

2011

THE LEGISLATIVE ASSEMBLY  
FOR THE AUSTRALIAN CAPITAL TERRITORY

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(As presented)

(Minister for Economic Development)

# Gaming Machine Amendment Bill 2011

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## Gaming Machine Amendment Bill 2011

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### A Bill for

An Act to amend the *Gaming Machine Act 2004* and the *Gaming Machine Regulation 2004*

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

1 **Part 1 Preliminary**

2 **1 Name of Act**

3 This Act is the *Gaming Machine Amendment Act 2011*.

4 **2 Commencement**

5 (1) This Act (other than sections 13 and 14) commences on  
6 1 January 2012.

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

9 (2) Sections 13 and 14 commence on 1 January 2013.

10 **3 Legislation amended**

11 This Act amends the *Gaming Machine Act 2004* and the *Gaming*  
12 *Machine Regulation 2004*.

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1 **Part 2** **Gaming Machine Act 2004**

2 **4 Applications to be dealt with in order of receipt**  
3 **Section 10**

4 *omit*

5 **5 Issue of licences**  
6 **Section 12 (5) (c)**

7 *substitute*

8 (c) if the applicant is a club——

9 (i) the number of club members worked out under the  
10 regulation; and

11 (ii) the ratio of club members to the number of gaming  
12 machines held by the licensee; and

13 (iii) the extent to which the club has contributed to, or is  
14 likely to contribute to, the community and supported and  
15 benefited the community;

16 **6 No available gaming machines**  
17 **Section 17**

18 *omit*

19 **7 Social impact assessment**  
20 **Section 18 (1), note**

21 *substitute*

22 *Note* A social impact assessment is required for an initial licence  
23 application (see s 11) and some licence amendment  
24 applications (see s 23).

**8 Sections 22 to 26**

*substitute*

**22 Licence amendment—applications**

A licensee may apply in writing to the commission for an amendment only to—

- (a) decrease the number of licensed gaming machines allowed under the licence (a *decrease machines amendment*); or

*Note* Decreasing machines is also dealt with in par (e) and (f).

- (b) structurally change part of a gaming area at the licensed premises (a *structural change amendment*); or

- (c) enable the licensee to temporarily store gaming machines at other premises (a *temporary storage amendment*); or

- (d) enable the licensee to relocate to a new venue (a *venue relocation amendment*); or

- (e) if the licensee is a club and holds more than 1 licence—decrease the number of gaming machines allowed under 1 or more licences and increase the number allowed under 1 or more other licences, to enable the licensee to relocate the gaming machines (a *machine relocation amendment*); or

- (f) if the licensee is a club—decrease the number of gaming machines allowed under 1 or more licences to enable the licensee to move the gaming machines to premises for which the licensee is applying for a licence (a *new venue amendment*); or

- (g) make 1 or more of the following changes to a gaming machine operated under the licence (a *technical amendment*):

(i) change the percentage payout of the machine;

(ii) change the basic stake denomination of the machine;

1 (iii) change the kind of machine;

2 **Example**

3 to change from King of the Thames mk 2 gaming machines to King  
4 of the Thames mk 3 gaming machines or to Magnificent Mel gaming  
5 machines

6 *Note* An example is part of the Act, is not exhaustive and may  
7 extend, but does not limit, the meaning of the provision in  
8 which it appears (see Legislation Act, s 126 and s 132).

9 (iv) change any other detail mentioned in the schedule to the  
10 licence.

11 *Note 1* If a form is approved under the Control Act, s 53D for an application,  
12 the form must be used.

13 *Note 2* A fee may be determined under s 177 for an application.

