

2000  
THE LEGISLATIVE ASSEMBLY  
FOR THE AUSTRALIAN CAPITAL TERRITORY

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(As presented)

(Treasurer)

## Gaming Machine Amendment Bill 2000

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32809 (2000/093) (T40/2000)

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**Gaming Machine Amendment Bill 2000**

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**A BILL**

FOR

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

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

**1 Name of Act**

This Act is the *Gaming Machine Amendment Act 2000*.

**5 2 Commencement**

This Act commences on a day fixed by the Minister by notice in the Gazette.

*Note 1* The provisions of an Act providing for its name and commencement automatically commence on the date of notification of the Act (see *Interpretation Act 1967*, s 10B).

*Note 2* A single day or time may be fixed, or different days or times may be fixed, for the commencement of different provisions (see *Interpretation Act 1967*, s 10C (1)).

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*Note 3* If a provision has not commenced within 6 months beginning on the date of notification of the Act, it automatically commences on the first day after that period (see *Interpretation Act 1967*, s 10E (2)).

**3 Act amended**

5 This Act amends the *Gaming Machine Act 1987*.

**4 Interpretation**

Section 4 is amended—

(a) by omitting the definition of “tax”; and

(b) by inserting the following definitions:

10 “*community contribution*—see section 60B.

*community contribution shortfall*—see section 60H.

*community contribution shortfall tax* means the tax imposed  
by section 60I.

*gaming machine tax* means the tax imposed by section 57.

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

(a) any amount of tax payable under section 57; and

(b) 15% of the gross revenue.

*required community contribution*—see section 60G.”.

20 **5 Transfer of licence**

Section 23 is amended by omitting from subsection (6) “tax  
imposed on the gross revenue derived from the operation of” and  
substituting “gaming machine tax in relation to”.

**6 Repeal**

25 Section 25A is repealed.

**7 Eligible clubs**

Section 30C is amended—

(a) by inserting before paragraph (a) the following paragraph:

30 “(aa) the club is incorporated in the Territory under the  
Corporations Law; and”;

(b) by adding at the end the following subsections:

“(2) Paragraph (1) (aa) does not apply to a club that:

- (a) was a licensee on 30 June 2000; and
- (b) in the financial year ending 30 June 2000 had a corrected gross revenue of less than \$500,000;

until the relevant period after a later financial year in which the club had a gross revenue of \$500,000 dollars or more.

“(3) In this section:

*corrected gross revenue*—if a club is a licensee for only a fraction (*F*) of a financial year, and has a gross revenue for that time of *R*, the club’s *corrected gross revenue* for the year is *R/F*.

*relevant period* means 6 months or such longer period, of not more than 2 years, as the commission allows on the application of the club.”.

## 8 Associated organisations

Section 30D is amended—

- (a) by omitting from paragraph (a) “(whether or not incorporated)”;
- (b) by omitting paragraph (c) and substituting the following paragraphs:

“(c) it is incorporated under the Corporations Law or as an association; and

(d) its statement of objects—

(i) includes eligible objects; and

(ii) indicates that the eligible objects together constitute the main part of its objects; and

(e) it is conducted primarily to achieve eligible objects; and

(f) approval of the organisation as an associated organisation would not result in the club ceasing to be conducted primarily to achieve eligible objects;”; and

(c) by adding at the end the following subsection:

“(2) In this section—

- (a) a reference to the statement of objects of an organisation incorporated under the Corporations Law is a reference to its memorandum; and
- (b) a reference to an eligible object of an organisation that is not a club is a reference to an object that would be an eligible object if the organisation were a club.”.

## 9 Membership rules

Section 30G is amended—

- (a) by omitting paragraph (f) and substituting the following paragraphs:

“(f) at periods of not more than 3 years the term of office of the governing body of the club ends and all members are elected or re-elected; and

(g) of the positions on the governing body—

(i) all positions are either free or restricted; and

(ii) at least 51% of the positions are free positions; and

(iii) the holders of free positions have at least 51% of the votes on any matter.”; and

- (b) by adding at the end the following subsection:

“(2) For this section, a position on the governing body of a club is—

(a) a *free* position if—

(i) the holder is nominated and elected only by voting members of the club; and

(ii) any voting member is eligible to be elected to the position without further qualification; and

(b) a *restricted* position if it is a free position except that 1 or more of the following apply:

(i) the holder is nominated by, or at the direction of, an associated organisation;

(ii) the holder is elected or appointed by, or at the direction of, an associated organisation;

(iii) the holder is required to be a member of an associated organisation.”.

**10 Notice of reviewable decisions**

Section 52 is amended—

(a) by adding at the end of paragraph (1) (y) “or”; and

(b) by inserting after paragraph (1) (y) the following paragraph:

5 “(z) refusing to approve contributions as community contributions under section 60B.”.

**11 Insertion**

Before section 54 the following Division heading is inserted in Part 7:

10 *“Division 1—General”.*

**12 Repeal**

Sections 54A, 54B, 54C and 54D are repealed.

**13 Gaming machine tax—liability**

Section 58 is amended—

15 (a) by omitting from subsection (1) “Tax imposed under section 57” and substituting “Gaming machine tax”; and

(b) by adding at the end the following subsection:

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

**14 Insertion**

After section 60 the following Division is inserted in Part 7:

*“Division 2—Community contributions*

**“60A Contributions**

25 A reference in this Division to a contribution made by a licensee includes the value of a contribution made in kind, but does not include—

(a) expenditure on commercial activities, or, if the licensee is a club, on the social or entertainment activities of the club for its members; or

- (b) expenditure intended to promote specific activities of the licensee;  
or
- (c) a contribution made out of donations collected by the licensee, or  
out of the proceeds of any special fundraising activity conducted  
by the licensee; or
- (d) a contribution to a business association, political party or trade  
union; or
- (e) if a contribution is made on a condition—the value to the licensee  
of that condition being fulfilled; or
- (f) a contribution made to another club under a reciprocal  
arrangement or agreement.

