



Australian Capital Territory

Gaming Machine Amendment Act 2007 (No 2)

A2007-40

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Australian Capital Territory

Gaming Machine Amendment Act 2007 (No 2)

A2007-40

An Act to amend the *Gaming Machine Act 2004*, and for other purposes

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

J2007-164

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

1 Name of Act

This Act is the *Gaming Machine Amendment Act 2007 (No 2)*.

2 Commencement

- (1) This Act (other than section 17) commences on the day after its notification day.
- (2) Section 17 commences 6 months after this Act's notification day.

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

3 Legislation amended

This Act amends the *Gaming Machine Act 2004*.

Note This Act also amends the following legislation:

- *Casino Control Act 2006* (see sch 1)
- *Gaming Machine Regulation 2004* (see sch 2).

4 Applications to be dealt with in order of receipt New section 10 (5), (6) and (7)

insert

- (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.

**5 No available gaming machines
Section 17 (2) (b)**

substitute

- (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).

6 Eligibility of individuals
New section 20 (3) (d)

insert

- (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).

7 Eligibility of clubs and other corporations
Section 21 (2)

substitute

- (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.

8 Substantive licence amendments
Section 24 (3) (b) (iii)

substitute

- (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

9 Section 24 (4)

substitute

- (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.

10 **Transfer of licence**
Section 32 (3)

substitute

- (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.

**11 Approval of gaming machines and peripheral equipment
Section 69 (3)**

substitute

- (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.

**12 Application and approval as supplier
Section 72 (2) (d)**

substitute

- (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.

13 New section 73A

in division 6.2, insert

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.

14 **Approval of technicians**
Section 75 (1)

substitute

- (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.

**15 Approval of attendants
Section 86 (1)**

substitute

- (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.

16 Section 152

substitute

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.

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.

**18 Approval of community contributions
Section 164 (3) (b) (iv)**

substitute

- (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;

19 New section 171A

insert

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.

**20 Reviewable decisions
Schedule 1, new items 9A and 9B**

insert

- 9A cancelling or suspending a supplier's approval under section 73A
- 9B reprimanding a supplier under section 73A

Schedule 1 Casino Control Act 2006

(see s 3)

[1.1] New section 7 (2) (f)

insert

- (f) at any time in the last 12 months the individual had—
 - (i) an application for a casino employee licence refused, on the basis that the individual provided false or misleading information, in the application; or
 - (ii) a casino employee licence cancelled under part 4.

Schedule 2 Gaming Machine Regulation 2004

(see s 3)

[2.1] Section 64, examples of contributions that may support the development of a community or help to raise the standard of living of a community, example 2

substitute

2 drug and alcohol support

[2.2] New section 64A

insert

64A Guidelines for approving contributions as problem gambling community contributions—Act, s 164 (2) (a)

The commission may approve a contribution as a problem gambling community contribution only if the contribution is made for—

- (a) counselling or support services for problem gamblers that are not provided by the licensee; or
- (b) training or education programs on the recognition and avoidance of problem gambling; or
- (c) public awareness campaigns for problem gambling; or
- (d) programs to research and collect data on problem gambling.

Example—par (a)

counselling or support services provided by Lifeline Canberra Inc, the Salvation Army or Anglicare

Examples—par (b)

- 1 the development and delivery of an education program that assists in recognising and avoiding problem gambling
- 2 the development and delivery of an education program that trains staff in effectively providing services to address problem gambling

Example—par (d)

research by a national research centre on the implications of problem gambling for the community

Note An example is part of the regulation, 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).

Endnotes

1 Presentation speech

Presentation speech made in the Legislative Assembly on 18 October 2007.

2 Notification

Notified under the Legislation Act on 4 December 2007.

3 Republications of amended laws

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

I certify that the above is a true copy of the Gaming Machine Amendment Bill 2007 (No 2), which was passed by the Legislative Assembly on 22 November 2007.

Clerk of the Legislative Assembly

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