## 14 **23 Licence amendment—contents of applications**

15 (1) A licence amendment application must—

16 (a) be in writing signed by the applicant; and

17 (b) set out the proposed amendment of the licence; and

18 (c) explain why the applicant is seeking the amendment; and

19 (d) for a decrease machines amendment—state the number of  
20 machines to be removed from the licence; and

21 (e) for a structural change amendment—be accompanied by a plan  
22 showing the proposed changes to the gaming area; and

23 (f) for a temporary storage amendment—state—

24 (i) the number of machines to be temporarily stored; and

25 (ii) where the machines will be temporarily stored; and

26 (iii) when the machines will need to be temporarily stored;  
27 and

- 1 (g) for a venue relocation amendment—
- 2 (i) state the address, and block and section number, of the
- 3 new venue; and
- 4 (ii) be accompanied by—
- 5 (A) a social impact assessment; and
- 6 (B) a plan of the licensed premises showing where the
- 7 gaming machines are to be relocated; and
- 8 (C) if the applicant is a club—evidence that a majority
- 9 of the voting members of the club who voted in a
- 10 ballot conducted under the regulation voted for the
- 11 club relocating to the new venue; and
- 12 (h) for a machine relocation amendment—
- 13 (i) state the number of machines to be relocated; and
- 14 (ii) be accompanied by—
- 15 (A) a social impact assessment; and
- 16 (B) a plan of the licensed premises showing where the
- 17 gaming machines are to be relocated; and
- 18 (C) evidence that a majority of the voting members of
- 19 the club who voted in a ballot conducted under the
- 20 regulation voted for the stated number of gaming
- 21 machines to be relocated and the premises they are
- 22 to be relocated to and from; and
- 23 (i) for a new venue amendment—
- 24 (i) state—
- 25 (A) the address, and block and section number, of the
- 26 new venue; and
- 27 (B) the number of machines to be moved to the new
- 28 venue; and

- 1 (C) the class, number, kind, coin denomination and  
2 percentage payout of gaming machines for which  
3 the new licence is sought; and
- 4 (ii) be accompanied by—
- 5 (A) each of the required documents for an initial  
6 application under section 11 (2); and
- 7 *Note* **Required documents** include a social impact  
8 assessment, a scale plan of the premises and the  
9 rules and control procedures for the operation of the  
10 gaming machines.
- 11 (B) a description of the applicant's intended monetary  
12 investment in property, buildings and facilities at  
13 the new venue; and
- 14 (C) a description of the amenities and facilities intended  
15 for the new venue; and
- 16 (D) evidence that a majority of the voting members of  
17 the club who voted in a ballot conducted under the  
18 regulation voted for the club having the proposed  
19 number of gaming machines at the premises  
20 proposed to be licensed.
- 21 (2) A regulation may require an application to—
- 22 (a) include particular information; or
- 23 (b) be accompanied by particular documents.
- 24 (3) The commission need not decide the licence amendment application  
25 if the application is not in accordance with this section.

- 1     **24**           **Licence amendment decision—decrease machines**  
2                   **amendment**
- 3           (1) This section applies if a licensee applies for a decrease machines  
4           amendment under section 22 (a).
- 5           (2) The commission must amend the licence in accordance with the  
6           application.
- 7     **25**           **Licence amendment decision—structural change**  
8                   **amendment**
- 9           (1) This section applies if a licensee applies for a structural change  
10           amendment under section 22 (b).
- 11          (2) The commission must—
- 12           (a) amend the licence in accordance with the application if  
13           satisfied that the gaming area as it is proposed to be changed  
14           will be suitable for the operation of gaming machines; and
- 15           (b) if not satisfied under paragraph (a)—refuse to amend the  
16           licence.
- 17          (3) In deciding whether a gaming area will be suitable for the operation  
18           of gaming machines, the commission must consider—
- 19           (a) the safety and comfort of patrons; and
- 20           (b) harm minimisation strategies for patrons.

