

2019

THE LEGISLATIVE ASSEMBLY  
FOR THE AUSTRALIAN CAPITAL TERRITORY

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(As presented)

(Attorney-General)

# Gaming Legislation Amendment Bill 2019

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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)

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(Attorney-General)

# **Gaming Legislation Amendment Bill 2019**

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## **A Bill for**

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)

1 **Part 1 Preliminary**

2 **1 Name of Act**

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

4 **2 Commencement**

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

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

9 **3 Legislation amended**

10 This Act amends the *Gambling and Racing Control Act 1999* and the  
11 *Gaming Machine Act 2004*.

1 **Part 2** **Gambling and Racing Control**  
2 **Act 1999**

3 **4 Code of practice**  
4 **Section 18 (1)**

5 *substitute*

- 6 (1) A regulation may prescribe 1 or more codes of practice to apply in  
7 relation to the following:
- 8 (a) a person who is licensed or has a function under a gaming law;
  - 9 (b) a licensee's executives or members of a licensee's board or  
10 management committee;
  - 11 (c) a licensee's premises or a worker at a licensee's premises;
  - 12 (d) commitments under the National Consumer Protection  
13 Framework.

14 **5 Section 18 (2) (e)**

15 *after*

16 staff

17 *insert*

18 or executives or members of a licensee's board or management  
19 committee

20 **6 New section 18 (2) (g) to (i)**

21 *insert*

- 22 (g) protection of privacy;
- 23 (h) providing workplace rights training for workers at premises of  
24 club licensees;

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

4 **7 New section 18 (2A)**

5 *insert*

- 6 (2A) A code of practice may include powers of direction for the  
7 commission to ensure compliance with the code.

8 **8 New section 18 (4)**

9 *insert*

- 10 (4) In this section:

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

15 **9 Education and counselling**  
16 **Section 19 (1) (b) (iii)**

17 *substitute*

- 18 (iii) about gambling harm.

19 **10 Permitted disclosures to particular people**  
20 **New section 37 (d) (iiia)**

21 *insert*

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



1 **11 Dictionary, new definition of *club licensee***

2 *insert*

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

5 **12 Dictionary, new definition of *workplace rights training***

6 *insert*

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

10 **Examples—rights and obligations**

- 11 • employment agreements  
12 • minimum wages and employment conditions  
13 • termination of employment agreements  
14 • workplace safety

1 **Part 3 Gaming Machine Act 2004**

2 **13 Section 10F heading**

3 *substitute*

4 **10F Offence—operating gaming machine if authorisation**  
5 **surrendered**

6 **14 Transferring an authorisation certificate**  
7 **Section 37E (2), note**

8 *substitute*

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

11 **15 Section 127T heading**

12 *substitute*

13 **127T Storage permit—conditions**

14 **16 Section 127U heading**

15 *substitute*

16 **127U Storage permit—term**

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

18 *omit*

19 A permit

20 *substitute*

21 A storage permit

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

3 *omit*

4 each financial year—

5 *substitute*

6 each financial year of the licensee—

7 **19** **Section 161A**

8 *substitute*

9 **161A** **Payment of gaming machine tax or payment to**  
10 **diversification and sustainability support fund—quarterly**  
11 **election**

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

21 **20** **Section 163C heading**

22 *substitute*

23 **163C** **Payment from gambling harm prevention and mitigation**  
24 **fund—required payments and community purpose**  
25 **contributions**

- 1 **21 Section 163D heading**
- 2 *substitute*
- 3 **163D Payment from gambling harm prevention and mitigation**  
4 **fund—minimum community contributions**
- 5 **22 New division 11.3**
- 6 *insert*
- 7 **Division 11.3 Diversification and sustainability**  
8 **support fund**
- 9 **Subdivision 11.3.1 Preliminary**
- 10 **163E Definitions—div 11.3**
- 11 In this division:
- 12 *advisory board* means the board established under section 163K.
- 13 *diversification and sustainability support fund*—see section 163F.
- 14 **163F Diversification and sustainability support fund**
- 15 (1) The director-general must open and maintain a banking account (the  
16 *diversification and sustainability support fund*).
- 17 (2) The diversification and sustainability support fund is to provide  
18 funding for the following purposes:
- 19 (a) assisting clubs to diversify their income to sources other than  
20 gaming machines;
- 21 (b) supporting the sustainability of clubs;
- 22 (c) contributing to projects that help reduce regulatory costs or  
23 improve efficiency in administration and compliance for clubs;

1 (d) training and skills development for club workers, executives and  
2 members of club management committees and boards.

3 (3) In this section:

4 *banking account* means an account with an authorised deposit-taking  
5 institution that is, or is substantially the same as, a bank account.

