



Australian Capital Territory

# Gaming Machine Amendment Regulation 2019 (No 1)

Subordinate Law SL2019-16

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The Australian Capital Territory Executive makes the following regulation under the *Gaming Machine Act 2004*.

Dated 27 June 2019.

GORDON RAMSAY  
Minister

MEEGAN FITZHARRIS  
Minister

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[Gaming Machine Act 2004](#)

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## 1 Name of regulation

This regulation is the *Gaming Machine Amendment Regulation 2019 (No 1)*.

## 2 Commencement

This regulation commences on 1 July 2019.

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

**3 Legislation amended**

This regulation amends the *Gaming Machine Regulation 2004*.

**4 Part 9**

*substitute*

**Part 9 Community purpose contributions**

**Division 9.1 Preliminary**

**63 Definitions—pt 9**

In this part:

*gain*, from playing sport—

(a) includes—

- (i) wages, income or other benefits to compensate for time spent playing or training for sport or participating in related activities; and
- (ii) payments for, or provision of, accommodation or personal transport; and
- (iii) payments for general living costs; but

**Examples**

- 1 payments for electricity, water, gas or phone charges
- 2 payments for rates

- (b) does not include payments for reasonable expenses incurred from participating in sport.

**Examples**

- 1 costs for sports equipment
- 2 sports registration fees
- 3 travel and accommodation costs to attend away games

*men's professional sports team* means a sports team in which a majority of the participants are professional sportsmen.

*professional sportsman* means a male who receives gain from playing sport.

## **Division 9.2                      Community purpose contributions— —Act, s 166 (1)**

### **64                      Maintenance of sports facilities**

- (1) The following contributions are community purpose contributions:
- (a) maintenance of a sports facility that has open community access;
  - (b) maintenance of a sports facility that does not have open community access but is available some of the time for the community to use for sports or sports training.

**Example**

a sports ground that is normally locked but can be used by arrangement by sports teams in the community

*Note*                      See s 69F and s 69G for working out the value of these community purpose contributions.

- (2) In this section:

*open community access*, for a facility, means the facility can be accessed or booked by any member of the community during operating hours apart from when the facility is—

- (a) incidentally unavailable; or
- (b) being actively used by others in the community.

**Example**

a tennis court or bowling green run by a club that is open from 10am to 4pm and is bookable for use by any person in the community during that time

**65 Maintenance of recreation facilities**

- (1) Maintenance of a recreation facility that has open community access is a community purpose contribution.

- (2) In this section:

*open community access*—see section 64 (2).

*recreation facility*—

- (a) means a dedicated facility or space built or provided for a specific recreational purpose other than a sport; but
- (b) does not include part of a club’s premises that is ordinarily used by the club or its patrons.

**66 Sports and recreation**

- (1) The following contributions are community purpose contributions:
- (a) a contribution to a recipient for uniforms, equipment or training for sports teams or sportspeople in the community;
  - (b) a contribution to a recipient for sports coaches, trainers, umpires or administrators;
  - (c) a contribution to a recipient for sports or recreation activities or events available to the community;

- (d) a contribution to a recipient that promotes or develops sports or recreation activities available to the community;
- (e) a contribution to a recipient for award events for sports teams and sportspeople in the community;
- (f) a contribution to a recipient for the purpose of providing health services related to the recipient's participation in sport in the community.

*Note* See s 69H for working out the value of this community purpose contribution.

- (2) In this section:

*recipient*, of contribution, does not include a professional sportsman or a men's professional sports team (unless the contribution is allowed by a determination made under section 69A).

### **Division 9.3 Contributions not included in community purpose contributions**

#### **67 Club's business activities—Act, s 166 (2) (c)**

- (1) Expenditure on the following business activities by a club is not a community purpose contribution:
- (a) promoting the club's activities or activities associated with the operation of—
    - (i) the club; or
    - (ii) an associated organisation of the club;
  - (b) training for a club's staff or executives including any training required under a gaming law;
  - (c) professional entertainment or social or entertainment activities of a club, for members or patrons;

- (d) providing anyone with free or subsidised alcoholic beverages either directly or indirectly (for example, as a gift, donation or prize);
  - (e) providing anyone with a contribution to be used for a gambling activity;
  - (f) providing free or subsidised meals, snacks, other food or non-alcoholic drinks to the club's members or patrons.
- (2) Subsections (1) (e) and (f) do not apply to an amount contributed to provide a prize for a raffle if—
- (a) the raffle is not conducted for the club, an associated organisation, a professional sportsman or a men's professional sports team; and
  - (b) the amount is otherwise contributed for a community purpose.

