

1991

THE LEGISLATIVE ASSEMBLY FOR THE  
AUSTRALIAN CAPITAL TERRITORY

GAMING MACHINE (AMENDMENT) BILL (NO.2) 1991

TAXATION (ADMINISTRATION) (AMENDMENT) BILL (NO. 3) 1991

EXPLANATORY MEMORANDUM

Circulated by authority of the Chief Minister and Treasurer

Rosemary Follett, MLA

GAMING MACHINE (AMENDMENT) BILL (NO. 2) 1991

TAXATION (ADMINISTRATION) (AMENDMENT) BILL (NO. 3) 1991

OUTLINE OF LEGISLATION

The Gaming Machine Act 1987 (the Act) provides for the taxing and regulation of gaming machine operations in the Territory.

The Bills will streamline the current revenue raising arrangements for gaming machines and prevent profits from gaming machines operated by clubs from being distributed to private interests, rather than members.

Gaming Machine (Amendment) Bill (No. 2) 1991

Under the existing legislation, revenue from gaming machine operations in the Territory is raised by both annual licence fees for machines and monthly tax on gross profit of machines.

Annual licence fees are paid in advance on issue of a licence and each year thereafter on the anniversary of the issue of the licence. The single annual payment has proven difficult to meet for some clubs. This Bill therefore, proposes to incorporate these licence fees within the monthly tax scale. To compensate for the abolition of licence fees, monthly club gaming machine profits will be taxed at 1% of the first \$8000 and 22.5% thereafter. Gaming machine licensees other than clubs will be taxed at 35% of monthly gaming machine revenue.

The Bill also contains amendments to end increasingly common arrangements whereby some or all of a club's gaming machine profits are diverted to private interests, rather than to the benefit of members.

More stringent requirements are to be included in the Act which will ensure a club holding a gaming machine licence is controlled by the members and is conducted in good faith as a club, and that benefits received by persons from a club meet specified criteria. Amendments to the Gaming Machine Act will also sever the connection between the Act and the Liquor Act so that the possession of a club liquor licence is no longer a criteria for the issue of a gaming machine licence.

The Bill also contains minor amendments so that the Act can be incorporated as a tax law under the Taxation (Administration) Act 1987.

Details of the Bill are included in Attachment A.

**Taxation (Administration) (Amendment) Bill (No. 3) 1991**

This Bill will complement the Gaming Machine (Amendment) Bill by incorporating the Gaming Machine Act 1987 as a tax law under the Taxation (Administration) Act 1987 (the Administration Act) so that the two acts are read as one.

The Administration Act will provide for the general administration of the new gaming machine taxing arrangements, for example, lodgement, assessment, recovery, prosecution, objections and appeals. The stringent provisions of the Administration Act will enable gaming machine tax to be more effectively administered.

Details of the Bill are included at Attachment B.

**FINANCIAL IMPLICATIONS**

The monthly tax scales will be adjusted so that the abolition of annual licence fees will be revenue neutral over a full year. Licence fees previously paid in advance will be refunded proportional to the unexpired period of the licence as at 1 January 1992. To compensate for a loss in revenue due to the mid-financial year commencement of these changes, a tax rate of 24.5% will be imposed on monthly club gaming machine profits over \$8000 for the period 1 January to 30 June 1992.

Attachment A

GAMING MACHINE (AMENDMENT) BILL (NO. 2) 1991

**Short title**

Clause 1 - provides for the short title for this Act to be the Gaming Machine (Amendment) Act (No. 2) 1991.

**Commencement**

Clause 2 - brings the Act into effect from 1 January 1992.

**Principal Act**

Clause 3 - provides that the Principal Act is the Gaming Machine Act 1987.

**Insertion**

Clause 4 - inserts section 3A into the Principal Act to incorporate the Principal Act with the Taxation (Administration) Act 1987 (the Administration Act).

**Interpretation**

Clause 5 - amends the interpretation section of the Principal Act to include a number of new definitions of terms to be used in the Act or which were previously contained in other sections of the Act. Among these changes is the new tax scale to be imposed each month on licensees.

**Application for licence**

Clause 6 - amends section 14 of the Principal Act to require an application by a club for a gaming machine licence to specify details in relation to persons involved in the management and conduct of that club, and the grounds on which the club satisfies the eligibility criteria of new section 30C. A number of consequential amendments are made to the section to incorporate these new requirements.

#### **Insertion**

**Clause 7 - inserts section 14A into the Principal Act to provide only for grant of gaming machine licences to clubs.**

#### **Grant or refusal of licences: holders of General Licences and On Licences**

**Clause 8 - amends section 15 of the Principal Act consequential to new section 14A so that the section will now only apply to the grant of gaming machine licences to hotel-type licensees. Section 15(2) is omitted in lieu of a similar provision in the Administration Act.**

#### **Suspension and cancellation of licences - general**

**Clause 9 - amends section 24 of the Principal Act to allow suspension or cancellation of a gaming machine licence where a club ceases to meet the criteria under new section 30C for clubs to be eligible to operate gaming machines.**

#### **Insertion**

**Clause 10 - inserts section 25A into the Principal Act to provide for the cessation of a gaming machine licence where a licensee fails to pay the correct tax within 7 days after the end of the relevant month, as required by section 59. Where the outstanding amount is paid within 30 days after the due date, the licence will come back into effect, otherwise the licence is cancelled.**

**It should be noted that the Commissioner for A.C.T Revenue, by virtue of section 26 of the Administration Act, may vary the due date for payment of tax.**

#### **Insertion**

**Clause 11 - inserts new section 30A into the Principal Act to require clubs operating gaming machines to notify the Commissioner of any changes in the influential personnel (as defined in section 4) of that club.**

#### **Insertion**

**Clause 12 - inserts Division 5 into the Principal Act to provide for new eligibility criteria and requirements for clubs operating gaming machines.**

**New section 30B specifies the purposes for which a club operating gaming machines must be conducted. This provision has been adopted from the Liquor Act 1975.**

New section 30C provides for the criteria which must be met for a club to be eligible to hold a gaming machine licence. These eligibility criteria include rules relating to the membership of a club and its governing body, and controls over pecuniary benefits received from a club by members and other persons.