### 6 **163G Reporting**

7 (1) Each report prepared by the director-general under the *Annual*  
8 *Reports (Government Agencies) Act 2004* for a reporting year must  
9 include the following information about the operation of the  
10 diversification and sustainability support fund for the reporting year:

11 (a) payments into, and out of, the fund during the year;

12 (b) the name of each person (other than an individual) who made a  
13 payment into the fund or who received a payment out of the  
14 fund;

15 (c) the purposes for which payments were made out of the fund.

16 (2) In this section:

17 *reporting year*—see the *Annual Reports (Government Agencies)*  
18 *Act 2004*, dictionary.

### 19 **Subdivision 11.3.2 Payments to and from diversification and** 20 **sustainability support fund**

#### 21 **163H Payments to diversification and sustainability support** 22 **fund**

23 (1) For each tax period, a licensee that is a club is liable to pay the  
24 required amount to the commission for each of the licensee's  
25 authorised premises.

26 (2) The commission must pay the amounts received under subsection (1)  
27 to the diversification and sustainability support fund.

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

4 
$$((A \times \$20) + (B \times \$10)) \times M$$

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

8 *B* means—

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

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

- 13 (4) An amount required to be paid for a tax period is payable on the  
14 7th day after the end of the tax period.

- 15 (5) In this section:

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

19 **163I Payments out of diversification and sustainability**  
20 **support fund**

- 21 (1) A payment out of the diversification and sustainability support fund  
22 may only be made in accordance with this section.

- 23 (2) The director-general must make a payment out of the diversification  
24 and sustainability support fund if—

25 (a) an application for the payment has been made in accordance  
26 with any guidelines made under section 163J; and

27 (b) the payment is for a purpose mentioned in section 163F (2); and

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

4 **163J Guidelines for applications for payments out of**  
5 **diversification and sustainability support fund**

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

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

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

16 **163K Establishment of advisory board**

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

19 **163L Functions of advisory board**

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

1 **163M Membership of advisory board**

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

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

- 7
- 8 • business strategy or financial management
  - 9 • club operations
  - 10 • urban design, planning or property development

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

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

15 (2) A person must be appointed to the advisory board for not longer than  
16 2 years.

17 (3) The Minister must appoint a chair of the advisory board from the  
18 members appointed under subsection (1).

19 (4) The conditions of appointment of a member appointed under  
20 subsection (1), or the chair appointed under subsection (3), are the  
21 conditions agreed between the Minister and the member or chair,  
22 subject to any determination under the [Remuneration Tribunal  
Act 1995](#).

23 **163N Advisory board—making and ending appointments**

24 (1) The Minister must not appoint a person, or must end an appointment  
25 of a person, to the advisory board if—

26 (a) the person, or the person's domestic partner, is an influential  
27 person for a licensee that is a club; or

28 (b) the person is an employee, representative or board member of  
29 an industry association for clubs; or



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

1 **163O Agenda to require disclosure of interest item**

2 (1) The agenda for each meeting of the advisory board must include an  
3 item requiring any material interest in an issue to be considered at the  
4 meeting to be disclosed to the meeting.

5 (2) In this section:

6 *material interest*—see section 163P (4).

7 **163P Disclosure of interests by members of advisory board**

8 (1) If a member of the advisory board has a material interest in an issue  
9 being considered, or about to be considered, by the board, the member  
10 must disclose the nature of the interest at a board meeting as soon as  
11 practicable after the relevant facts come to the member's knowledge.

12 (2) The disclosure must be recorded in the board's minutes and, unless  
13 the board otherwise decides, the member must not—

14 (a) be present when the board considers the issue; or

15 (b) take part in a decision of the board on the issue.

16 **Example**

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

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

23 (a) Albert may be present when the board considers the issue but not take  
24 part in the decision; and

25 (b) Boris may be present for the consideration and take part in the decision.

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

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

1 (4) In this section:

2 **associate**, of a person, means—

3 (a) the person's business partner; or

4 (b) a close friend of the person; or

5 (c) a family member of the person.

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

9 (a) an associate of the person;

10 (b) a corporation, if the corporation has not more than 100 members  
11 and the person, or an associate of the person, is a member of the  
12 corporation;

13 (c) a subsidiary of a corporation mentioned in paragraph (b);

14 (d) a corporation if the person, or an associate of the person, is an  
15 executive officer of the corporation;

16 (e) the trustee of a trust if the person, or an associate of the person,  
17 is a beneficiary of the trust;

18 (f) a member of a firm or partnership if the person, or an associate  
19 of the person, is a member of the firm or partnership;

20 (g) someone else carrying on a business if the person, or an  
21 associate of the person, has a direct or indirect right to  
22 participate in the profits of the business.

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

25 (a) financial interest in the issue; or

26 (b) interest of any other kind if the interest could conflict with the  
27 proper exercise of the member's functions in relation to the  
28 board's consideration of the issue.