- 1     **26**           **Licence amendment decision—temporary storage**  
2                   **amendment**
- 3           (1) This section applies if a licensee applies for a temporary storage  
4                   amendment under section 22 (c).
- 5           (2) The commission may amend the licence for a stated period in  
6                   accordance with the application if satisfied that the gaming  
7                   machines—
- 8                   (a) need to be removed from the licensed premises for a good  
9                   reason; and
- 10                  (b) will be stored at other appropriate premises temporarily; and
- 11                  (c) will not be operated at the other premises.
- 12           (3) To remove any doubt, the temporary storage amendment does not  
13                   affect the number of gaming machines licensed to the licensee.
- 14     **26A**           **Licence amendment decision—venue relocation**  
15                   **amendment**
- 16           (1) This section applies if a licensee applies for a venue relocation  
17                   amendment under section 22 (d).
- 18           (2) The commission must amend the licence in accordance with the  
19                   application if satisfied that—
- 20                   (a) the size and layout of the new venue is suitable for the  
21                   operation of the machines that would be allowed under the  
22                   licence; and
- 23                   (b) amendment of the licence to relocate the venue is appropriate;  
24                   and
- 25                   *Note*     In deciding whether an amendment of a licence is appropriate, the  
26                   commission must consider certain things (see s (4)).
- 27                   (c) the licensee does not owe an amount to the Territory under a  
28                   tax law or a gaming law; and

- 1 (d) if the applicant is a club—a majority of the voting members of  
2 the club who voted in a ballot conducted under the regulation  
3 voted for the club relocating to the new venue.
- 4 (3) However, if the commission is not satisfied under subsection (2) in  
5 relation to the number of machines stated in the application, but  
6 would be satisfied under subsection (2) (a) and (b) in relation to  
7 fewer machines, the commission may amend the licence to allow  
8 fewer machines at the new venue.
- 9 (4) In deciding whether an amendment of a licence under this section is  
10 appropriate, the commission must consider the following things:
- 11 (a) the application for the amendment;
- 12 (b) the social impact assessment for the application;
- 13 (c) each submission made about the social impact assessment  
14 within the 6-week comment period mentioned in section 19 (3)  
15 (Publication of social impact assessments by applicant);
- 16 (d) if the applicant is a club—the extent to which the club has  
17 contributed to, or is likely to contribute to, the community and  
18 supported and benefited the community.

19 **26B Licence amendment decision—machine relocation**  
20 **amendment**

- 21 (1) This section applies if a licensee applies for a machine relocation  
22 amendment under section 22 (e).
- 23 (2) The commission must amend the licences in accordance with the  
24 application if satisfied that—
- 25 (a) the size and layout of the premises where the gaming machines  
26 are to be relocated is suitable for the operation of the machines  
27 that would be allowed under the licence; and

- 1 (b) amendment of the licences to move the gaming machines to  
2 other licensed premises is appropriate; and
- 3 *Note* In deciding whether an amendment of a licence is appropriate, the  
4 commission must consider certain things (see s (4)).
- 5 (c) the number of club members worked out under the regulation,  
6 and the pattern of use of gaming machines by club members, is  
7 sufficient to justify the number of extra machines at the  
8 licensed premises where the machines would be relocated; and
- 9 (d) the licensee does not owe an amount to the Territory under a  
10 tax law or a gaming law; and
- 11 (e) a majority of the voting members of the club who voted in a  
12 ballot conducted under the regulation voted for the number of  
13 gaming machines stated under section 23 (1) (h) (i) to be  
14 relocated and the premises they are to be relocated to and from.
- 15 (3) However, if the commission is not satisfied under subsection (2) in  
16 relation to the number of machines stated in the application, but  
17 would be satisfied under subsection (2) (a) to (c) in relation to fewer  
18 machines, the commission may amend the licences to relocate fewer  
19 machines.
- 20 (4) In deciding whether an amendment of licences under this section is  
21 appropriate, the commission must consider the following things:
- 22 (a) the application for the amendment;
- 23 (b) the social impact assessment for the application;
- 24 (c) each submission made about the social impact assessment  
25 within the 6-week comment period mentioned in section 19 (3)  
26 (Publication of social impact assessments by applicant);
- 27 (d) the extent to which the club has contributed to, or is likely to  
28 contribute to, the community and supported and benefited the  
29 community.

