approval being renewed ends.
- (5) An approval that is suspended may be renewed, but the renewed approval is suspended until the end of the suspension.

## **Division 6.5 Gaming machine dealings**

### **97 Control procedures**

- (1) A person's control procedures for gaming machines and peripheral equipment must include operational details (including who is responsible) for each of the following:
  - (a) accounting and record keeping in relation to the gaming machines and peripheral equipment;
  - (b) access to and handling of cash in relation to the gaming machines;
  - (c) payment of winnings;
  - (d) access control to the gaming machines and peripheral equipment;
  - (e) security of the gaming machines and peripheral equipment;
  - (f) security of cash, records and keys in relation to the gaming machines;
  - (g) job descriptions (including responsibilities) of people operating and doing accounting and record keeping in relation to the gaming machines and peripheral equipment;
  - (h) any marketing and promotion of the gaming machines.
- (2) A person may change the person's control procedures by written notice given to the commission.
- (3) The regulations may make provision in relation to control procedures.

### **98 Acquisition of gaming machines—general**

A person commits an offence if the person—

- (a) intentionally acquires a gaming machine; and



- (b) does not have the commission's approval under section 100 to acquire the machine.

Maximum penalty: 100 penalty units, imprisonment for 1 year or both.

**99 Application for approval of acquisition of gaming machines**

- (1) A person may apply in writing to the commission for approval to acquire a gaming machine.

*Note 1* If a form is approved under the Control Act, s 53D for an application, the form must be used.

*Note 2* A fee may be determined under s 177 for this provision.

- (2) The application must be accompanied by—
- (a) the proposed contract for the acquisition (including any proposed order); and
  - (b) details of any proposed arrangements for financing the acquisition.

**100 Decision on application for approval to acquire gaming machines**

- (1) On application for an approval to acquire a gaming machine, the commission must approve or refuse to approve the acquisition.
- (2) The commission must approve the acquisition of a gaming machine if—
- (a) the applicant is a licensee; and
  - (b) the applicant's licence authorises the applicant to operate the machine; and
  - (c) the acquisition is to be under a written contract; and

- (d) the gaming machine, and any peripheral equipment to be used with it, is approved under section 69; and
- (e) the person from whom the machine is to be acquired—
  - (i) is an approved supplier; or
  - (ii) is approved under section 113 (Approval of disposal of gaming machines) to dispose of the machine; and
- (f) for any proposed financial arrangement for financing the acquisition—the commission has approved, or proposes to approve, the arrangement under section 101.

#### **101 Application and approval of financial arrangements**

- (1) A licensee commits an offence if—
  - (a) the licensee enters into an arrangement—
    - (i) to finance the acquisition of a gaming machine; or
    - (ii) to encumber a gaming machine; and
  - (b) the commission has not approved the arrangement.

Maximum penalty: 100 penalty units.
- (2) A licensee may apply in writing to the commission for approval of an arrangement (a *financial arrangement*)—
  - (a) to finance the acquisition of a gaming machine; or
  - (b) to encumber a gaming machine.

*Note* If a form is approved under the Control Act, s 53D for an application, the form must be used.
- (3) The application must be accompanied by a copy of each document related to the proposed financial arrangement.

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**102 Decision on application for approval of financial arrangements**

- (1) On application for an approval of a financial arrangement, the commission must approve or refuse to approve the arrangement.
- (2) The commission must approve a financial arrangement for a gaming machine—
  - (a) if—
    - (i) the arrangement is to be under 1 or more written contracts; and
    - (ii) if the financial arrangement is an arrangement to finance the acquisition of a gaming machine—the commission has approved the acquisition, or proposes to approve it, under section 100 (Decision on application for approval to acquire gaming machines); and
  - (b) if the applicant is a club—unless satisfied that the arrangement is not in the best interests of the club’s members.
- (3) It is a condition of an approval under this section that a contract forming part of the approved financial arrangement cannot be amended unless the commission approves the amendment.

**103 Possession and operation of gaming machines**

- (1) A person commits an offence if—
  - (a) the person possesses or operates a gaming machine; and
  - (b) the person is not authorised to possess or operate the gaming machine under this Act; and

- (c) the person is reckless about whether the person is authorised to possess or operate the gaming machine under this Act.

Maximum penalty: 100 penalty units, imprisonment for 1 year or both.

*Note* Under this Act, a person may be authorised to possess or operate a gaming machine by a licence, an approval to repossess the machine or under s (2).

- (2) The commission may, in writing, authorise a person to possess or operate a gaming machine on stated conditions if—
- (a) the person is a licensee’s administrator, receiver, manager or liquidator and the licensee is authorised under this Act to possess or operate the gaming machine; or
  - (b) the machine is used only for training purposes; or
  - (c) the machine is being stored; or
  - (d) the machine is being displayed for sale or as a promotion; or
  - (e) the machine is being repaired, tested or evaluated.

## **104 Playing unlicensed gaming machines**

A person commits an offence if—

- (a) the person plays a gaming machine; and
- (b) operation of the gaming machine is not authorised under a licence; and
- (c) the person is reckless about whether the operation of the gaming machine is authorised under a licence.

Maximum penalty: 100 penalty units.

**105 Operation of gaming machines other than in accordance with licences**

- (1) A person commits an offence if—
- (a) the person owns, occupies or manages licensed premises; and
  - (b) the person fails to take all reasonable steps to stop a gaming machine on the premises being used otherwise than in accordance with the licence; and
  - (c) someone uses the gaming machine otherwise than in accordance with the licence.

Maximum penalty: 100 penalty units.

- (2) A person commits an offence if—
- (a) the person owns, occupies or manages premises other than licensed premises; and
  - (b) the person fails to take all reasonable steps to stop a gaming machine on the premises being used; and
  - (c) someone uses the gaming machine.

Maximum penalty: 100 penalty units.

- (3) An offence against this section is a strict liability offence.

## **Division 6.6**                      **Repossession of gaming machines**

### **106**                      **Offences by people repossessing gaming machines**

- (1) A person commits an offence if the person repossesses a gaming machine otherwise than in accordance with an approval under section 108.

Maximum penalty: 100 penalty units.

- (2) A person commits an offence if—
- (a) the person repossesses a gaming machine; and
  - (b) the person fails to take all reasonable steps to stop the gaming machine being used; and
  - (c) after repossession of the gaming machine but before its disposal, someone else uses the machine.

Maximum penalty: 100 penalty units

- (3) An offence against this section is a strict liability offence.

### **107**                      **Application for repossession approval**

- (1) A person may apply in writing to the commission for approval to repossess a gaming machine.

*Note 1* If a form is approved under the Control Act, s 53D for an application, the form must be used.

*Note 2* A fee may be determined under s 177 for this provision.

- (2) The application must be accompanied by information identifying—
- (a) the person from whom the machine is to be repossessed; and
  - (b) the premises where the machine is currently held; and
  - (c) the class, kind and basic stake denomination of the machine.

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**108 Approval of repossession of gaming machines**

- (1) On application under section 107, the commission must approve, or refuse to approve, the repossession of a gaming machine.
- (2) The commission must approve the repossession unless the commission believes on reasonable grounds that the applicant would be likely to contravene a requirement of a condition on the approval.

*Note* For conditions, see s 109.

- (3) If an approval is given to repossess a gaming machine, after the machine is repossessed but before it is disposed of, an authorised officer must—
  - (a) take meter readings from the machine; and
  - (b) seal the computer cabinet on the machine; and
  - (c) render the machine inoperable.
- (4) This section does not entitle a person to repossess a gaming machine if the person is not otherwise entitled to repossess it.

**109 Conditions on approval to repossess gaming machine**

- (1) An approval to repossess a gaming machine under section 108 is subject to the following conditions:
  - (a) that the person given the approval take all reasonable steps necessary to prevent the repossessed gaming machine being played before its disposal;
  - (b) that the person given the approval allow an authorised officer to exercise the commission's functions under section 108 (3).
- (2) The commission may impose any other condition on the approval in relation to the storage of the machine before its disposal that the commission considers appropriate.

**110 Contravention of repossession approval conditions**

- (1) A person commits an offence if the person—
  - (a) is approved under section 108 to repossess a gaming machine; and
  - (b) contravenes a requirement of a condition on the approval.Maximum penalty: 50 penalty units.
- (2) Subsection (1) does not apply if the person took all reasonable steps to avoid a contravention of the requirements of the approval conditions.
- (3) An offence against this section is a strict liability offence.

**Division 6.7 Disposal of gaming machines**

**111 Unapproved disposal of gaming machines**

- (1) A person commits an offence if—
  - (a) the person disposes of a gaming machine; and
  - (b) the disposal is not in accordance with an approval under section 113 (Approval of disposal of gaming machines).Maximum penalty: 100 penalty units.
- (2) An offence against this section is a strict liability offence.