1 **163Q Proceedings of advisory board**

2 (1) The Minister may make guidelines for the proceedings of the  
3 advisory board, including meeting and voting requirements of the  
4 board.

5 (2) Unless any guidelines made by the Minister under subsection (1)  
6 provide otherwise, the advisory board may conduct its proceedings as  
7 it considers appropriate.

8 (3) A guideline is a notifiable instrument.

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

10 **163R Protection of members of advisory board from liability**

11 (1) A member of the advisory board is not civilly liable for anything done  
12 or omitted to be done honestly and without recklessness—

13 (a) in the exercise of a function under a territory law; or

14 (b) in the reasonable belief that the act or omission was in the  
15 exercise of a function under a territory law.

16 (2) Any liability that would, apart from this section, attach to a member  
17 of the board attaches instead to the Territory.

18 **23 Definitions—pt 12**  
19 **Section 164, definition of *recipient*, examples**

20 *omit*

21 **24 Meaning of *community purpose* etc—pt 12**  
22 **Section 166 (2) (j)**

23 *after*

24 community purpose

25 *insert*

26 contribution

1 **25 Minimum community contribution—clubs**  
2 **Section 167 (2)**

3 *substitute*

4 (2) For a community purpose contribution of a club, other than a small or  
5 medium club or a club in a small or medium club group, at least 6%  
6 of the club's net revenue must be a contribution of money.

7 (2A) However, part of the amount mentioned in subsection (2) may be a  
8 contribution in kind rather than of money if the contribution—

9 (a) is made under a written arrangement or agreement that has a  
10 stated term prescribed by regulation; and

11 (b) meets any other requirements prescribed by regulation.

12 **26 Community purpose contributions—reporting by clubs**  
13 **Section 172 (1) (g) (ii)**

14 *substitute*

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

17 **27 Community contributions—commission must publish**  
18 **summary**  
19 **Section 172A (1) (b) (i)**

20 *omit*

21 section 166 (2)

22 *substitute*

23 section 166 (1)

24 **28 Section 172A (2)**

25 *omit*

26 about the licensee's community contributions

1 **29 Community contribution shortfall tax**  
2 **Section 172B**

3 *omit*

4 financial year

5 *substitute*

6 reporting year

7 **30 Section 172B (5), definition of *community contribution***  
8 ***shortfall***

9 *omit*

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

12 *substitute*

13 club's contribution towards its minimum community contribution  
14 falls short

15 **31 Section 314**

16 *substitute*

17 **314 Community contributions—clubs with reporting year**  
18 **beginning before and ending after 1 July 2019**

19 (1) This section applies to a licensee that is a club and has a reporting  
20 year that begins before, and ends after, 1 July 2019.

21 (2) For that reporting year, the licensee must contribute—

22 (a) 8% of the licensee's net revenue for the part of the reporting year  
23 ending on 30 June 2019 as community contributions in  
24 accordance with part 12 as in force immediately before 1 July  
25 2019; and

- 1 (b) 8% of the licensee's net revenue for the part of the reporting year  
2 beginning on 1 July 2019 as community purpose contributions.
- 3 (3) For the community contributions mentioned in subsection (2) (a),  
4 part 12 as in force immediately before 1 July continues to apply in  
5 relation to the contributions.
- 6 (4) Despite section 167 (1) (c), the contribution mentioned in  
7 subsection (2) (b) is taken to be the minimum community purpose  
8 contribution that the licensee is required to make for the reporting  
9 year.
- 10 (5) In this section:  
11 *reporting year*, for a licensee—see section 164.
- 12 **314A Community contributions—clubs with reporting year**  
13 **beginning before 1 July 2019**
- 14 (1) This section applies in relation to a licensee that has a reporting year  
15 that begins before 1 July 2019.
- 16 (2) The following provisions, as in force immediately before 1 July 2019,  
17 continue to apply for that part of the reporting year that ends before  
18 1 July 2019:
- 19 (a) section 166 (Report about records and finances);  
20 (b) section 167 (Commission must report to Minister);  
21 (c) section 168 (Minister must present commission's report).
- 22 (3) In this section:  
23 *reporting year*, for a licensee—see section 164.

- 1 **32 Dictionary, new definition of *advisory board***
- 2 *insert*
- 3 *advisory board*, for division 11.3 (Diversification and sustainability
- 4 support fund)—see section 163E.
- 5 **33 Dictionary, definition of *community contribution shortfall***
- 6 ***tax***
- 7 *omit*
- 8 **34 Dictionary, new definition of *diversification and***
- 9 ***sustainability support fund***
- 10 *insert*
- 11 *diversification and sustainability support fund*, for division 11.3
- 12 (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 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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