



Australian Capital Territory

# Gaming Legislation Amendment Act 2019

A2019-14

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J2018-717

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Australian Capital Territory

# Gaming Legislation Amendment Act 2019

A2019-14

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An Act to amend legislation about gaming, and for other purposes

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

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J2018-717

Authorised by the ACT Parliamentary Counsel—also accessible at [www.legislation.act.gov.au](http://www.legislation.act.gov.au)

## Part 1 Preliminary

### 1 Name of Act

This Act is the *Gaming Legislation Amendment Act 2019*.

### 2 Commencement

This Act commences immediately after the commencement of the *Gaming Legislation Amendment Act 2018*, section 72.

*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 *Gambling and Racing Control Act 1999* and the *Gaming Machine Act 2004*.



- (i) providing training in corporate governance to a club licensee's executives or members of a club licensee's board or management committee.

**7 New section 18 (2A)**

*insert*

- (2A) A code of practice may include powers of direction for the commission to ensure compliance with the code.

**8 New section 18 (4)**

*insert*

- (4) In this section:

*National Consumer Protection Framework* means the National Consumer Protection Framework for Online Wagering in Australia, National Policy Statement of Australian Governments, as in force from time to time.

**9 Education and counselling  
Section 19 (1) (b) (iii)**

*substitute*

- (iii) about gambling harm.

**10 Permitted disclosures to particular people  
New section 37 (d) (iiia)**

*insert*

- (iiia) for the purpose of administering the *Gaming Machine Act 2004*, division 11.3 (Diversification and sustainability support fund)—a member of the advisory board under that division, a public servant, the commission or the Minister;



**11 Dictionary, new definition of *club licensee***

*insert*

*club licensee* means a licensee that is a club under the [Gaming Machine Act 2004](#).

**12 Dictionary, new definition of *workplace rights training***

*insert*

*workplace rights training* means training on rights and obligations under laws in force in the ACT that apply in relation to workers at premises of club licensees.

**Examples—rights and obligations**

- employment agreements
- minimum wages and employment conditions
- termination of employment agreements
- workplace safety

## Part 3 Gaming Machine Act 2004

### 13 Section 10F heading

*substitute*

### 10F Offence—operating gaming machine if authorisation surrendered

### 14 Transferring an authorisation certificate Section 37E (2), note

*substitute*

*Note* Amounts are payable by licensees under provisions including s 143, s 159 and s 172B.

### 15 Section 127T heading

*substitute*

### 127T Storage permit—conditions

### 16 Section 127U heading

*substitute*

### 127U Storage permit—term

### 17 Section 127U (1) and (3)

*omit*

A permit

*substitute*

A storage permit

**18      Audit of financial statements etc  
Section 158 (1)**

*omit*

each financial year—

*substitute*

each financial year of the licensee—

**19      Section 161A**

*substitute*

**161A      Payment of gaming machine tax or payment to  
diversification and sustainability support fund—quarterly  
election**

- (1) A licensee that is entitled to a GMT rebate under section 162 may elect to pay the gaming machine tax or required amount to the diversification and sustainability support fund for each quarter of the financial year.
- (2) The election is made by giving the commission written notice of the election.
- (3) An election begins on the first day of the next quarter after the election is made and continues to apply until the licensee withdraws the election in writing.

**20      Section 163C heading**

*substitute*

**163C      Payment from gambling harm prevention and mitigation  
fund—required payments and community purpose  
contributions**

**21 Section 163D heading**

*substitute*

**163D Payment from gambling harm prevention and mitigation fund—minimum community contributions**

**22 New division 11.3**

*insert*

**Division 11.3 Diversification and sustainability support fund**

**Subdivision 11.3.1 Preliminary**

**163E Definitions—div 11.3**

In this division:

*advisory board* means the board established under section 163K.

*diversification and sustainability support fund*—see section 163F.

**163F Diversification and sustainability support fund**

- (1) The director-general must open and maintain a banking account (the *diversification and sustainability support fund*).
- (2) The diversification and sustainability support fund is to provide funding for the following purposes:
  - (a) assisting clubs to diversify their income to sources other than gaming machines;
  - (b) supporting the sustainability of clubs;
  - (c) contributing to projects that help reduce regulatory costs or improve efficiency in administration and compliance for clubs;

- (d) training and skills development for club workers, executives and members of club management committees and boards.
- (3) In this section:  
*banking account* means an account with an authorised deposit-taking institution that is, or is substantially the same as, a bank account.

