

2005

**THE LEGISLATIVE ASSEMBLY FOR THE
AUSTRALIAN CAPITAL TERRITORY**

**GAMING MACHINE AMENDMENT BILL 2005
EXPLANATORY STATEMENT**

Circulated by the authority of
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Minister for Racing and Gaming

BACKGROUND

Since the commencement of the *Gaming Machine Act 2004* (the Act) on 1 November 2004, the Gambling and Racing Commission (the Commission) has identified a number of provisions that require enhancement or further clarification to ensure the proper operation of the Act and the Commission's regulation of gaming machine activity.

The Gaming Machine Amendment Bill 2005 (the Bill) will give effect to those minor and technical changes to the Act.

Revenue/Cost Implications

The Gambling and Racing Commission will absorb any costs associated with the introduction and implementation of the proposed amendments and for providing any education programs and information sessions required for licensees.

Notes on Specific Provisions

1 Name of Act

This clause provides that the name of the principal Act is the *Gaming Machine Amendment Act 2005*.

2 Commencement

This clause provides that the Act commences on the day after its notification day.

3 Legislation amended

This clause provides that this Act amends the *Gaming Machine Act 2004*.

4 Section 14 – Grounds for refusing initial licence application by club

This clause provides for the numbering of existing section 14 of the Act as subsection (1). This will provide for the insertion of new subsection (2) in amending clause 5.

5 New section 14(2)

This clause inserts new section 14 (2) which provides that section 14(1)(c), (d) and (e) of the *Gaming Machine Act 2004* (the Act) should not apply to an applicant for an initial licence, or to an existing licensee, if an organisation or entity that has some or all of the decision making rights, influence or control over the election, selection, nomination, appointment or otherwise choosing of any or all persons to the club's management board or committee, has been declared by the Commission as an associated organisation for the club in accordance with section 147 of the Act.

This will allow the continued practice of clubs having a majority of directors appointed by an approved associated entity. This provision will allow some stability with club operations and ensure that appropriate expertise is appointed to clubs to ensure that the club's eligible objects are achieved.

6 Section 15(1)(a) – Form of licence

This clause amends section 15(1)(a) by changing the reference to the "kind" of a gaming machine to the "class" of a gaming machine. It also provides for a new example to illustrate this provision.

This amendment will avoid the duplication of information contained in the schedule to the licence and will avoid unnecessary detail in the actual licence which must be displayed by the licensee.

7 Section 22(1)(e) and (f) – Licence amendment applications

This clause substitutes section 22(1)(e) in order to relocate and expand the example removed from section 15(1)(a).

This clause also substitutes section 22(1)(f) to clarify that the reference to “a detail mentioned in the schedule” is “any other” detail mentioned.

This amendment is on the basis that a number of matters already covered in the schedule to the licence are mentioned in earlier paragraphs of section 22(1).

8 Section 32(1)(c) – Transfer of licence

This clause amends section 32(1)(c) to clarify that only if the prospective licensee is a club does it also have to be an existing licensee or have a certificate of suitability. If the licence transfer is in relation to a general or on licence, the prospective licensee must be eligible for such a licence but does not have to be an existing licensee.

This provides that a club licence can only be transferred to an existing licensee while an on or general licence can be transferred to any eligible person or organisation.

This amendment clarifies the original intent of the Act to allow licence transfers only to existing clubs and not to clubs that are newly formed, possibly for the sole purpose of taking over an existing gaming machine licence. New clubs must apply for a gaming machine licence through the “initial licence” application process.

9 Section 32(1)(e), new note

This clause inserts a new note to assist in the interpretation of this provision.

10 New section 32(2)

This new section provides that a social impact assessment is not required even though the prospective licensee must meet the requirements of an initial licence application.

This amendment clarifies the original intent of the Act that a social impact assessment is not required where a transfer of licence occurs (ie. where there is a change of ownership without a change in the physical number or location of gaming machines).

11 Section 32(2)

This clause renumbers section 32(2) as section 32(3) following the insertion of new section 32(2).

12 Section 57(2) – Grounds for disciplinary action

This clause inserts a new section 57(2) that provides that a reference to a contravention of the Act under section 57(1)(b) includes a reference to a contravention of the *Criminal Code 2002* in relation to the conduct of the gaming machine licence. The existing reference to contraventions of the *Gaming Machine Act 2004* is maintained.

Specifically, contraventions of the Criminal Code are included that relate to extensions of criminal responsibility for an offence against or in relation to the Act; the completion, keeping or giving of documents (or the requirement to do so) under or in relation to the Act; or anything done (or not done) under or in relation to the Act.

This amendment will allow the Commission to take disciplinary action, where appropriate, if an unlawful activity relating to gaming machine operations has occurred, such as theft, fraud or falsifying a document or return that was required by the Act or the Commission.

13 Section 57(2)

This clause renumbers section 57(2) as section 57(3) following the insertion of new section 52(2).

14 New section 79(2) – Cancellation etc of technician’s approval

This clause inserts a new section 79(2) that provides that a reference to a contravention of the Act under section 79(1)(c) includes a reference to a contravention of the *Criminal Code 2002* in relation to gaming machine operations.

Specifically, contraventions of the Criminal Code are included that relate to extensions of criminal responsibility for an offence against or in relation to the Act; the completion, keeping or giving of documents (or the requirement to do so) under or in relation to the Act; or anything done (or not done) under or in relation to the Act.

This amendment does not alter the existing reference to contraventions of the *Gaming Machine Act 2004*.

This amendment will allow action to be taken by the Commission in a timely manner if the Commission is satisfied that a technician has been involved in unlawful activity relating to gaming machine operations, such as theft, fraud or falsifying a document or return that was required by the Act or the Commission.

15 Section 79(2) to (5)

This clause renumbers existing sections 79(2) to (5) following the insertion of new clause 79(2).

16 New section 91(2) – Cancellation etc of attendant’s approval

This clause inserts a new section 91(2) that provides that a reference to a contravention of the Act under section 91(1)(c) includes a reference to a contravention of the *Criminal Code 2002* in relation to gaming machine operations.

Specifically, contraventions of the Criminal Code are included that relate to extensions of criminal responsibility for an offence against or in relation to the Act; the completion, keeping or giving of documents (or the requirement to do so) under or in relation to the Act; or anything done (or not done) under or in relation to the Act.

This amendment does not alter the existing reference to contraventions of the *Gaming Machine Act 2004*.

This amendment will allow action to be taken by the Commission in a timely manner if the Commission is satisfied that an attendant has been involved in unlawful activity relating to gaming machine operations, such as theft, fraud or falsifying a document or return that was required by the Act or the Commission.

17 Section 91(2) to (4)

This clause renumbers existing sections 91(2) to (4) following the insertion of new section 91(2).

18 Section 147(2)(c) – Associated organisations

This clause substitutes section 147(2)(c) to provide that an associated organisation does not have to be incorporated if it is a registered party under the *Electoral Act 1992*.

An associated entity of a club is generally an incorporated body that provides for public registration and certain reporting requirements, such as audited financial statements and office bearers. It is possible that an associated entity may be a political party that has its own registration and reporting requirements. The key to this amendment is to provide for public disclosure of essential matters and to avoid duplication in doing so.

This amendment recognises the existing reporting and disclosure requirements that are already established under the Electoral Act in relation to registered parties to provide accurate and truthful statements and will avoid unnecessary effort and duplication in this area where there is little or no disclosure benefit.

19 Section 147(2)(f)

This clause substitutes section 147(2)(f) to provide that an associated organisation can only be approved if it also helps the club to achieve its eligible objects.