**112 Application for approval for disposal of gaming machines**

- (1) A person may apply in writing to the commission for approval to dispose of a gaming machine.

*Note 1* If a form is approved under the Control Act, s 53D for an application, the form must be used.

*Note 2* A fee may be determined under s 177 for this provision.
- (2) The application must be accompanied by information identifying—



- (a) the person (if any) who is to acquire the machine; and
- (b) the premises where the machine is currently held; and
- (c) the class, kind and basic stake denomination of the machine.

### **113 Approval of disposal of gaming machines**

- (1) On application under section 112, the commission must approve, or refuse to approve, the disposal of a gaming machine.
- (2) The commission must approve the disposal if—
  - (a) the person (if any) who is to acquire the machine is authorised—
    - (i) to operate the machine under a licence; or
    - (ii) if the machine is to be sold or operated in a local jurisdiction—under a law of the local jurisdiction; or
    - (iii) to destroy the machine; and
  - (b) for an applicant who has repossessed the machine—the repossession is approved under section 108 (Approval of repossession of gaming machines) and the commission has no reason to believe that the approval has been contravened.
- (3) However, the commission must not approve the lease or hire of a gaming machine by 1 licensee to another.
- (4) This section does not entitle a person to dispose of a gaming machine if the person is not otherwise entitled to dispose of the machine.

## **Division 6.8 Seizure of gaming machines**

### **114 Seizure of unlawful gaming machines**

- (1) This section applies if an authorised officer believes on reasonable grounds that—

- (a) a person possesses or operates a gaming machine; and
  - (b) the person is not authorised to possess or operate the gaming machine under this Act.
- (2) The authorised officer may seize the gaming machine.

**115 Receipt for gaming machines seized**

- (1) As soon as practical after the gaming machine is seized, the authorised officer must give a receipt for it to the person from whom it was seized.
- (2) If, for any reason, it is not practicable to comply with subsection (1), the authorised officer must leave the receipt, secured conspicuously, at the place where the gaming machine was seized.
- (3) A receipt under this section must include the following:
- (a) a description of the gaming machine;
  - (b) an explanation of why the gaming machine was seized;
  - (c) an explanation of the person's right to apply to a court under section 116 for an order disallowing the seizure;
  - (d) where the gaming machine is to be taken;
  - (e) the authorised officer's name, and how to contact the officer.

**116 Application for order disallowing seizure**

- (1) A person claiming to be entitled to a gaming machine seized under this division may apply to the Magistrates Court within 10 days after the day of the seizure for an order disallowing the seizure.
- (2) The application may be heard only if the applicant has served a copy of the application on the commission.
- (3) The commission is entitled to appear as respondent at the hearing of the application.

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**117 Order for return of seized gaming machine**

- (1) This section applies if a person claiming to be entitled to a gaming machine seized under this division applies to the Magistrates Court under section 116 for an order disallowing the seizure.
- (2) The Magistrates Court must make an order disallowing the seizure if satisfied that—
  - (a) the applicant would, apart from the seizure, be entitled to the return of the seized gaming machine; and
  - (b) the gaming machine is not connected with an offence against this Act; and
  - (c) possession of the gaming machine by the person would not be an offence.
- (3) The Magistrates Court may also make an order disallowing the seizure if satisfied there are exceptional circumstances justifying the making of the order.
- (4) If the Magistrates Court makes an order disallowing the seizure, the court may make 1 or more of the following ancillary orders:
  - (a) an order directing the commission to return the gaming machine to the applicant or to someone else that appears to be entitled to it;
  - (b) if the gaming machine cannot be returned or has depreciated in value because of the seizure—an order directing the Territory to pay reasonable compensation;
  - (c) an order about the payment of costs in relation to the application.

**118 Adjournment pending hearing of other proceedings**

- (1) This section applies to the hearing of an application under section 116 (Application for order disallowing seizure).

**Part 6** Approval of gaming machines, peripherals, suppliers, technicians and attendants

**Division 6.9** Installation and operation of gaming machines

Section 119

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- (2) If it appears to the Magistrates Court that the seized gaming machine is required to be produced in evidence in a pending proceeding in relation to an offence against a Territory law, the court may, on the application of the commission or its own initiative, adjourn the hearing until the end of that proceeding.

**119 Forfeiture of seized gaming machines**

- (1) This section applies if an application under section 116 for an order disallowing the seizure of a gaming machine—
- (a) has not been made within 10 days after the day of the seizure; or
  - (b) has been made within that period, but the application has been refused or has been withdrawn before a decision on the application had been made.
- (2) The seized gaming machine—
- (a) is forfeited to the Territory; and
  - (b) may be sold, destroyed or otherwise disposed of as the commission directs.

**Division 6.9 Installation and operation of gaming machines**

**120 Installation to be in accordance with approval of commission**

- (1) A licensee commits an offence if—
- (a) the licensee allows the installation of a gaming machine on the licensed premises; and

- (b) the gaming machine is installed otherwise than in a gaming area.

Maximum penalty: 50 penalty units.

- (2) An offence against this section is a strict liability offence.

### **121 Offence to install gaming machines**

- (1) A person commits an offence if—
  - (a) the person installs a gaming machine on licensed premises; and
  - (b) the person is not an approved supplier or approved technician.

Maximum penalty: 50 penalty units

- (2) An offence against this section is a strict liability offence.

### **122 Certificate about meter readings**

- (1) A person commits an offence if the person—
  - (a) installs a gaming machine on licensed premises; and
  - (b) as soon as practicable, but no later than 3 days, after installing the machine, does not give the licensee a certificate signed by the person stating the meter readings on the machine immediately after installation.

Maximum penalty: 20 penalty units.

- (2) An offence against this section is a strict liability offence.

### **123 Sealing computer cabinet**

- (1) A licensee commits an offence if—
  - (a) the licensee allows the installation of a gaming machine on the licensed premises; and

- (b) the computer cabinet is not sealed in a way that prevents unauthorised access.

Maximum penalty: 50 penalty units.

- (2) An offence against this section is a strict liability offence.

#### **124 Commission may require information**

- (1) This section applies if a gaming machine is installed on licensed premises.
- (2) The commission may give the licensee a written notice stating the details the commission needs to be told about the gaming machine.

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

- (1) A person commits an offence if—
- (a) the person is an approved supplier or approved technician; and
- (b) the person opens a gaming machine and makes an adjustment that will, or is likely to, affect the percentage payout of the machine; and
- (c) the percentage payout on the gaming machine on the licensed premises is not the percentage payout authorised by the licence for the machine.

Maximum penalty: 50 penalty units.

- (2) An offence against this section is a strict liability offence.

#### **126 Position for percentage payout of gaming machines display**

- (1) The commission may, in writing, approve a position on a kind of gaming machine for display of the percentage payout for the machine.

- (2) An approval is a notifiable instrument.

*Note* A notifiable instrument must be notified under the Legislation Act.

**127 Maximum stake amount**

A person commits an offence if—

- (a) the person is an approved supplier or approved technician; and
- (b) the person supplies or installs a gaming machine; and
- (c) the person intentionally sets the stake amount for the gaming machine higher than the amount prescribed under the regulations.

Maximum penalty: 50 penalty units.

## Part 7 Regulation of gaming machines generally

### 128 Machine access generally

- (1) A person commits an offence if the person does any of the following in relation to a licensed gaming machine on licensed premises:
- (a) opens the machine;
  - (b) checks money in the machine;
  - (c) places money into the machine (other than to play the machine);
  - (d) removes money from the machine (other than money won or credited).

Maximum penalty: 50 penalty units.

- (2) Subsection (1) does not apply to the following people:
- (a) an authorised officer;
  - (b) an approved supplier;
  - (c) an approved technician;
  - (d) an approved attendant.
- (3) A person commits an offence if—
- (a) the person maintains a licensed gaming machine on licensed premises; and
  - (b) the person is not an approved supplier or approved technician.

Maximum penalty: 50 penalty units.

- (4) An offence against this section is a strict liability offence.



**129 Interference with gaming machines**

- (1) A person commits an offence if the person recklessly interferes with the operation of a gaming machine.

Maximum penalty: 100 penalty units, imprisonment for 1 year or both.

- (2) A person commits an offence if the person inserts into a gaming machine anything other than a coin, note or token of the kind stated on the gaming machine.

Maximum penalty: 100 penalty units, imprisonment for 1 year or both.

- (3) A person commits an offence if the person does anything intended to interfere with a gaming machine in a way that causes the machine to yield a reward less than or greater than the percentage payout under the licence in relation to that machine.