Under new paragraph 30C(1)(j)(ii), an associated organisation may nominate members of the governing body of the club. New section 30D allows the Commissioner to approve an organisation for such a purpose.

New section 30E of the Principal Act requires clubs to maintain records of club elections for at least two years, while section 30F allows the Commissioner to request from a club operating gaming machines any information necessary to determine whether that club is eligible to do so.

Section 30G to be inserted into the Principal Act provides for a transitional period for clubs to comply with the new eligibility criteria if they do not already do so. Clubs satisfying the new provisions should apply to the Commissioner before 1 April 1992 to have their licence endorsed as such. Where a club does not satisfy the new criteria, the Commissioner may grant an extension until up to 1 July 1992 if there is reason to believe the club in question is capable of meeting the new criteria within that time. Any club not capable of becoming an eligible club under new section 30C within the transition period, will have their gaming machine licence endorsed as a restricted licence. Gaming machine profits made by such a licensee will be subject to tax at the rate applicable to hotel-type licensees (ie. 35%). Further, the holder of a restricted licence is not permitted to increase the number of gaming machines operated on the relevant premises and such a licence may only be transferred to a club satisfying the new eligibility requirements of section 30C. A restricted licence will be cancelled where the licensee contravenes any further conditions that the Commissioner sees fit to impose on the licence.

#### **Review by Tribunal**

Clause 13 - amends section 52 of the Principal Act to allow review by the Administrative Appeals Tribunal of a decision by the Commissioner to refuse an application by a club for a gaming machine licence, or where the Commissioner does not approve an associated organisation under section 30D.

### **Substitution**

Clause 14 - repeals section 57 of the Principal Act and inserts new provisions in relation to the imposition of gaming machine taxes. Similar to the old provision, the combined effect of new sections 57 and 58 will be to impose tax liability on gaming machine licensees at the prescribed percentage (as defined in section 4 of the amended Act) of gross revenue derived from gaming machine operations in the previous month.

New section 59 requires licensees to provide the Commissioner with a monthly tax return in the form approved by the Commissioner within 7 days after the end of each month. By virtue of section 26(1) of the Administration Act, tax is due on the same day as the relevant return.

Under new section 60, the transferor of a gaming machine licence will be required to submit a return and the tax due in relation to the unassessed part of a month prior to the transfer of a licence, within 7 days after the transfer of the relevant licence.

### **Further amendments**

Clause 15 - amends the Principal Act in accordance with the Schedule. The Schedule amends sections 8, 26(1) and (5), and 51(3), and repeals sections 27 and 28 and paragraph 52(1)(d) of the Principal Act consequential to the removal of the requirement for licences to be renewed annually.

The Schedule also repeals sections 7, 60 and 61 of the Principal Act as these powers of inspection are contained in the Administration Act. References to inspectors in sections 48 and 50 have been amended to refer to authorised tax officer, as defined under the Administration Act.

Further, consequential to the amendment of the Principal Act, section 45(3) has been repealed and re-inserted in section 4, section 23(5) amended, and section 23(6) inserted into the legislation to specify the obligation for payment of unpaid taxes prior to the transfer of a licence. Section 51(2)(a) is amended to require removal of gaming machines from the premises where the relevant licence has been cancelled due to non-payment of tax.

The Schedule also amends sections 5, 23(1A), 25(1), (2) and (3), 51(3) and 53(b) consequential to the severing of the connection between issue of a gaming machine licence and possession of a club liquor licence. Section 26(6) is omitted consequential to the inclusion of a definition of members in the interpretation section of the Principal Act.

### Transitional

Clauses 16(1) and (2) - require existing gaming machine licensees to supply the Commissioner with details of relevant influential persons (as defined in section 4) by 1 April 1992.

Clauses 16(3) and (4) - with the integration of the annual licence fee into the monthly tax scheme from 1 January 1992, provide for existing gaming machine licensees to receive a refund of licence fees proportionate to any unexpired period of the relevant licence.

Clause 16(5) - imposes tax on that part of the gross revenue above \$8000 from gaming machine operations by club licensees each month, at a rate of 24.5% for the period from 1 January 1992 to 30 June 1992. After this period, tax on gaming machine revenue will be imposed at the percentages specified in section 4 of the amended Act.

Clause 16(6) - deems any tax outstanding under the Principal Act at the time of commencement of the amendments to be payable under the Administration Act.

Clause 16(7) - provides for any existing application for a gaming machine licence which has not been granted or refused at the commencement of this Bill, to be dealt with in accordance with the amended Principal Act.

Attachment B

TAXATION (ADMINISTRATION) (AMENDMENT) BILL (NO. 3) 1991

Short title

Clause 1 - provides for the short title for this Act to be the Taxation (Administration) (Amendment) Act (No. 3) 1991.

Commencement

Clause 2 - brings the Act into effect from 1 January 1992.

Principal Act

Clause 3 - provides that the Principal Act is the Taxation (Administration) Act 1987.

Tax laws

Clause 4 - amends section 3 of the Principal Act to incorporate the Gaming Machine Act 1987 as a tax law so that the two acts are read as one.

Powers of inspection

Clause 5 - enhances the inspection provisions of section 12 of the Principal Act consequential to incorporation of the Gaming Machine Act as a tax law. Similar powers have been deleted from the Gaming Machine Act.