### **163G Reporting**

- (1) Each report prepared by the director-general under the *Annual Reports (Government Agencies) Act 2004* for a reporting year must include the following information about the operation of the diversification and sustainability support fund for the reporting year:
  - (a) payments into, and out of, the fund during the year;
  - (b) the name of each person (other than an individual) who made a payment into the fund or who received a payment out of the fund;
  - (c) the purposes for which payments were made out of the fund.
- (2) In this section:  
*reporting year*—see the *Annual Reports (Government Agencies) Act 2004*, dictionary.

### **Subdivision 11.3.2 Payments to and from diversification and sustainability support fund**

#### **163H Payments to diversification and sustainability support fund**

- (1) For each tax period, a licensee that is a club is liable to pay the required amount to the commission for each of the licensee's authorised premises.
- (2) The commission must pay the amounts received under subsection (1) to the diversification and sustainability support fund.

- (3) The **required amount**, for a tax period for an authorised premises of the licensee, means the amount worked out under the following formula:

$$((A \times \$20) + (B \times \$10)) \times M$$

**A** means the number of authorisations for gaming machines held under an authorisation certificate for the authorised premises at the beginning of the first day of the tax period.

**B** means—

- (a) if **A** is 100 or more—the number of the authorisations that exceed 99; or
- (b) if **A** is less than 100—nil.

**M** means the number of months in the tax period.

- (4) An amount required to be paid for a tax period is payable on the 7th day after the end of the tax period.
- (5) In this section:

**authorised premises**, of a licensee for a tax period, means an authorised premises of a licensee at the beginning of the first day of the tax period.

### **163I Payments out of diversification and sustainability support fund**

- (1) A payment out of the diversification and sustainability support fund may only be made in accordance with this section.
- (2) The director-general must make a payment out of the diversification and sustainability support fund if—
- (a) an application for the payment has been made in accordance with any guidelines made under section 163J; and
- (b) the payment is for a purpose mentioned in section 163F (2); and

- (c) the Minister directs the director-general to make the payment after the Minister has consulted with the advisory board in relation to the payment.

**163J Guidelines for applications for payments out of diversification and sustainability support fund**

- (1) The Minister may make guidelines for applications from entities seeking payments out of the diversification and sustainability support fund.
- (2) The guidelines may include guidelines about the kinds of applications, or applicants, to be considered for payments out of the fund for a particular year or period.
- (3) A guideline is a notifiable instrument.

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

**Subdivision 11.3.3 Advisory board for diversification and sustainability support fund**

**163K Establishment of advisory board**

The advisory board for the diversification and sustainability support fund is established.

**163L Functions of advisory board**

- (1) The main functions of the advisory board are to—
  - (a) advise the Minister on matters concerning the diversification and sustainability support fund; and
  - (b) make recommendations about payments to be made from the fund.
- (2) The advisory board also has any other function given to the board under this Act.

**163M Membership of advisory board**

- (1) The advisory board consists of up to 4 members, appointed by the Minister, who the Minister considers have qualifications or experience in appropriate areas to assist the advisory board to exercise its functions.

**Examples—appropriate areas for qualifications or experience**

- business strategy or financial management
- club operations
- urban design, planning or property development

*Note 1* For the making of appointments (including acting appointments), see the [Legislation Act](#), pt 19.3.

*Note 2* Certain Ministerial appointments require consultation with an Assembly committee and are disallowable (see [Legislation Act](#), div 19.3.3).

- (2) A person must be appointed to the advisory board for not longer than 2 years.
- (3) The Minister must appoint a chair of the advisory board from the members appointed under subsection (1).
- (4) The conditions of appointment of a member appointed under subsection (1), or the chair appointed under subsection (3), are the conditions agreed between the Minister and the member or chair, subject to any determination under the [Remuneration Tribunal Act 1995](#).