Maximum penalty: 100 penalty units, imprisonment for 1 year or both.

- (4) A person commits an offence if the person does anything intended to render a gaming machine, either temporarily or otherwise, incapable of forming a winning combination.

Maximum penalty: 100 penalty units, imprisonment for 1 year or both.

- (5) Subsection (1) does not apply in relation to anything done honestly for the maintenance of a gaming machine by an approved supplier, approved technician or authorised officer.

**130 Opening computer cabinets**

- (1) A person commits an offence if the person—
- (a) opens the computer cabinet in a gaming machine; and
  - (b) is not an approved supplier, approved technician or authorised officer.

Maximum penalty: 50 penalty units.

- (2) An offence against this section is a strict liability offence.

**131 Rendering gaming machines inoperable on licence ceasing to be in force**

If a licence ceases to be in force, the commission must ensure that each gaming machine on the licensed premises is inoperable—

- (a) if the licence ceased to be in force under section 64 (1) or because the licence expired—until the machines are removed from the premises; or

*Note* Section 64 (1) provides that a person's licence is cancelled if the person's general or on licence is not renewed.

- (b) if the licence is suspended—during the suspension; or
- (c) if the licence has been cancelled—until the first of the following happens:
- (i) the machines are removed from the premises;
  - (ii) the decision of the commission cancelling the licence is set aside on an application for review of the decision; or

- (d) if the licence ceased to be in force under section 64 (2)—until the first of the following happens:
- (i) the machines are removed from the premises;
  - (ii) the licence is taken to be in force again under section 64 (3).

*Note* Section 64 (2) provides that a person's licence is cancelled if the person's general or on licence is cancelled.

### 132 Removal of gaming machines from premises

- (1) This section applies to a person who held a licence that has ceased to be in force, other than a person whose licence is suspended.
- (2) The person commits an offence if, at the end of the required period, a gaming machine that was licensed is on the premises that were licensed.

Maximum penalty: 50 penalty units.

- (3) In this section:

*relevant decision* means the decision of the commission (if any) because of which the licence ceased to be in force.

*required period* means—

- (a) 2 weeks after the day—
  - (i) the licence ceases to be in force; or
  - (ii) if an application for review of the relevant decision may be made but is not made—the time for applying for review of the decision ends; or
  - (iii) if an application is made to review the relevant decision—the application is withdrawn, dismissed or decided; or
- (b) any further period the commission, whether before or after the end of the period, in writing, approves.

## Part 8 Linked-jackpot arrangements

### 133 Operation of linked-jackpot arrangements

A person commits an offence if—

- (a) the person operates a linked-jackpot arrangement between gaming machines; and
- (b) the arrangement is not authorised under section 134 or by a multi-user permit.

Maximum penalty: 50 penalty units, imprisonment for 6 months or both.

### 134 Single-user authorisation for linked-jackpot arrangements

- (1) A licensee may apply in writing to the commission for authorisation to operate a linked-jackpot arrangement between gaming machines operated under the licence.

*Note 1* If a form is approved under the Control Act, s 53D for an application, the form must be used.

*Note 2* A fee may be determined under s 177 for this provision.

- (2) The application must include details of each event by reference to which linked jackpots are to be payable under the proposed arrangement.
- (3) The commission must authorise the linked-jackpot arrangement if—
  - (a) each gaming machine proposed to be linked under the proposed arrangement—
    - (i) is operated under a single licence held by the applicant; and
    - (ii) is the same class; and

- (iii) offers the same chance of winning linked jackpots as each other machine in the arrangement, if played with the same stakes; and
  - (b) the financial and operational aspects of the proposed arrangement are in accordance with the regulations; and
  - (c) the commission is satisfied, on reasonable grounds, that the proposed arrangement is satisfactory, having regard to the interests of the people playing the machines in the proposed linked-jackpot arrangement.
- (4) It is a condition of an authorisation under this section that—
- (a) each gaming machine in the linked-jackpot arrangement displays at all times a sign stating clearly—
    - (i) that the machine is part of a linked-jackpot arrangement with other machines on the licensed premises; and
    - (ii) the percentage of the turnover of the machine set aside for the payment of linked jackpots; and
  - (b) linked jackpots be payable for the authorised arrangement by reference to the event or events set out in the application for authorisation for the arrangement.

### 135 Issue of multi-user permits

- (1) A person (including a person other than a licensee) may apply in writing to the commission for a permit (a *multi-user permit*) to operate a linked-jackpot arrangement between gaming machines operated under 2 or more licences.

*Note 1* If a form is approved under the Control Act, s 53D for an application, the form must be used.

*Note 2* A fee may be determined under s 177 for this provision.

- (2) The application must include details of the event or events by reference to which linked jackpots are to be payable under the proposed arrangement.
- (3) The commission must issue the multi-user permit if—
  - (a) the commission is satisfied, on reasonable grounds, that the applicant is an eligible person; and
  - (b) each licensee consents to the arrangement; and
  - (c) each gaming machine proposed to be linked under the proposed arrangement—
    - (i) is the same class; and
    - (ii) offers the same chance of winning linked jackpots as each other machine in the arrangement, if played with the same stakes; and
  - (d) the financial and operational aspects of the proposed arrangement is in accordance with the regulations; and
  - (e) the commission is satisfied, on reasonable grounds, that the proposed arrangement is satisfactory, having regard to the interests of the people playing the machines in the proposed arrangement.
- (4) A multi-user permit must state—
  - (a) the full name and address of the permit-holder; and
  - (b) the gaming machines in the linked-jackpot arrangement for which the permit is issued, and the licensed premises where they are situated; and
  - (c) the conditions to which the permit is subject.

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**136 Conditions on multi-user permits**

- (1) A multi-user permit is subject to the following conditions:
  - (a) each gaming machine in a linked-jackpot arrangement under the permit displays at all times a sign stating clearly—
    - (i) that the machine is part of a linked-jackpot arrangement with machines on different licensed premises; and
    - (ii) the percentage of the turnover of the machine set aside for the payment of linked jackpots;
  - (b) linked jackpots are payable under the arrangement by reference to the event or events set out in the application for the permit for the arrangement;
  - (c) the financial and operational aspects of the arrangement must not be amended without the commission's approval under section 138;
  - (d) if the permit-holder is a corporation—the permit-holder must give written notice to the commission stating any of the following changes in relation to the corporation within 1 week after the day of the change:
    - (i) a person becoming an influential person for the corporation;
    - (ii) a substantial change in the relationship of an influential person to the corporation;
    - (iii) a person ceasing to be an influential person for the corporation.
- (2) The commission may put any other reasonable condition on a multi-user permit that the commission considers appropriate, having regard to the interests of the people playing the machines in each linked-jackpot arrangement under the permit.

**137 Term of multi-user permits**

A multi-user permit is for the period (of up to 3 years) stated in the permit.

**138 Amendment of multi-user permits in interest of users**

- (1) The commission may amend a condition of a multi-user permit on its own initiative if satisfied that it is appropriate to amend the condition, having regard to the interests of the people playing the machines in the linked-jackpot arrangement under the permit.
- (2) The amendment takes effect on the date stated in the notice of the decision on the amendment given to the permit-holder by the commission.

**139 Amendment of multi-user permit on request**

- (1) This section applies if a multi-user permit-holder applies in writing to the commission for an amendment of the permit to—
  - (a) reduce the number of gaming machines in a linked-jackpot arrangement, or terminate a linked-jackpot arrangement; or
  - (b) increase the number of gaming machines in a linked-jackpot arrangement under the permit; or
  - (c) include a new linked-jackpot arrangement under the permit; or
  - (d) include gaming machines on other licensed premises in a linked-jackpot arrangement; or
  - (e) amend a condition on the permit.
- (2) The commission must amend the multi-user permit, or refuse to amend the permit.

*Note* A fee may be determined under s 177 for this provision.



- (3) The commission must not amend the multi-user permit unless satisfied—
- (a) if an additional gaming machine is proposed to be included in a linked-jackpot arrangement—that the additional machine—
    - (i) is the same class as the other machines in the arrangement; and
    - (ii) offers the same chance of winning linked jackpots as each other machine in the arrangement, if played with the same stakes; and
  - (b) if a new linked-jackpot arrangement is proposed to be included under a permit—that each gaming machine to be linked—
    - (i) is the same class; and
    - (ii) offers the same chance of winning linked jackpots as each other machine in the arrangement, if played with the same stakes; and
  - (c) if gaming machines on other licensed premises are proposed to be included in a linked-jackpot arrangement (whether or not the arrangement is an existing arrangement)—that the financial and operational aspects of the arrangement are in accordance with the regulations; and
  - (d) that the proposed amendment is satisfactory, having regard to the interests of the people playing the machines in each proposed linked-jackpot arrangement.
- (4) The amendment takes effect on the date stated in the notice of the decision on the amendment given to the permit-holder by the commission.