- 1     **26C       Licence amendment decision—new venue amendment**
- 2           (1) This section applies if a licensee applies for a new venue  
3           amendment under section 22 (f).
- 4           (2) The commission must amend the licence or licences, and issue the  
5           new licence, in accordance with the application if satisfied that—
- 6               (a) the application satisfies each additional mandatory requirement  
7               under section 13; and
- 8               (b) it is appropriate to issue the new licence; and
- 9               *Note*     In deciding whether it is appropriate to issue the new licence, the  
10              commission must consider certain things (see s (6)).
- 11           (c) the licensee does not owe an amount to the Territory under a  
12           tax law or a gaming law; and
- 13           (d) a majority of the voting members of the club who voted in a  
14           ballot conducted under the regulation voted for the club having  
15           the proposed number of gaming machines at the new venue.
- 16           (3) However, the commission may refuse to amend the licence or  
17           licences and issue the new licence if a ground for refusing the new  
18           licence exists under section 14 (Grounds for refusing initial licence  
19           application by club).
- 20           (4) If the commission is not satisfied under subsection (2) in relation to  
21           the number of machines stated in the application, but would be  
22           satisfied under subsection (2) (a) and (b) in relation to fewer  
23           machines, the commission may amend the licence or licences, and  
24           issue the new licence, to move fewer machines to the new venue.
- 25           (5) The new licence may be conditional.
- 26           (6) In deciding whether it is appropriate to issue the new licence, the  
27           commission must consider the following things:
- 28               (a) the application;
- 29               (b) the size and layout of the new venue;

- 1 (c) the size and layout of the proposed gaming area;
- 2 (d) the following information about the club:
- 3 (i) the number of club members worked out under the
- 4 regulation;
- 5 (ii) the ratio of club members to the number of gaming
- 6 machines held by the licensee;
- 7 (iii) the extent to which the club has contributed to, or is
- 8 likely to contribute to, the community and supported and
- 9 benefited the community;
- 10 (e) the social impact assessment for the application;
- 11 (f) each submission made about the social impact assessment
- 12 within the 6-week comment period mentioned in section 19 (3)
- 13 (Publication of social impact assessments by applicant);
- 14 (g) the applicant's intended monetary investment in property,
- 15 buildings and facilities at the new venue;
- 16 (h) the amenities and facilities intended for the new venue
- 17 compared to existing amenities and facilities in the local area
- 18 around the new venue;
- 19 (i) any other relevant matter.

20 **26D Licence amendment decision—technical amendment**

- 21 (1) This section applies if a licensee applies for a technical amendment
- 22 under section 22 (g).
- 23 (2) The commission must—
- 24 (a) amend the licence in accordance with the application if
- 25 satisfied that the change to the gaming machine is technically
- 26 suitable; and
- 27 (b) if not satisfied under paragraph (a)—refuse to amend the
- 28 licence.

1 (3) In deciding whether a change to a gaming machine is technically  
2 suitable, the commission must take into account each technical  
3 evaluation of the gaming machine carried out under  
4 section 69 (Approval of gaming machines and peripheral  
5 equipment).

6 **9 Commencement of amendments**  
7 **Section 28**

8 *omit*  
9 under section 24, section 25 or section 26  
10 *substitute*  
11 under this division

12 **10 Revocation of uncommenced licence amendments**  
13 **Section 29 (1) (a)**

14 *omit*  
15 under section 24 or section 25  
16 *substitute*  
17 under this division

18 **11 Transfer of licence**  
19 **Section 32 (1) (c)**

20 *omit*  
21 or has a certificate of suitability

---

1 **12 Sections 35 and 36**

2 *substitute*

3 **34A Intention to reduce maximum number of gaming**  
 4 **machines to 4 000**

- 5 (1) It is the intention of the Legislative Assembly that the maximum  
 6 number of gaming machines allowed on all licensed premises in the  
 7 ACT be reduced to 4 000.
- 8 (2) This reduction is to happen over time as gaming machines are  
 9 surrendered or cancelled (see s 35).