**163N Advisory board—making and ending appointments**

- (1) The Minister must not appoint a person, or must end an appointment of a person, to the advisory board if—
- (a) the person, or the person's domestic partner, is an influential person for a licensee that is a club; or
  - (b) the person is an employee, representative or board member of an industry association for clubs; or



- (c) the person has been convicted, or found guilty, of an offence against a gaming law; or
  - (d) within the last 5 years, the person has been convicted, or found guilty, of—
    - (i) an offence in Australia punishable by imprisonment for at least 1 year; or
    - (ii) an offence outside Australia that, if it had been committed in the ACT, would have been punishable by imprisonment for at least 1 year; or
  - (e) the Minister considers that the person is unlikely to be able to exercise the functions of a member of the board because of the person's business association, financial association or close personal association with another person.
- (2) The Minister may end an appointment of a person to the advisory board if the person—
- (a) contravenes a territory law; or
  - (b) fails to take all reasonable steps to avoid being placed in a position where a conflict of interest may arise during the exercise of the person's functions as a member of the board; or
  - (c) is bankrupt or personally insolvent; or
  - (d) is absent from 3 consecutive meetings of the board, otherwise than on approved leave; or
  - (e) is affected by physical or mental incapacity that substantially affects the person's ability to exercise the functions of a member of the board.
- (3) In this section:
- association**, of a person with another person, does not include the person's membership of a club unless the person is involved in managing or running the club.

**163O Agenda to require disclosure of interest item**

- (1) The agenda for each meeting of the advisory board must include an item requiring any material interest in an issue to be considered at the meeting to be disclosed to the meeting.
- (2) In this section:  
*material interest*—see section 163P (4).

**163P Disclosure of interests by members of advisory board**

- (1) If a member of the advisory board has a material interest in an issue being considered, or about to be considered, by the board, the member must disclose the nature of the interest at a board meeting as soon as practicable after the relevant facts come to the member's knowledge.
- (2) The disclosure must be recorded in the board's minutes and, unless the board otherwise decides, the member must not—
  - (a) be present when the board considers the issue; or
  - (b) take part in a decision of the board on the issue.

**Example**

Albert, Boris and Chloe are members of the board. They have an interest in an issue being considered at a board meeting and they disclose the interest as soon as they become aware of it. Albert's and Boris's interests are minor but Chloe has a direct financial interest in the issue.

The board considers the disclosures and decides that because of the nature of the interests—

- (a) Albert may be present when the board considers the issue but not take part in the decision; and
- (b) Boris may be present for the consideration and take part in the decision.

The board does not make a decision allowing Chloe to be present or take part in the board's decision. Accordingly, since Chloe has a material interest she cannot be present for the consideration of the issue or take part in the decision.

- (3) Any other board member who also has a material interest in the issue must not be present when the board is considering its decision under subsection (2).

(4) In this section:

**associate**, of a person, means—

- (a) the person's business partner; or
- (b) a close friend of the person; or
- (c) a family member of the person.

**indirect interest**—without limiting the kinds of indirect interests a person may have, a person has an **indirect interest** in an issue if any of the following has an interest in the issue:

- (a) an associate of the person;
- (b) a corporation, if the corporation has not more than 100 members and the person, or an associate of the person, is a member of the corporation;
- (c) a subsidiary of a corporation mentioned in paragraph (b);
- (d) a corporation if the person, or an associate of the person, is an executive officer of the corporation;
- (e) the trustee of a trust if the person, or an associate of the person, is a beneficiary of the trust;
- (f) a member of a firm or partnership if the person, or an associate of the person, is a member of the firm or partnership;
- (g) someone else carrying on a business if the person, or an associate of the person, has a direct or indirect right to participate in the profits of the business.

**material interest**—a board member has a **material interest** in an issue if the member has a direct or indirect—

- (a) financial interest in the issue; or
- (b) interest of any other kind if the interest could conflict with the proper exercise of the member's functions in relation to the board's consideration of the issue.

**163Q Proceedings of advisory board**

- (1) The Minister may make guidelines for the proceedings of the advisory board, including meeting and voting requirements of the board.
- (2) Unless any guidelines made by the Minister under subsection (1) provide otherwise, the advisory board may conduct its proceedings as it considers appropriate.
- (3) A guideline is a notifiable instrument.

