

Australian Capital Territory

Gaming Machine (Determination of Surrender Obligations) Guidelines 2019

Disallowable instrument DI2019–21

made under the

Gaming Machine Act 2004, section 10K (Guidelines for determination)

1 Name of instrument

This instrument is the *Gaming Machine (Determination of Surrender Obligations) Guidelines 2019*.

2 Commencement

This instrument commences on 4 March 2019.

3 Determination of Surrender Obligations Guidelines

I make the Determination of Surrender Obligations Guidelines as provided in the Schedule to this instrument.

Gordon Ramsay MLA
Attorney-General
1 March 2019

DETERMINATION OF SURRENDER OBLIGATIONS GUIDELINES

Section 10K of the *Gaming Machine Act 2004* (the Act) provides that the Minister may make guidelines for the determination of surrender obligations under section 10J. These guidelines are made under section 10K for that purpose.

Section 10J(3)(f) provides that the Minister must, as far as practicable, apply any guidelines made under section 10K when determining a surrender obligation.

In addition to the matters outlined in section 10J(3)(a) to (e) of the Act, the Minister must, as far as practicable, apply the following in determining a surrender obligation under section 10J—

- (i) reduce a licensee's surrender obligation by taking into account the number of authorisations surrendered by the licensee in relation to other authorised premises of the licensee under section 37F during the period beginning on the census day and ending on the day before a determination is made, provided that each surrendered authorisation may only be counted once towards reducing a surrender obligation;
- (ii) if the surrender obligation is for a licensee that is a disposing licensee under section 127F (1)—reduce the licensee's surrender obligation by taking into account the number of authorisations from other authorised premises of the licensee that were forfeited by the acquiring licensee under section 127F (4) during the period beginning on the census day and ending on the day before the determination is made, provided that each forfeited authorisation may only be counted once towards reducing a surrender obligation;
- (iii) where the surrender obligations for both compulsory surrender days cannot be evenly divided between the first compulsory surrender day and the second compulsory surrender day, the surrender obligation must be determined so that the higher number is surrendered on the first compulsory surrender day;
- (iv) in relation to section 10J(6)(b), additional surrenders of authorisations that are necessary to ensure that cap on authorisations reaches the target of 4 000 authorisations under subsection 10J (3)(a) must be added only to a surrender obligation for the second compulsory surrender day;
- (v) if under section 10J(6)(b) any authorisations are added, they must be added to the surrender obligation of the licensee's authorised premises with the highest remaining surrender obligation or, where the licensee has two or more authorised premises with the same remaining surrender obligation, must be added to the surrender obligation of the authorised premises holding the greatest number of authorisations on the day before the determination is made;
- (vi) where the total of the surrender obligations for all licensees for both compulsory surrender days would result in the number of authorisations reaching fewer than 4 000, starting with the licensee with a remaining surrender obligation that holds the fewest number of authorisations, the Minister must

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adjust the surrender obligations of the licensees for the second compulsory surrender day to subtract surrenders of authorisations that are necessary to ensure the cap on authorisations reaches 4 000 authorisations but not fewer; and

- (vii) if under (vi) above any authorisations are subtracted, they must be subtracted from the surrender obligation of the licensee's authorised premises with the lowest remaining surrender obligation or, where the licensee has two or more authorised premises with the same remaining surrender obligation, must be subtracted from the surrender obligation of the authorised premises holding the fewest number of authorisations on the day before the determination is made.