10 **35 Maximum number of gaming machines allowed in ACT**

- 11 (1) The maximum number of gaming machines allowed on all licensed  
 12 premises in the ACT is the number worked out as follows:

13 
$$\text{maximum number} = \text{starting number} - \left( \text{number surrendered} + \text{number cancelled} \right)$$

14 *number cancelled* means the total number of gaming machines  
 15 cancelled on or after 1 January 2012.

16 *number surrendered* means the total number of gaming machines  
 17 surrendered on or after 1 January 2012.

18 *starting number* means the maximum number of gaming machines  
 19 allowed on all licensed premises in the ACT at the end of  
 20 31 December 2011.

- 21 (2) As soon as practicable after each time the maximum number  
 22 changes, the commission must prepare a notice stating the new  
 23 maximum number and the date of the change.
- 24 (3) A notice is a notifiable instrument.

25 *Note* A notifiable instrument must be notified under the Legislation Act.

- 1 (4) In this section:
- 2 **cancelled**—a gaming machine is **cancelled** if—
- 3 (a) the licence authorising the operation of the gaming machine is
- 4 cancelled under—
- 5 (i) section 62 (Commission may take disciplinary action
- 6 against licensee); or
- 7 (ii) section 64 (Cancellation of licences because of
- 8 cancellation etc of general and on licences); and
- 9 (b) the cancellation has become final.
- 10 **final**—a cancellation of a gaming machine licence becomes **final**
- 11 when—
- 12 (a) for a decision to cancel a licence under section 62—the period
- 13 within which application can be made to the ACAT to review
- 14 the decision has passed and no application for review is made
- 15 within the period; or
- 16 (b) a period of 30 days has passed after 1 of the following
- 17 decisions and no appeal against the decision is made within the
- 18 30-day period:
- 19 (i) a decision of the ACAT on application for review of the
- 20 decision to cancel the licence under section 62;
- 21 (ii) a decision by a court hearing an appeal from—
- 22 (A) the decision of the ACAT mentioned in
- 23 paragraph (a); or
- 24 (B) for cancellation under section 64—the decision of
- 25 the ACAT to cancel the general or on licence under
- 26 the *ACT Civil and Administrative Tribunal Act 2008*, section 66 (2) (e) in relation to an application
- 27 under the *Liquor Act 2010*, section 187 (Application
- 28 to ACAT for occupational discipline);
- 29

- 1 (iii) a decision by a court hearing an appeal from a decision of  
2 a lower court in relation to a decision of the ACAT  
3 mentioned in subparagraph (i) or (ii).

4 *surrendered*—a gaming machine is *surrendered* if—

- 5 (a) the licensee, under section 22 (a), applies for a decrease  
6 machines amendment in relation to the gaming machine and  
7 the commission, under section 24, amends the licence in  
8 accordance with the application; or  
9 (b) the licensee, under section 34 (2), surrenders the licence  
10 authorising the operation of the gaming machine and the  
11 surrender takes effect under section 34 (3).

12 *Note* A surrender does not take effect until at least 4 weeks after the  
13 licensee gives the commission written notice of the  
14 surrender (see s 34 (3)).

15 **36 Review of maximum number when it reaches 4 000**

16 When the maximum number of gaming machines allowed on all  
17 licensed premises in the ACT reaches 4 000 or less, the Minister  
18 must—

- 19 (a) review the maximum number of gaming machines to be  
20 allowed on all licensed premises in the ACT; and  
21 (b) present a report of the review to the Legislative Assembly  
22 within 6 months after the day the review is started.

23 **13 Part 10 heading**

24 *substitute*

25 **Part 10 Promoting responsible practices**  
26 **at licensed premises**

- 1 **14 New section 153A**
- 2 *insert*
- 3 **153A Offence—ATM allowing withdrawals exceeding \$250**
- 4 (1) A licensee commits an offence if—
- 5 (a) there is an automatic teller machine at the licensed premises;
- 6 and
- 7 (b) the automatic teller machine allows a person to withdraw more
- 8 than a total of \$250 from all automatic teller machines at the
- 9 licensed premises, using a single debit card or credit card, on a
- 10 gaming day.
- 11 Maximum penalty: 50 penalty units.
- 12 (2) An offence against this section is a strict liability offence.
- 13 (3) In this section:
- 14 *at the licensed premises* includes in or on an exterior wall of the
- 15 licensed premises.
- 16 *gaming day* means—
- 17 (a) the period from when the licensed premises opens to the public
- 18 on a day until it next closes; but
- 19 (b) if the licensed premises are open to the public for longer than
- 20 24 hours continuously—
- 21 (i) each 24-hour period for which it is open to the public;
- 22 and
- 23 (ii) if the last period before it closes is less than 24 hours—
- 24 that period.