**140 Amendment of financial and operational aspects of multi-user permits**

- (1) This section applies if a multi-user permit-holder applies in writing to the commission for an amendment of a financial or operational aspect of a linked-jackpot arrangement under a multi-user permit.
- (2) The commission must amend the multi-user permit, or refuse to amend the permit.
- (3) The commission must amend the multi-user permit in accordance with the application if—
  - (a) the financial and operational aspects of the arrangement, as proposed to be amended, are in accordance with the regulations; and
  - (b) the commission is satisfied that the proposed amendment is satisfactory, having regard to the interests of the people playing the machines in the arrangement.

**141 Transfer of multi-user permits**

- (1) The holder of a multi-user permit and a person (the *proposed permit-holder*) to whom the permit is proposed to be transferred may apply jointly in writing to the commission for transfer of the permit.
- (2) The commission must transfer the permit to the proposed permit-holder if satisfied on reasonable grounds that the proposed permit-holder is an eligible person.

**142 Surrender of multi-user permits**

- (1) This section applies to a multi-user permit-holder if the permit-holder does not owe the Territory an amount under this Act.

- (2) The multi-user permit-holder may surrender the permit by—
  - (a) giving the commission a written notice stating that the permit-holder surrenders the permit; and
  - (b) returning the permit to the commission.
- (3) The surrender of the multi-user permit takes effect 4 weeks after the day the notice under subsection (2) (a) is given to the commission or, if the notice states a later date of effect, that date.

### **143 Unclaimed jackpots**

- (1) This section applies if an amount won under a linked-jackpot arrangement authorised under section 134 for a licensee or approved under section 135 is not claimed within 1 year after the day it is won.
- (2) The amount is forfeited to the Territory.
- (3) After the amount is forfeited, the winner of the amount—
  - (a) is not entitled to recover the amount from the licensee or permit-holder; and
  - (b) is entitled to recover the amount from the Territory within 6 years after the day the person wins the amount; and
  - (c) is not entitled to recover interest on the amount from the Territory.

### **144 Undisbursed jackpots**

- (1) This section applies if an amount available for allocation as a prize in a linked-jackpot arrangement authorised under section 134 or a multi-user permit has not been won, and cannot be won because the authorisation or permit for the arrangement has been cancelled or surrendered.

*Note* A permit may be cancelled under pt 4 (see s 62).

- (2) The commission may approve an arrangement for the redistribution of the amount as a prize, or an addition to another jackpot, if satisfied that the arrangement is fair.
- (3) However, the amount is forfeited to the Territory if—
  - (a) the person who held the authorisation or permit has stopped operating gaming machines; or
  - (b) an approval under subsection (2) has not been given for the amount 4 weeks after the day the authorisation or permit is cancelled or surrendered.

## Part 9 Club administration

### 145 Eligible objects

- (1) An object of a club is an *eligible object* if—
- (a) it furthers or promotes—
    - (i) recreation; or
    - (ii) social, religious, political, literary, scientific, artistic, sporting or athletic purposes; or
    - (iii) cultural or educational purposes; or
  - (b) it is approved, in writing, by the commission; or
  - (c) it is substantially the same as an object mentioned in paragraph (a) or (b).
- (2) An approval under subsection (1) (b) is a disallowable instrument.

*Note* A disallowable instrument must be notified, and presented to the Legislative Assembly, under the Legislation Act.

### 146 Eligible clubs

A club is an *eligible club* if—

- (a) the club is incorporated in the ACT; and
- (b) the club's statement of objects—
  - (i) includes eligible objects; and
  - (ii) indicates that the eligible objects together make up the main part of its objects; and
- (c) the club is conducted mainly to achieve eligible objects; and

- (d) the rules of the club—
  - (i) are in accordance with the regulations; and
  - (ii) are consistent with the licence conditions under part 3; and
  - (iii) do not prohibit the playing of games of chance for money on the club premises; and
- (e) the club has at least 300 voting members; and
- (f) the number of life members of the club is not more than 5% of the number of voting members of the club; and
- (g) the premises occupied by the club, and the facilities and property of the club, are kept and maintained for the benefit of members generally.

#### **147 Associated organisations**

- (1) The commission may, in writing, declare that an entity is an associated organisation for a club.
- (2) However, the commission may make a declaration for an entity only if satisfied that—
  - (a) it is associated with the club; and
  - (b) it is not carried on for profit or gain to its members or anyone else; and
  - (c) it is incorporated or a registered party; and
  - (d) its statement of objects—
    - (i) includes eligible objects; and
    - (ii) indicates that the eligible objects together make up the main part of its objects; and
  - (e) it is conducted mainly to achieve eligible objects; and

- (f) approval of the entity as an associated organisation—
  - (i) would not cause the club to stop being conducted mainly to achieve eligible objects; and
  - (ii) would help the club to achieve its eligible objects.
- (3) In this section—
  - (a) a reference to the *statement of objects* of an entity incorporated under the Corporations Act is a reference to its memorandum; and
  - (b) a reference to an *eligible object* of an entity that is not a club is a reference to an object that would be an eligible object if the entity were a club.

#### **148 Keeping records relating to club elections**

- (1) This section applies if a club has an election of members to the club's management committee or board, or another position in the club.
- (2) The club commits an offence if the club does not, for the relevant period, keep records in relation to the election.

Maximum penalty: 20 penalty units.

- (3) In this section:

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

*election* of someone to a position includes re-election of the person.

*relevant period* means 2 years after the day of the election.

#### **149 Power to require information about status of eligible clubs**

- (1) This section applies if the commission believes, on reasonable grounds, that a club—

- (a) is no longer an eligible club; or
  - (b) may no longer be an eligible club.
- (2) The commission may, in writing, require the club to give the commission, within a stated period, information or documents relating to the club or an associated organisation for the club.
- (3) A club must comply with a requirement under subsection (2).
- (4) In this section:
- club* means a club in relation to whose premises a licence is in force.

**150 Disclosure of gifts by executive officer**

A person commits an offence if—

- (a) the person is an executive officer of a club; and
- (b) the person receives a gift while exercising a function as executive officer; and
- (c) the person does not tell the management committee or the board about the gift.

Maximum penalty: 20 penalty units.



## Part 10                      Gaming areas

### 151            Warning notices

- (1) The commission may, in writing, determine—
- (a) the form and minimum dimensions of a notice (a *warning notice*); and
  - (b) the text of a warning notice.

**Examples of what may be included in warning notice**

- 1 risks associated with gambling
- 2 counselling or other support services available for addictive or excessive gambling
- 3 the provisions of this part about children

*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).

- (2) If the commission makes a determination under subsection (1), a licensee must ensure that a warning notice complying with the determination is displayed in a prominent position—
- (a) on each gaming machine installed on the licensed premises; and
  - (b) at or near each entrance to each gaming area within the licensed premises.
- (3) A licensee commits an offence if the licensee contravenes a requirement of subsection (2).

Maximum penalty: 5 penalty units.

- (4) An offence against subsection (3) is a strict liability offence.

- (5) A determination under subsection (1) is a disallowable instrument.

*Note* A disallowable instrument must be notified, and presented to the Legislative Assembly, under the Legislation Act.

- (6) Unless the determination is disallowed by the Legislative Assembly, the determination commences—
- (a) 2 weeks after the last day when it could have been disallowed; or
  - (b) if the determination provides for a later commencement—on that later commencement.

## 152 External signs

- (1) A licensee commits an offence if the licensee displays an external sign advertising gaming machines or promoting a gambling activity on the licensed premises.

Maximum penalty: 50 penalty units.

- (2) An offence against subsection (1) is a strict liability offence.
- (3) In this section:

*external sign*, for licensed premises, means a sign that can be seen from outside the licensed premises, but does not include—

- (a) an advertisement on television (other than closed-circuit television) or on the internet; or
- (b) a sign consisting mainly of a registered business name; or
- (c) a sign consisting mainly of a business logo that does not advertise gaming machines or promote a gambling activity.

### Example

a written, electronic or physical display, picture or symbol

*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).

*gambling activity* means an activity that requires approval under a gaming law.

*registered business name*—see the *Business Names Act 1963*, dictionary.

**U** 152A External visibility of gaming machines

**153 Cash facilities**

- (1) A licensee commits an offence if the licensee provides, or allows the provision of, a cash facility in a gaming area within the licensed premises.