**“60B Approval of community contributions**

“(1) The commission may approve contributions made by a licensee that  
is a club to a specified organisation for a specified purpose as **community  
contributions** if satisfied the contributions will have the effect of—

- (a) contributing to, or developing or supporting the social fabric of  
the Territory or another community; or
- (b) assisting sport or other recreational activities conducted in the  
Territory, or with participants predominantly based within the  
Territory.

“(2) An approval under subsection (1) may be made generally or in a  
particular case.

“(3) The Minister may, by notice published in the Gazette, issue  
guidelines for approving community contributions.

“(4) A set of guidelines issued under subsection (3) is a disallowable  
instrument.

**“60C Records of community contributions**

A licensee must record each community contribution made by the  
licensee, specifying—

- (a) the organisation to which, or the purpose for which, each  
contribution was made; and
- (b) the amount or value of the contribution and the date when, or the  
period over which, it was made.

Maximum penalty: 20 penalty units.



**“60D Report**

5 A licensee must, within 1 month after the end of a financial year, give the commission a copy of the records kept under section 60C that relate to the financial year, together with a report specifying for the financial year—

- (a) the gross revenue of the licensee; and
- (b) if the licensee is a club—the net revenue of the licensee; and
- (c) the total value community contributions.

Maximum penalty: 20 penalty units.

10 **“60E Commission must report to Minister**

The commission must, within 3 months after the end of the financial year, give the Minister a report—

- (a) summarising the extent of compliance by licensees with sections 60C and 60D for the financial year; and
- 15 (b) analysing the extent to which revenue received by licensees was being used to make community contributions during the financial year.

**“60F Minister must table commission’s report**

20 The Minister must cause a copy of a report given to him or her under section 60E to be laid before the Legislative Assembly within 10 sitting days after the Minister receives the report.

**“60G The required community contributions**

25 “(1) In relation to a licensee that is a club the *required community contribution* is the proportion of the club’s net revenue in a financial year set out in the table below, or such other proportion as may be determined by the Minister.

**Table: required community contributions**

financial year	required contribution
2000-2001	5%
2001-2002	6%
after 2002	7%

“(2) If the commission is satisfied, on application by a licensee that is a club, that—

- (a) the gross revenue of the club in a financial year is, or is likely to be, less than \$200,000; and
- 5 (b) the application of subsection (1) to the club would so seriously affect its viability that it would not be just and equitable in the circumstances for subsection (1) to apply to the club;

the commission may set a lower required community contribution for the club.

- 10 “(3) A determination under subsection (1) is a disallowable instrument.

**“60H Community contribution shortfall tax—imposition**

“(1) Tax (*community contribution shortfall tax*) is imposed on a community contribution shortfall of a licensee that is a club at the rate of 100%.

- 15 “(2) In this section:

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

20 **“60I Community contribution shortfall tax—liability**

“(1) Community contribution shortfall tax must be paid by the licensee.

“(2) Community contribution shortfall tax is due 30 days after receipt by the licensee of an assessment under Part 6 of the Control Act.

**“60J Community contribution shortfall tax—allocation**

- 25 If an amount of community contribution shortfall tax is paid, the commission must transfer the amount to the Community Services Grants Program Fund, or to such other fund as may be prescribed under the regulations.”.

15 **Insertion**

- 30 After section 67 the following sections are inserted:

**“68 Transitional provision for clubs not incorporated under the Corporations Law**

5 “(1) A club that is a licensee immediately before the commencement of section 7 of the *Gaming Machine Amendment Act 2000* does not cease to be an eligible club only because it is not incorporated in the Territory under the Corporations Law until—

- (a) 6 months after the commencement; or
- (b) such longer period, of not more than 2 years, as the commission allows on the application of the club.

10 “(2) This section ceases to operate 2 years after the commencement.

**“69 Transitional provision for associated organisations**

15 “(1) An associated organisation that satisfied section 30D immediately before the commencement of section 8 of the *Gaming Machine Amendment Act 2000* does not cease to be an associated organisation only because it does not satisfy section 30D immediately after the commencement until—

- (a) 6 months after the commencement; or
- (b) such longer period, of not more than 2 years, as the commission allows on the application of the club for which it is an associated organisation.

20 “(2) This section ceases to operate 2 years after the commencement.

**“70 Transitional provision for clubs with non-complying membership rules**

25 “(1) A club whose rules satisfied section 30G immediately before the commencement of section 9 of the *Gaming Machine Amendment Act 2000* does not cease to be an eligible club only because its rules do not comply with section 30G immediately after the commencement until—

- (a) 6 months after the commencement; or
- (b) such longer period, of not more than 2 years, as the commission allows on the application of the club.

30 “(2) This section ceases to operate 2 years after the commencement.”.

**Endnotes**

**Act amended**

- 1 Republished as in force on 1 March 1999. See also Acts 1999 Nos 35, 38, 47 and 56.

**Penalty units**

- 2 Section 33AA of the *Interpretation Act 1967* deals with the meaning of offence penalties that are expressed in penalty units.