**68 Capital payments or depreciation—Act, s 166 (2) (e)**

- (1) The following are not community purpose contributions:
- (a) capital payments for assets owned, controlled or being acquired by the club or an associated organisation if the assets do not have open community access;
  - (b) capital payments for, or other expenditure on, assets owned, controlled or being acquired by the club, if the assets are not in the ACT;
  - (c) depreciation in relation to a capital payment mentioned in paragraph (a) or (b);
  - (d) depreciation in relation to a capital payment for a community purpose contribution;
  - (e) a capital payment if depreciation in relation to the payment is a community purpose contribution.



(2) In this section:

***open community access***, for an asset, means the asset can be accessed or booked by any member of the community during operating hours apart from when the asset is—

- (a) incidentally unavailable; or
- (b) being actively used by others in the community.

**69 Other contributions—Act, s 166 (2) (j)**

(1) The following are not community purpose contributions:

- (a) a contribution for a business association, registered party, associated entity or industrial organisation;
- (b) a contribution made from donations collected by the club or the proceeds of a fundraising activity by the club;
- (c) a contribution for remuneration, allowances or other entitlements for people employed by a club or a recipient unless otherwise allowable as a community purpose contribution;

**Examples—otherwise allowable as a community purpose contribution**

- 1 a contribution for maintenance of sports facilities under s 64
- 2 a contribution to a recipient for remuneration, allowances or other entitlements for sports coaches, trainers, umpires or administrators under s 66 (1) (b)
- 3 a contribution to a recipient for remuneration, allowances or other entitlements for a member of a sports team, or a sports person, mentioned in a determination under s 69A

- (d) a contribution for the following paid for, or given to, an individual:
  - (i) phones, tablets, computers and other technology;
  - (ii) food and drinks;
  - (iii) general living costs;

**Examples**

- 1 payments for electricity, water, gas or phone charges
  - 2 payments for rates
- (e) a contribution to, or for the benefit of, a professional sportsman or a men's professional sports team (unless the contribution is allowed by a determination made under section 69A);
  - (f) a contribution for maintenance of a sports facility used only by professional sportsmen or men's professional sports teams (unless the contribution is allowed by a determination made under section 69A);
  - (g) a contribution for a fine or penalty or a contribution made in relation to disciplinary action;
  - (h) a contribution for a drug or alcohol test;
  - (i) a contribution for airline lounge memberships;
  - (j) notional provisions other than depreciation.

**Example**

notional provisions for long service or annual leave

- (2) In this section:

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

*disciplinary action* includes sports disciplinary action.

**entitlements** includes the following entitlements paid for, or given to, a person:

- (a) travel;

**Example**

airfares

- (b) accommodation;

**Examples**

1 hotel accommodation

2 rent or board

- (c) vehicles and vehicle hire.

**industrial organisation** means any of the following:

- (a) an association of employees, or an association of employers, registered as an organisation, or recognised, under the *Fair Work (Registered Organisations) Act 2009* (Cwlth);
- (b) an association of employees registered or recognised as a trade union (however described) under the law of a State or Territory;
- (c) an association registered or recognised as an employer's association (however described) under the law of a State or Territory;
- (d) an association of employees which has an exclusive or predominant purpose of protecting and promoting the employees' interests in matters concerning their employment.

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

**69A Determination—allowable community purpose contributions in relation to sports**

- (1) The Minister may determine that a contribution to, or for the benefit of, a men’s professional sports team or a professional sportsman is a community purpose contribution.
- (2) The Minister may make a determination under subsection (1) only if satisfied that—
  - (a) it will support participation in community sport; and
  - (b) the team or person’s viability to participate in the sport would be adversely affected without the determination; and
  - (c) it is in the public interest.
- (3) A determination—
  - (a) has effect for the period stated in the determination; and
  - (b) may be subject to any conditions determined by the Minister.
- (4) A determination is a notifiable instrument.

*Note* A notifiable instrument must be notified under the [Legislation Act](#).

**Division 9.4 In-kind contributions—Act, s 167 (2A)**

**69B Term of arrangement or agreement—Act, s 167 (2A) (a)**

The term for the written arrangement or agreement is 3 years or more.

**69C Requirements for in-kind contribution—Act, s 167 (2A) (b)**

The requirements are that the contribution from a club—

- (a) does not exceed 2% of the club's net revenue for the relevant reporting year; and
- (b) is made to a recipient that is not controlled by or related to the club; and
- (c) is made for the purpose of providing a defined facility, space or program for the recipient.