1 **15 Reviewable decisions**  
 2 **Schedule 1, item 3**

3 *substitute*

3	25 (2)	refuse to amend licence to allow change to gaming area	licensee
3A	26 (2)	refuse to amend licence to allow temporary storage of machines	licensee
3B	26A (2)	refuse to amend licence to allow venue relocation	licensee
3C	26A (3)	amend licence to allow relocation to new venue of lesser number of machines than applied for	licensee
3D	26B (2)	refuse to amend both licences to allow relocation of machines	licensee
3E	26B (3)	amend both licences to relocate lesser number of machines than applied for	licensee
3F	26C (2)	refuse to amend licence, and issue new licence, to allow machines to be moved to new venue	licensee

3G	26C (4)	amend licence, and issue new licence, to move lesser number of machines than applied for to new venue	licensee
3H	26D	refuse to amend licence for technical change	licensee

1 **16 Dictionary, definition of *certificate of suitability***

2 *omit*

3 **17 Dictionary, new definition of *decrease machines***  
4 ***amendment***

5 *insert*

6 *decrease machines amendment*—see section 22 (a).

7 **18 Dictionary, definition of *gaming area***

8 *substitute*

9 *gaming area*—see section 15 (1) (b).

10 **19 Dictionary, new definitions**

11 *insert*

12 *machine relocation amendment*—see section 22 (e).

13 *new venue amendment*—see section 22 (f).

14 *structural change amendment*—see section 22 (b).

15 *technical amendment*—see section 22 (g).

16 *temporary storage amendment*—see section 22 (c).

17 *venue relocation amendment*—see section 22 (d).



1 **24** **Definitions—pt 3**  
2 **Section 9, definition of *relevant premises***

3 *substitute*

4 ***relevant premises***, for a social impact assessment, means—

- 5 (a) for an initial licence application—the premises proposed to be  
6 licensed; or
- 7 (b) for a machine relocation amendment application—the premises  
8 to which the machines are to be relocated; or
- 9 (c) for a venue relocation amendment application or new venue  
10 amendment application—the new venue.

11 **25** **Matters to be addressed by social impact assessment—**  
12 **Act, s 18 (2) (b)**  
13 **Section 11 (1) (b)**

14 *substitute*

- 15 (b) the population profile of people living in the local community,  
16 including an analysis of—
- 17 (i) age and average income; and
- 18 (ii) projected population, and projected growth rate, of the  
19 local community;

20 **26** **Conduct of ballots**  
21 **Section 14, note**

22 *substitute*

23 *Note* The following sections of the Act mention ballots:

- 24 • s 11 (3) (d)
- 25 • s 12 (2) (b)
- 26 • s 23 (1) (g) (ii) (C)
- 27 • s 23 (1) (h) (ii) (C)
- 28 • s 23 (1) (i) (ii) (D)

- 1                   • s 26A (2) (d)  
2                   • s 26B (2) (e)  
3                   • s 26C (2) (d)  
4                   • s 32 (1) (d) and (f)  
5                   • s 34 (2) (b) (i).

## 27 Dictionary, note 3

7                   *insert*

- 8                   • machine relocation amendment (see s 22 (e));  
9                   • new venue amendment (see s 22 (f))  
10                  • venue relocation amendment (see s 22 (d));

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## Endnotes

### 1 Presentation speech

Presentation speech made in the Legislative Assembly on 2011.

### 2 Notification

Notified under the Legislation Act on 2011.

### 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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