Maximum penalty: 50 penalty units, imprisonment for 6 months or both.

- (2) If the commission is satisfied that there is not adequate physical separation between a gaming area of licensed premises and a cash facility on the premises, the commission may give the licensee a written direction to separate the parts of the premises.

**Example**

by installing barriers

*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).

- (3) A licensee must comply with a direction under subsection (2).
- (4) In this section:

*cash facility*—

(a) means—

- (i) an automatic teller machine; or
- (ii) an EFTPOS facility; or
- (iii) any other facility for gaining access to cash or credit; but

- (b) does not include a facility where cash is exchanged for other denominations of cash, tokens, tickets or cards for the purpose of playing machines.

**154 Lending or extending credit**

- (1) A person commits an offence if—
  - (a) the person is a licensee or licensee’s employee; and
  - (b) the person—
    - (i) lends or offers to lend money to a person who is in, or appears to be about to enter, the licensed premises or part of them; or
    - (ii) extends or offers to extend credit to a person to allow the person to play a gaming machine on the licensed premises.

Maximum penalty: 50 penalty units, imprisonment for 6 months or both.

- (2) In this section:  
*credit* includes accepting postdated cheques, blank cheques and credit and debit cards.

**155 Children must not enter gaming area**

- (1) A licensee commits an offence if the licensee allows a child to enter or remain in a gaming area.

Maximum penalty: 50 penalty units.

- (2) An employee of a licensee commits an offence if the employee allows a child to enter or remain in a gaming area.

Maximum penalty: 50 penalty units.

- (3) An offence against this section is a strict liability offence.

**156 Children must not play gaming machines**

- (1) A licensee commits an offence if the licensee allows a child to play a gaming machine.

Maximum penalty: 50 penalty units.

- (2) An offence against this section is a strict liability offence.

**157 Using false identification**

- (1) A person commits an offence if the person uses someone else's identification or a form of identification that is forged—

(a) to obtain entry to or remain in a gaming area on licensed premises; or

(b) to play a gaming machine.

Maximum penalty: 10 penalty units.

- (2) An offence against this section is a strict liability offence.

## Part 11 Finance

### Division 11.1 General

#### 158 Audit of records

- (1) A licensee must, as soon as practicable (but no later than 6 months) after the end of each financial year ensure that—
  - (a) the accounts relating to the operation of gaming machines on the licensed premises during the year are audited by a qualified accountant; and
  - (b) an income and expenditure statement is prepared for the year relating to—
    - (i) the operation of gaming machines on the licensed premises; and
    - (ii) if the licensee is a club—the club’s financial operations.
- (2) A licensee must, as soon as practicable (but no later than 1 month) after the preparation of an income and expenditure statement under subsection (1), give the commission a copy of the statement certified as correct by the person who prepared it, together with a report stating, as at the end of the period to which the statement relates—
  - (a) the class, number and kind of gaming machines installed on the licensed premises; and
  - (b) if the licensee is a club—the number of club members; and
  - (c) any other details the commission requires in writing.

#### 159 Gaming machine tax

- (1) Gaming machine tax is payable on the gross revenue in relation to the operation of gaming machines each month, whether or not the operation is lawful.

(2) The rate at which gaming machine tax is payable in relation to a month is the prescribed percentage for the month.

(3) In this section:

*prescribed percentage*, for a month, means—

(a) in relation to a licensee that is a club—

- (i) for the part of the gross revenue of the club for the month that is less than \$15 000—nil; and
- (ii) for the part of the gross revenue of the club for the month that is \$15 000 or more but less than \$25 000—15%; and
- (iii) for the part of the gross revenue of the club for the month that is \$25 000 or more but less than \$50 000—17%; and
- (iv) for the part of the gross revenue of the club for the month that is \$50 000 or more—21%; or

(b) in relation to a licensee that is not a club—25.9%; or

(c) in any other case—100%.

## **161 Payment of gaming machine tax**

(1) Gaming machine tax in relation to the operation of a gaming machine must be paid by—

(a) in relation to a machine operated lawfully—the licensee; or

(b) in relation to a machine operated unlawfully—

- (i) the person receiving the gross revenue; or
- (ii) the occupier of the premises where the machine is operated.

(2) If subsection (1) (b) applies, the person receiving the gross revenue from the operation of the relevant gaming machine and the occupier of the premises where the machine is operated are jointly and severally liable to pay tax under subsection (1).

- (3) Gaming machine tax in relation to the operation of a gaming machine during a month is payable on the 7th day after the end of the month.

### **162 Gaming machine tax returns**

- (1) Within 1 week after the end of a month, a licensee must give the commission a return relating to the gross revenue in relation to the operation of gaming machines during that month under the licence.
- (2) A return must be in writing.

*Note* If a form is approved under the Control Act, s 53D for a return, the form must be used.

- (3) To remove any doubt, the return may be given by emailing it to the commission.

### **163 Payment of gaming machine tax following transfer**

- (1) If a licence is transferred, the person (the *transferor*) from whom the licence is transferred must pay the commission the prescribed amount within 1 week after the date of transfer.
- (2) In this section:

*licensed period* means the period beginning on the 1st day of the month when the transfer happens and ending on the date of transfer.

*prescribed amount* means the amount of gaming machine tax that would be payable in relation to the licensed period if the transferor did not transfer the licence.



## Part 12 Community contributions

### 164 Approval of community contributions

- (1) The commission may approve contributions made by a licensee to a stated entity for a stated purpose as community contributions if satisfied the contributions will have the effect of—
- (a) contributing to or supporting the development of the community; or
  - (b) raising the standard of living of the community or part of the community.

#### Examples of areas of contributions

- 1 charitable and social welfare
- 2 sport and recreation
- 3 non-profit activities
- 4 community infrastructure

*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).

- (2) The regulations may make provision in relation to contributions, including—
- (a) guidelines for approving contributions as community contributions; and
  - (b) how contributions may be claimed.

#### Example

A capital payment may be claimed proportionately over a number of years.

- (3) In this section:

***community*** includes a community outside the ACT.

***contribution***, by a licensee—

- (a) includes the value of a contribution made in kind by the licensee; but
- (b) does not include the following:
  - (i) expenditure on commercial activities, or, if the licensee is a club, on the social or entertainment activities of the club for its members;
  - (ii) expenditure intended to promote the licensee's activities;
  - (iii) expenditure in relation to gambling (for example, the purchase of gaming machines);
  - (iv) capital payments for assets owned, controlled or being acquired by the licensee or an associated organisation that are not available to be used by the public;
  - (v) capital payments or other expenditure on assets owned, controlled or being acquired by the licensee, if the assets are not in the ACT;
  - (vi) notional provisions (for example, long service and annual leave), other than depreciation;
  - (vii) depreciation in relation to a capital payment mentioned in paragraph (iv) or (v);
  - (viii) depreciation in relation to a capital payment that is an approved contribution;
  - (ix) a capital payment if depreciation in relation to the payment is an approved contribution;
  - (x) a contribution made out of donations collected by the licensee, or out of the proceeds of any special fundraising activity conducted by the licensee;
  - (xi) a contribution to a business association, registered party, associated entity or trade union;

- (xii) if a contribution is made on a condition—the value to the licensee of that condition being fulfilled;
- (xiii) if an asset is otherwise a contribution—the value of any income earned from the asset (for example, entry or hiring fees);
- (xiv) a contribution made to another licensee under a reciprocal arrangement or agreement;
- (xv) the cost of borrowing funds to acquire an asset.

### **165 Records of contributions**

- (1) A licensee must record each community contribution made by the licensee, stating—
  - (a) the entity to which, and the purpose for which, each contribution was made; and
  - (b) the amount or value of the contribution and the date when, or period over which, it was made.

Maximum penalty: 20 penalty units.

- (2) To remove any doubt, a record must relate to single licensed premises.
- (3) An offence against this section is a strict liability offence.

### **166 Report about records and finances**

- (1) Within 1 month after the end of a financial year, a licensee must give the commission a copy of the records kept under section 165 that relate to the financial year, together with a financial report for the financial year.

Maximum penalty: 20 penalty units.

(2) In this section:

*financial report* means a report about the following:

- (a) the gross revenue of the licensee;
- (b) if the licensee is a club—the net revenue of the licensee;
- (c) the total value of community contributions;
- (d) the total value of contributions to registered parties and associated entities.

*Note* If a form is approved under the Control Act, s 53D for a financial report, the form must be used.

### **167 Commission must report to Minister**

Within 4 months after the end of the financial year, the commission must give the Minister a report—

- (a) summarising the extent of compliance by licensees with section 165 and section 166 for the financial year; and
- (b) analysing the extent to which revenue received by licensees was being used to make community contributions during the financial year.