**Division 9.5 Working out value and timing of community purpose contributions—Act, s 167 (5)**

**69D Club operating multiple authorised premises**

- (1) This section applies if a club operates 2 or more authorised premises.
- (2) In working out the community purpose contributions for each authorised premises, common expenditure on behalf of multiple authorised premises must be allocated between the premises in proportion to the number of gaming machines operated at each premises at the end of the reporting year.

**69E Women's sports**

- (1) This section applies to a community purpose contribution to benefit or increase participation in women's sport.

*Note* See the Act, s 166 (1), def *community purpose*, par (b).

- (2) For every \$3 that a club contributes, the club's minimum community purpose contribution must be worked out as if the club had contributed \$4.

**69F Maintenance of sports facilities with open community access**

- (1) This section applies to a community purpose contribution mentioned in section 64 (1) (a).
- (2) The value of any maintenance claimed as a community purpose contribution for a reporting year must exclude the total amount of income that the club makes from, or receives for, the sports facility during the reporting year.

**Examples—income**

- 1 fees or charges that the club collects for use of the sports facility
- 2 grants the club receives for operating or maintaining the sports facility

**69G Maintenance of sports facilities available to community some of the time**

- (1) This section applies to a community purpose contribution mentioned in section 64 (1) (b).
- (2) The value of any maintenance claimed as a community purpose contribution for a reporting year must be worked out as follows:

$$\frac{\text{community time}}{\text{total time}} \times (\text{total cost} - \text{total income})$$

***community time***—

- (a) means the number of hours the sports facility is used during the reporting year—
  - (i) by a recipient; or
  - (ii) for an event or activity organised by a recipient; but
- (b) does not include the number of hours the sports facility is used during the reporting year by a professional sportsman or a men's professional sports team.

***total cost*** means the total amount spent by the club on maintaining the sports facility during the reporting year.

***total income*** means the total amount of income that the club makes from, or receives for, the sports facility during the reporting year.

**Examples**

- 1 fees or charges that the club collects for the use of the sports facility
- 2 grants the club receives for operating or maintaining the sports facility

***total time*** means the total number of hours the sports facility is used during the reporting year, including by a professional sportsman or men's professional sports team.

**69H Health services—out of pocket expenses only**

- (1) This section applies to a community purpose contribution mentioned in section 66 (1) (f).
- (2) The value of the community purpose contribution must not include costs for health services that have, or will be, rebated or paid by another entity.

**69I Charging fees for activities or events**

- (1) This section applies if—
  - (a) a community purpose contribution is used to hold an activity or event, including an activity or event held—
    - (i) by a club; or
    - (ii) at a facility owned by a club; and
  - (b) a fee or other amount is charged in relation to an activity or event; and
  - (c) all or part of the fee or other amount charged is received by—
    - (i) the club; or
    - (ii) an associated organisation of the club.
- (2) If the club has a clear written record of the amount received by the club or an associated organisation, the value of the community purpose contribution must exclude the amount received.
- (3) If the club does not have a clear written record of the amount received by the club or an associated organisation, the community purpose contribution is taken to have a value of \$0.

**69J When community purpose contribution is made**

- (1) This section applies to a community purpose contribution of money.
- (2) The contribution is made when the money is given and not when the thing for which the money is given is provided or agreed to.



**69K Working out value of in-kind community purpose contributions**

- (1) This section applies to an in-kind community purpose contribution.
- (2) In working out the value of the contribution, the club must use the cost of providing the contribution or the market value of the contribution.
- (3) The club must keep records of its workings and evidence of its costs and market valuations.

**5 Dictionary, note 2**

*insert*

- corporation
- individual

**6 Dictionary, note 3**

*omit*

- community contribution

**7 Dictionary, note 3**

*insert*

- associated organisation
- community
- community purpose
- community purpose contribution
- contribution
- minimum community contribution
- recipient
- reporting year

## **8 Dictionary, new definitions**

*insert*

*gain*, from playing sport, for part 9 (Community purpose contributions)—see section 63.

*men's professional sports team*, for part 9 (Community purpose contributions)—see section 63.

*professional sportsman*, for part 9 (Community purpose contributions)—see section 63.

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## **Endnotes**

### **1 Notification**

Notified under the [Legislation Act](#) on 28 June 2019.

### **2 Republications of amended laws**

For the latest republication of amended laws, see [www.legislation.act.gov.au](http://www.legislation.act.gov.au).

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