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

**163R Protection of members of advisory board from liability**

- (1) A member of the advisory board is not civilly liable for anything done or omitted to be done honestly and without recklessness—
  - (a) in the exercise of a function under a territory law; or
  - (b) in the reasonable belief that the act or omission was in the exercise of a function under a territory law.
- (2) Any liability that would, apart from this section, attach to a member of the board attaches instead to the Territory.

**23 Definitions—pt 12  
Section 164, definition of *recipient*, examples**

*omit*

**24 Meaning of *community purpose* etc—pt 12  
Section 166 (2) (j)**

*after*

community purpose

*insert*

contribution

**25 Minimum community contribution—clubs  
Section 167 (2)**

*substitute*

- (2) For a community purpose contribution of a club, other than a small or medium club or a club in a small or medium club group, at least 6% of the club's net revenue must be a contribution of money.
- (2A) However, part of the amount mentioned in subsection (2) may be a contribution in kind rather than of money if the contribution—
- (a) is made under a written arrangement or agreement that has a stated term prescribed by regulation; and
  - (b) meets any other requirements prescribed by regulation.

**26 Community purpose contributions—reporting by clubs  
Section 172 (1) (g) (ii)**

*substitute*

- (ii) the steps, if any, the licensee takes to prevent the misuse of community purpose contributions.

**27 Community contributions—commission must publish  
summary  
Section 172A (1) (b) (i)**

*omit*

section 166 (2)

*substitute*

section 166 (1)

**28 Section 172A (2)**

*omit*

about the licensee's community contributions

**29 Community contribution shortfall tax  
Section 172B**

*omit*

financial year

*substitute*

reporting year

**30 Section 172B (5), definition of *community contribution shortfall***

*omit*

club's community contributions fall short of its minimum community contribution

*substitute*

club's contribution towards its minimum community contribution falls short

**31 Section 314**

*substitute*

**314 Community contributions—clubs with reporting year beginning before and ending after 1 July 2019**

- (1) This section applies to a licensee that is a club and has a reporting year that begins before, and ends after, 1 July 2019.
- (2) For that reporting year, the licensee must contribute—
  - (a) 8% of the licensee's net revenue for the part of the reporting year ending on 30 June 2019 as community contributions in accordance with part 12 as in force immediately before 1 July 2019; and

- (b) 8% of the licensee's net revenue for the part of the reporting year beginning on 1 July 2019 as community purpose contributions.
- (3) For the community contributions mentioned in subsection (2) (a), part 12 as in force immediately before 1 July continues to apply in relation to the contributions.
- (4) Despite section 167 (1) (c), the contribution mentioned in subsection (2) (b) is taken to be the minimum community purpose contribution that the licensee is required to make for the reporting year.
- (5) In this section:  
*reporting year*, for a licensee—see section 164.

**314A Community contributions—clubs with reporting year beginning before 1 July 2019**

- (1) This section applies in relation to a licensee that has a reporting year that begins before 1 July 2019.
- (2) The following provisions, as in force immediately before 1 July 2019, continue to apply for that part of the reporting year that ends before 1 July 2019:
  - (a) section 166 (Report about records and finances);
  - (b) section 167 (Commission must report to Minister);
  - (c) section 168 (Minister must present commission's report).
- (3) In this section:  
*reporting year*, for a licensee—see section 164.

**32 Dictionary, new definition of *advisory board***

*insert*

*advisory board*, for division 11.3 (Diversification and sustainability support fund)—see section 163E.

**33 Dictionary, definition of *community contribution shortfall tax***

*omit*

**34 Dictionary, new definition of *diversification and sustainability support fund***

*insert*

*diversification and sustainability support fund*, for division 11.3 (Diversification and sustainability support fund)—see section 163F.



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## Endnotes

**1 Presentation speech**

Presentation speech made in the Legislative Assembly on 4 April 2019.

**2 Notification**

Notified under the [Legislation Act](#) on 23 May 2019.

**3 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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I certify that the above is a true copy of the Gaming Legislation Amendment Bill 2019, which was passed by the Legislative Assembly on 16 May 2019.

Clerk of the Legislative Assembly

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