### **168 Minister must present commission's report**

The Minister must present a report given to the Minister under section 167 to the Legislative Assembly within 6 sitting days after the day the Minister receives the report.

### **169 Required community contributions**

- (1) For a licensee that is a club, the *required community contribution* for a financial year is the required percentage of the club's net revenue for the financial year.

- (2) In subsection (1):
- required percentage***, for a club, means—
- (a) 7%; or
  - (b) if the Minister determines a different percentage under subsection (3) for the club—that percentage.
- (3) The Minister may, in writing, determine a lower required percentage for a club if satisfied, on application by the club, that—
- (a) the gross revenue of the club for a financial year is, or is likely to be, less than \$200 000; and
  - (b) if the required percentage for the club were 7%, the application of subsection (1) to the club would so seriously affect the club's viability that it would not be just and equitable in the circumstances for that subsection to apply to the club.
- (4) A determination under subsection (3) is a disallowable instrument.

*Note* A disallowable instrument must be notified, and presented to the Legislative Assembly, under the Legislation Act.

## **170 Corporations with several licences**

- (1) This section applies to a club that is a licensee if a corporation owns the club and at least 1 other club that is a licensee.
- (2) In working out the community contributions for the club, common expenditure on behalf of the different clubs must be allocated between the clubs in proportion to the number of gaming machines operated by each club.

## **171 Women's sport community contributions**

- (1) For every \$3 of women's sport community contributions that a licensee contributes to an entity under section 164 (1), the licensee's required community contributions must be worked out as if the licensee had contributed \$4.

- (2) In this section:

*women's sport community contributions* means community contributions that the commission is satisfied will benefit or enhance women's sport conducted in the ACT, or with participants mainly based in the ACT.

### **171A Problem gambling community contributions**

- (1) For every \$3 of problem gambling community contributions that a licensee contributes to an entity under section 164 (1), the licensee's required community contributions must be worked out as if the licensee had contributed \$4.

- (2) In this section:

*problem gambling community contributions* means community contributions that the commission is satisfied will assist in—

- (a) alleviating problem gambling; or
- (b) alleviating the disadvantages that arise from problem gambling; or
- (c) providing information about problem gambling.

### **172 Community contribution shortfall tax**

- (1) Tax (the *community contribution shortfall tax*) is imposed on a community contribution shortfall of a licensee that is a club at the rate of 100%.
- (2) The licensee must pay the community contribution shortfall tax.
- (3) Community contribution shortfall tax is payable 30 days after the day the licensee receives an assessment under the Control Act, part 6.
- (4) If an amount of community contribution shortfall tax is paid, the commission must transfer the amount to the grants program fund or, if another fund is prescribed under the regulations, that fund.

(5) In this section:

*community contribution shortfall*, for a licensee that is a club in relation to a financial year, means the amount (if any) by which the club's community contributions fall short of its required community contribution.

## Part 13                            Miscellaneous

### 173            Review of decisions

- (1) Application may be made to the AAT for review of a reviewable decision.
- (2) If the commission makes a reviewable decision, the commission must give a written notice of the decision to each person affected by the decision.
- (3) The notice must be in accordance with the requirements of the code of practice in force under the *Administrative Appeals Tribunal Act 1989*, section 25B (1).
- (4) In this section:  
  
*reviewable decision* means a decision by the commission mentioned in schedule 1.

### 174            Acts and omissions of representatives

- (1) In this section:  
  
*person* means an individual.  
  
*Note*     See the Criminal Code, pt 2.5 for provisions about corporate criminal responsibility.  
  
*representative*, of a person, means an employee or agent of the person.  
  
*state of mind*, of a person, includes—
  - (a) the person's knowledge, intention, opinion, belief or purpose;  
and
  - (b) the person's reasons for the intention, opinion, belief or purpose.



- (2) This section applies to a prosecution for any offence against this Act.
- (3) If it is relevant to prove a person's state of mind about an act or omission, it is enough to show—
  - (a) the act was done or omission made by a representative of the person within the scope of the representative's actual or apparent authority; and
  - (b) the representative had the state of mind.
- (4) An act done or omitted to be done on behalf of a person by a representative of the person within the scope of the representative's actual or apparent authority is also taken to have been done or omitted to be done by the person.
- (5) However, subsection (4) does not apply if the person establishes that reasonable precautions were taken and appropriate diligence was exercised to avoid the act or omission.
- (6) A person who is convicted of an offence cannot be punished by imprisonment for the offence if the person would not have been convicted of the offence without subsection (3) or (4).

## **175 Canberra Airport**

- (1) A licence must not be issued in relation to premises at Canberra Airport.
- (2) An approval must not be given under section 100 for the acquisition of a gaming machine to be operated at Canberra Airport.
- (3) In this section:

*Canberra Airport* means block 3, sections 17 and 28, division of Pialligo in the district of Majura, and blocks 587, 594, 595, 614 and 660 in that district.

**176 Evidentiary certificates**

In a prosecution for an offence against this Act, a certificate issued by the commission stating that the person named in the certificate was or was not the holder of a licence on the date, or during the period, stated in the certificate is evidence of the matters so stated.

**177 Determination of fees**

- (1) The Minister may, in writing, determine fees for this Act.

*Note* The Legislation Act contains provisions about the making of determinations and regulations relating to fees (see pt 6.3).

- (2) A determination is a disallowable instrument.

*Note* A disallowable instrument must be notified, and presented to the Legislative Assembly, under the Legislation Act.

**178 Regulation-making power**

- (1) The Executive may make regulations for this Act.

*Note* Regulations must be notified, and presented to the Legislative Assembly, under the Legislation Act.

- (2) The regulations may make provision in relation to the following:

- (a) the operation (including the restriction of the operation) of peripheral equipment for gaming machines;
- (b) the minimum payout for gaming machines.

- (3) The regulations may create offences for contraventions of the regulations and fix maximum penalties of not more than 10 penalty units for offences against the regulations.

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## Schedule 1      Reviewable decisions

(see s 173)

<b>column 1 item</b>	<b>column 2 decision of commission</b>
1	refusing an application for a licence under section 12
2	issuing a licence under section 12 if the number or kind of gaming machines stated in the licence differs from the number or kind of gaming machines applied for
3	refusing to amend a licence under section 24, section 25 or section 26
4	revoking an uncommenced licence amendment under section 29
5	refusing to approve the transfer of a licence under section 32
6	refusing to give a replacement licence under section 38
7	giving a licensee a direction for section 40
8	taking disciplinary action under section 62
9	refusing to approve a supplier under section 72
10	cancelling or suspending a supplier's approval under section 73A
11	reprimanding a supplier under section 73A
12	refusing to approve a technician under section 75
13	refusing to approve the transfer of a technician's approval under section 78
14	cancelling or suspending a technician's approval under section 79
15	reprimanding a technician under section 79
16	refusing to renew an approved technician's approval under section 84
17	refusing to approve an attendant under section 86

**Schedule 1**      Reviewable decisions

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<b>column 1 item</b>	<b>column 2 decision of commission</b>
18	refusing to approve the transfer of an attendant's approval under section 89
19	cancelling or suspending an attendant's approval under section 91
20	reprimanding an attendant under section 91
21	refusing to renew an approved attendant's approval under section 96
22	refusing to approve the acquisition of a gaming machine under section 100
23	refusing to approve a financial arrangement under section 102, or an amendment of an arrangement
24	refusing to approve the repossession of a gaming machine under section 108
25	approving the repossession of a gaming machine subject to a condition under section 109 (2)
26	refusing to approve the disposal of a gaming machine under section 113
27	refusing to authorise a linked-jackpot arrangement under section 134
28	refusing to issue a multi-user permit under section 135
29	issuing a multi-user permit under section 135 subject to a condition, other than a condition imposed by this Act
30	amending a multi-user permit under section 138
31	refusing to amend a multi-user permit under section 139
32	refusing to approve the amendment of the financial and operational aspects of a linked-jackpot arrangement under section 140

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<b>column 1 item</b>	<b>column 2 decision of commission</b>
33	refusing to transfer a multi-user permit under section 141
34	refusing to approve an entity under section 147
35	giving a direction under section 153 (2) about the separate parts of licensed premises
36	refusing to approve contributions as community contributions under section 164

## Dictionary

(see s 3)

*Note 1* The Legislation Act contains definitions and other provisions relevant to this Act.

*Note 2* In particular, the Legislation Act, dict, pt 1, defines the following terms:

- AAT
- ACT
- adult
- appoint
- child
- Commonwealth
- contravene
- Corporations Act
- Criminal Code
- disallowable instrument
- Executive
- fail
- found guilty
- gambling and racing commission
- individual
- law, of the Territory
- Legislation Act
- may (see s 146)
- must (see s 146)
- penalty unit (see s 135)
- prescribed
- regulations
- the Territory
- under.

**acquire** a gaming machine, means take possession of the machine for the purpose of using it for gaming.

**acquisition approval application**—see section 99.

**approval certificate**—

- (a) for an approved technician—see section 80 (2) (a) (Certificates and identity cards for approved technicians);
- (b) for an attendant—see section 92 (2) (a) (Certificates for approved attendants).

**approved attendant** means an attendant approved under section 86 (Approval of attendants) or section 87 (Short-term approval of attendants).

**approved gaming machine** means a gaming machine approved under section 69.

**approved supplier** means a supplier approved under section 72.

**approved technician** means a technician approved under section 75 (Approval of technicians) or section 76 (Short-term approval of technicians).

**associated entity**—see the *Electoral Act 1992*, section 198.

**associated organisation**, for a club, means an entity declared to be an associated organisation under section 147.

**authorised officer** means an authorised officer under the Control Act, section 20.

**centralised monitoring system** (or *CMS*)—see section 66.

**certificate of suitability**—see section 17 (2) (b).

**charitable organisation** means a body, whether or not incorporated, formed or carried on mainly for charitable, benevolent, philanthropic or religious purposes, but does not include a body formed or carried on for the purpose of trading or gaining a financial profit for its members.

**class B gaming machine** means a gaming machine consisting of the game of draw poker, or a game derived from draw poker, that requires player interaction or intervention as part of the fundamental game operation.

**class C gaming machine** means a gaming machine that consists of a game other than the following games or games derived from them:

- (a) roulette;
- (b) blackjack;
- (c) sic bo;
- (d) craps;
- (e) pai gow;
- (f) baccarat;
- (g) two-up;
- (h) money wheel;
- (i) draw poker.

**club** means a corporation established for the benefit of members to achieve eligible objects.

**CMS**—see definition of **centralised monitoring system**.

**commission** means the gambling and racing commission.

**community contribution** means a contribution made by a licensee that is approved as a community contribution under section 164.

**community contribution shortfall tax**—see section 172 (1).

**computer cabinet** means the sealable part of a gaming machine that contains the game storage medium and the random access memory.



**constitution** means—

- (a) for a club that is a company—the memorandum, and any articles of association, of the company; or
- (b) for a club that is an incorporated association—the statement of objects and the rules of the association.

**contribution** means any money, benefit, valuable consideration or security.

**Control Act** means the *Gambling and Racing Control Act 1999*.

**control procedures**, for an entity, means the procedures under section 97.

**corporation** includes a club.

**current licensee**, for division 2.6 (Transfer and surrender of licences)—see section 31 (1).

**disciplinary action**—see section 58.

**disciplinary notice**—see section 61.

**dispose of** a gaming machine includes the following:

- (a) lease or hire the machine to a person;
- (b) destroy the machine;
- (c) make the machine inoperable.

**eligible club**—see section 146.

**eligible object**—see section 145.

**eligible person**—

- (a) for an individual—see section 20;
- (b) for a corporation—see section 21.

**employ** includes engage.

***executive officer***, of a corporation, means a person, by whatever name called and whether or not the person is a director of the corporation, who is concerned with, or takes part in, the corporation's management.

***financial arrangement***—see section 101.

***game***, in relation to a gaming machine, means a play, or a series of plays, initiated by the application of a single stake registered on the machine.

***gaming area*** means a room or other area within licensed premises approved under section 120 for the installation of gaming machines.

***gaming machine***—

- (a) means a machine—
  - (i) designed for playing a game of chance, or of mixed chance and skill; and
  - (ii) designed to be played completely or partly by—
  - (iii) the insertion of 1 or more coins, notes or tokens; or
  - (iv) by the application of a monetary credit registered on the machine or elsewhere; and
  - (v) that offers, or that appears to offer, people a chance to win monetary or other valuable consideration by playing the machine; but
- (b) does not include a device prescribed under the regulations.

***gaming machine tax*** means the tax imposed by section 159.

***general licence*** means a general licence under the *Liquor Act 1975*.

*Note* For the classes of liquor licences see the *Liquor Act 1975*, s 44.

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**gross revenue**, of a licensee or person, means all revenue derived by the licensee or person from the operation of gaming machines, other than—

- (a) the amount of winnings for playing the machines paid or payable in accordance with the machines' indicated prize scales (excluding linked jackpots); and
- (b) any amount set aside under a linked-jackpot arrangement for the payment of linked jackpots.

**ground for disciplinary action** against a licensee—see section 57.

**incorporated association** means an association incorporated under the *Associations Incorporation Act 1991*.

**influential person**, for a corporation—see section 7.

**initial licence application**—see section 9.

**inquiry** means an inquiry held by the commission under the Control Act.

**jackpot**, in relation to a gaming machine, means the combination of letters, numbers, symbols or representations as part of a game on the machine that pays the maximum winnings payable on the machine for any 1 combination.

**licence** means—

- (a) a gaming machine licence issued under this Act; and
- (b) in relation to a person authorised under section 134—the authorisation; and
- (c) in relation to a permit-holder under part 8 (Linked-jackpot arrangements)—a multi-user permit.

**licence amendment application**—see section 9.

**licensed premises** means premises for which a licence is in force.

**licensee** means—

- (a) in relation to a licence—the holder of the licence; and
- (b) in relation to licensed premises—the holder of the licence in force for the premises; and
- (c) for part 4 (Disciplinary action)—see section 56.

**life member**, of a club, means a person who is elected to membership of the club for life under the rules of the club.

**linked jackpot** means winnings under a linked-jackpot arrangement operated in accordance with an authorisation or permit under part 8.

**linked-jackpot arrangement** means an arrangement under which 2 or more gaming machines are linked to a device—

- (a) that, from time to time, records the amount payable as winnings under the arrangement; and
- (b) that, for the purpose of recording the amount mentioned in paragraph (a), receives messages from each machine to which it is linked; and
- (c) that cannot affect the percentage payout of, or transmit a message to, a machine to which it is linked.

**local jurisdiction** means a State or New Zealand.

**machine access register**—see section 71.

**maintain** a gaming machine includes repair, adjust or alter the machine.

**member**, of a club, means—

- (a) a member who, under the rules of the club, is required to pay fees; or
- (b) a life member.

**multi-user permit**—see section 135.

**net revenue**, of a licensee that is a club, means gross revenue derived by the licensee, less—

- (a) any amount of gaming machine tax payable on that revenue; and
- (b) 24% of the gross revenue.

**officer** of a club—

- (a) means—
  - (i) any office-holder of the club (however described), including the secretary, treasurer, executive officer or public officer; or
  - (ii) anyone else concerned in or who takes part in the management of the club's affairs; but
- (b) does not include a patron or the holder of another honorary office of the club if the office does not give its holder a right to take part in the management of the club's affairs.

**on licence** means a general licence under the *Liquor Act 1975*.

*Note* For the classes of liquor licences see the *Liquor Act 1975*, s 44.

**operator**, of relevant premises, means the person who manages the premises.

**percentage payout**, for a gaming machine, means the percentage payout authorised for the machine under the licence.

**peripheral equipment**, for a gaming machine—see section 68.

**permit-holder** means the holder of a multi-user permit.

**proposed gaming area**, in relation to an application—see section 11 (2) (b).

**prospective licensee**, for division 2.6 (Transfer and surrender of licences)—see section 31 (1).

**qualified accountant** means—

- (a) a member of the Institute of Chartered Accountants in Australia, the National Institute of Accountants or the Australian Society of Certified Practising Accountants; or
- (b) a person registered as a registered company auditor under the Corporations Act.

**registered party**—see the *Electoral Act 1992*, dictionary.

**relevant premises** means the premises for which a person has applied for a licence.

**repossession** of a gaming machine includes taking possession of the machine under a default provision in a financial agreement.

**required community contribution**, for a licensee that is a club—see section 169 (1).

**rules**, for an entity, means the rules mentioned in section 11 (2) (c).

**secretary**, in relation to a club, includes a person concerned in the management of the club.

**short-term approval**—

- (a) for an attendant—see section 87 (3); and
- (b) for a technician—see section 76 (3).

**statement of objects** of a club, means—

- (a) for a company—the memorandum of the company; or
- (b) for an incorporated association—the statement of objects of the association.

**social impact assessment**, for an initial licence application or an amendment licence application, means a social impact assessment for the application under division 2.3.

**technical evaluation** means a technical evaluation under section 69.

## Endnotes

### 1 About the endnotes

Amending and modifying laws are annotated in the legislation history and the amendment history. Current modifications are not included in the republished law but are set out in the endnotes.

Not all editorial amendments made under the *Legislation Act 2001*, part 11.3 are annotated in the amendment history. Full details of any amendments can be obtained from the Parliamentary Counsel's Office.

Uncommenced amending laws and expiries are listed in the legislation history and the amendment history. These details are underlined. Uncommenced provisions and amendments are not included in the republished law but are set out in the last endnote.

If all the provisions of the law have been renumbered, a table of renumbered provisions gives details of previous and current numbering.

The endnotes also include a table of earlier republications.

### 2 Abbreviation key

am = amended	ord = ordinance
amdt = amendment	orig = original
ch = chapter	par = paragraph/subparagraph
def = definition	pres = present
dict = dictionary	prev = previous
disallowed = disallowed by the Legislative Assembly	(prev...) = previously
div = division	pt = part
exp = expires/expired	r = rule/subrule
Gaz = gazette	renum = renumbered
hdg = heading	reloc = relocated
IA = Interpretation Act 1967	R[X] = Republication No
ins = inserted/added	RI = reissue
LA = Legislation Act 2001	s = section/subsection
LR = legislation register	sch = schedule
LRA = Legislation (Republication) Act 1996	sdiv = subdivision
mod = modified/modification	sub = substituted
o = order	SL = Subordinate Law
om = omitted/repealed	<u>underlining</u> = whole or part not commenced or to be expired

## Endnotes

3 Legislation history

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### 3 Legislation history

#### **Gaming Machine Act 2004 A2004-34**

notified LR 9 July 2004

s 1, s 2 commenced 9 July 2004 (LA s 75 (1))

remainder commenced 1 November 2004 (s 2 and CN2004-14)

as amended by

#### **Gaming Machine Amendment Act 2005 A2005-17**

notified LR 13 April 2005

s 1, s 2 commenced 13 April 2005 (LA s 75 (1))

remainder commenced 14 April 2005 (s 2)

#### **Gaming Machine Amendment Act 2005 (No 2) A2005-26**

notified LR 28 June 2005

s 1, s 2 commenced 28 June 2005 (LA s 75 (1))

s 8 commenced 1 July 2007 (s 2 (2))

remainder commenced 1 July 2005 (s 2 (1))

#### **Casino Control Act 2006 A2006-2 sch 1 pt 1.3**

notified LR 22 February 2006

s 1, s 2 commenced 22 February 2006 (LA s 75 (1))

sch 1 pt 1.3 commenced 1 May 2006 (s 2 and CN2006-6)

#### **Gaming Machine Amendment Act 2007 A2007-14**

notified LR 31 May 2007

s 1, s 2 commenced 31 May 2007 (LA s 75 (1))

remainder commenced 1 June 2007 (s 2)

#### **Gaming Machine Amendment Act 2007 (No 2) A2007-40**

notified LR 4 December 2007

s 1, s 2 commenced 4 December 2007 (LA s 75 (1))

s 17 commences 4 June 2008 (s 2 (2))

remainder commenced 5 December 2007 (s 2 (1))



## 4 Amendment history

### Commencement

s 2 om LA s 89 (4)

### Applications to be dealt with in order of receipt

s 10 am A2007-40 s 4

### Grounds for refusing initial licence application by club

s 14 am A2005-17 s 4, s 5

### Form of licence

s 15 am A2005-17 s 6

### No available gaming machines

s 17 am A2007-40 s 5

### Eligibility of individuals

s 20 am A2007-14 s 4; A2007-40 s 6

### Eligibility of clubs and other corporations

s 21 am A2007-14 s 5; A2007-40 s 7

### Licence amendment applications

s 22 am A2005-17 s 7

### Substantive licence amendments

s 24 am A2007-40 s 8, s 9

### Transfer of licence

s 32 am A2005-17 ss 8-10; ss renum A2005-17 s 11; A2007-40 s 10

### Compliance with requirements for issue of licence

s 39A ins A2005-26 s 4

### Other conditions of club licences

s 55 am A2005-26 s 5

### Grounds for disciplinary action

s 57 am A2005-17 s 12; ss renum A2005-17 s 13; A2006-2 amds 1.13-1.15; pars renum A2006-2 amdt 1.16

### Approval of gaming machines and peripheral equipment

s 69 am A2007-40 s 11

### Application and approval as supplier

s 72 am A2007-40 s 12

### Cancellation etc of supplier's approval

s 73A ins A2007-40 s 13

### Approval of technicians

s 75 am A2007-40 s 14

## Endnotes

4 Amendment history

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### **Cancellation etc of technician's approval**

s 79 am A2005-17 s 14; ss renum A2005-17 s 15

### **Approval of attendants**

s 86 am A2007-40 s 15

### **Cancellation etc of attendant's approval**

s 91 am A2005-17 s 16; ss renum A2005-17 s 17

### **Eligible clubs**

s 146 am A2005-26 s 6

### **Associated organisations**

s 147 am A2005-17 s 18, s 19

### **External signs**

s 152 sub A2007-40 s 16

### **External visibility of gaming machines**

s 152A ins A2007-40 s 17

### **Gaming machine tax**

s 159 am A2005-26 s 7, s 8

### **Tax adjustment in relation to GST for clubs**

s 160 am A2005-26 s 9  
exp 1 February 2006 (s 160 (6))

### **Approval of community contributions**

s 164 am A2007-40 s 18

### **Problem gambling community contributions**

s 171A ins A2007-40 s 19

### **Legislation amended or repealed**

s 179 om LA s 89 (3)

### **Transitional**

pt 14 hdg exp 1 November 2005 (s 189)

### **Definitions for pt 14**

s 180 exp 1 November 2005 (s 189)

### **Licences**

s 181 exp 1 November 2005 (s 189)

### **Clubs**

s 182 exp 1 November 2005 (s 189)

### **Rules and control procedures**

s 183 exp 1 November 2005 (s 189)

### **Disciplinary proceedings under former gaming Act**

s 184 exp 1 November 2005 (s 189)

**Approvals under former gaming Act**

s 185 exp 1 November 2005 (s 189)

**Linked-jackpot arrangements**

s 186 exp 1 November 2005 (s 189)

**Clubs not required to be corporations for s 146**

s 187 exp 1 November 2005 (s 189)

**Clubs with too many life members for s 146**

s 188 exp 1 November 2005 (s 189)

**Expiry of pt 14**

s 189 exp 1 November 2005 (s 189)

**Reviewable decisions**

sch 1 am A2007-40 s 20; items renum R9 LA

**Gambling and Racing Control Act 1999**

sch 2 om LA s 89 (3)

**Dictionary**dict def *commission* sub A2005-26 s 10def *net revenue* am A2005-26 s 11**5 Earlier republications**

Some earlier republications were not numbered. The number in column 1 refers to the publication order.

Since 12 September 2001 every authorised republication has been published in electronic pdf format on the ACT legislation register. A selection of authorised republications have also been published in printed format. These republications are marked with an asterisk (\*) in column 1. Electronic and printed versions of an authorised republication are identical.

Republication No and date	Effective	Last amendment made by	Republication for
R1 1 Nov 2004	1 Nov 2004– 13 Apr 2005	not amended	new Act
R2 14 Apr 2005	14 Apr 2005– 30 June 2005	A2005-17	amendments by A2005-17
R3 1 July 2005	1 July 2005– 1 Nov 2005	A2005-26	amendments by A2005-26

## Endnotes

### 6 Uncommenced amendments

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Republication No and date	Effective	Last amendment made by	Republication for
R4 2 Nov 2005	2 Nov 2005– 1 Feb 2006	A2005-26	commenced expiry
R5 2 Feb 2006	2 Feb 2006– 30 Apr 2006	A2005-26	commenced expiry
R6 1 May 2006	1 May 2006– 31 May 2007	A2006-2	amendments by A2006-2
R7 1 June 2007	1 June 2007– 30 June 2007	A2007-14	amendments by A2007-14
R8 1 July 2007	1 July 2007– 4 Dec 2007	A2007-14	amendments by A2005-26

## 6 Uncommenced amendments

The following amendments have not been included in this republication because they were uncommenced at the republication date:

<b>Gaming Machine Amendment Act 2007 (No 2) A2007-40 s 17</b>
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### 17 New section 152A

*insert*

#### 152A External visibility of gaming machines

- (1) A licensee commits an offence if a gaming machine, or any peripheral equipment for a gaming machine, can be seen from outside the licensed premises.

Maximum penalty: 50 penalty units.

- (2) An offence against subsection (1) is a strict liability offence.

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