

**2004**

**THE LEGISLATIVE ASSEMBLY  
FOR THE AUSTRALIAN CAPITAL TERRITORY**

**GAMING MACHINE REGULATIONS 2004**

**Subordinate Law No SL2004-30**

**EXPLANATORY STATEMENT**

**Circulated by authority of Ted Quinlan MLA  
Minister for Sport, Racing and Gaming**

## **BACKGROUND AND OUTLINE**

The *Gaming Machine Act 2004* provides for the licensing, control and regulation of all aspects of gaming machines in the ACT. The *Gaming Machine Regulations 2004* (the regulations) are made under section 178 of the *Gaming Machine Act 2004* to provide the detailed requirements in relation to the licensing, control and operation of gaming machines.

### **Penalty provisions**

In these regulations most offences are now offences of strict liability in accordance with current legal policy for regulatory offences with small or moderate penalties. This means that conduct alone is sufficient to make the defendant culpable.

However, under the Criminal Code, all strict liability offences will have a specific defence of mistake of fact. The potential effect on the Government's harm minimisation strategies and, as a consequence, the potential effect on club patrons, gaming machine players and problem gambling of a failure by a gaming machine licensee (or any other person given authority under a licence) to adequately fulfil the requirements under that licence or authority are the justification for strict liability provision. Where appropriate, the regulations add specific additional defences relevant to individual provisions.

As outlined under section 23 of the Criminal Code, a strict liability offence means that there are no fault elements for any of the physical elements of the offence. This means that conduct alone is sufficient to make the defendant culpable. However, as outlined above, all strict liability offences will have a specific defence of mistake of fact. Clause 23(3) of the Criminal Code provides that other defences may still be available for use in strict liability offences.

### **Revenue/Cost Implications**

The Gambling and Racing Commission will absorb any costs associated with the introduction and implementation of the regulations and for providing any education programs and information sessions required to assist industry adjust to the regulations.

## DETAILS OF THE REGULATIONS

### PART 1                      PRELIMINARY

**Regulation 1: Name of regulations** – provides that the regulations are the *Gaming Machine Regulations 2004*.

**Regulation 2: Commencement** – provides that the regulations commence on the day section 178 of the *Gaming Machine Act 2004* commences. This ensures simultaneous commencement of the regulations with the Act.

**Regulation 3: Dictionary** – provides that the dictionary at the end of the regulations is part of the regulations. In addition, the dictionary in the *Gaming Machine Act 2004* and the terms outlined in the *Legislation Act 2001* also apply.

**Regulation 4: Notes** – provides that the notes included in the regulations are explanatory and are not part of the regulations.

**Regulation 5: Offences against regulations – application of Criminal Code etc** – provides that other legislation applies to the offences in these regulations.

### PART 2                      LICENSING

**Regulation 6: Required documents for applications – Act, s 11(2), s 23(2) and s 31(2)(c)(ii)** – applies to the following applications:

- an initial licence application;
- a licence amendment application—
  - under the Act, section 22(1)(a) to increase the number of gaming machines authorised to be operated under the licence; or
  - under the Act, section 22(1)(b) to move gaming machines to different premises;
- an application to transfer a licence.

The following documents must accompany the application:

- either, audited financial statements for the applicant for the 3 financial years before the day the application is made or if the applicant has not been operating for the 3 financial years before the day the application is made—audited financial statements for the applicant for each of the financial years (if any) during which the applicant has operated;
- any contractual arrangement, or proposed contractual arrangement (for example a lease), relating to the use of the premises (the *proposed premises*) proposed to be licensed or the licensed premises;

- a written estimate of the expected revenue and expenditure in relation to the proposed premises or licensed premises for the next 3 financial years if the application is successful.
- in this regulation, the *next 3 financial years*, for an application that is part way through a financial year, means the rest of that financial year and the next 2 financial years.

These documents provide the Commission with information in relation to an applicant's past financial performance (if any), their expected financial operations and the contractual arrangements with other parties. These documents will assist the Commission decide on an applicant's eligibility in accordance with the provisions of the Act.

**Regulation 7: Working out club members – Act, s 12(5)(c)(i) and s 24(3)(b)(iii) –** provides that the number of club members for a stand-alone club is the number of fully paid members (including life members).

The number of club members for a club with a membership agreement is the number worked out in accordance with the following formula:

$$\frac{GM \times TM}{TGM}$$

In this regulation:

**GM**, for a club, means-

- for an initial licence application—the number of gaming machines the club applied for; or
- for an application to increase the number of gaming machines authorised to be operated under the licence—the number of licensed gaming machines the club is authorised to operate under a licence.

**membership agreement** means an agreement between clubs under which—

- a member of a club is a member of another club; or
- a member of a club may become a member of another club without charge.

**stand-alone club** means a club that does not have a membership agreement with any other club.

**TGM**, for a club, means-

- for an initial licence application—the total of the number of gaming machines applied for and the number of licensed gaming machines that each other club with which the club has a membership agreement is authorised to operate under a licence; or
- for an application to increase the number of gaming machines authorised to be operated under the club's licence—the total number of licensed gaming machines that the club, and each other club with which the club has a membership agreement, is authorised to operate under a licence.



**Regulation 10: Requirements for social impact assessments – Act, s 18(2)(a)** – provides that a social impact assessment for an initial licence application or licence amendment application must satisfy the requirements of this regulation.

- The assessment must provide an objective analysis of the likely economic and social impact of the operation of gaming machines under the proposed licence or the licence as proposed to be amended (the *gaming machine proposal*).
- The assessment must identify, and provide an analysis of, the positive aspects or benefits of the gaming machine proposal as well as the negative aspects or detriments of the proposal.
- All statements or material included in the assessment must be—
  - objective rather than subjective or speculative; and
  - based on identifiable factual information.
- The sources of the information must be clearly and specifically identified. For example, an Australian Bureau of Statistics publication or a Commission report.
- The assessment must identify—
  - the entities and institutions (*affected entities and institutions*) in both the local community and the broader Canberra community that may be affected by the gaming machine proposal; and
  - on a map of the local community included in the assessment, the location of affected entities and institutions in the local community; and
  - the likely impact (both positive and negative) on affected entities and institutions in both the local community and the broader Canberra community.

Examples of affected entities and institutions include nearby residences; shops and other business; other gambling venues; schools; sporting and community facilities; places of worship.

**Regulation 11: Matters to be addressed by social impact assessment – Act, s 18(2)(b)** – provides that a social impact assessment for an initial licence application or licence amendment application must address the following matters:

- the existing level of gaming activity currently being conducted in the local community;
- the population profile of people living in the local community, including an analysis of age and average income;
- available relevant information about patrons in relation to the relevant premises. Examples of relevant information include where patrons live; spending patterns of patrons; time spent at the premises by patrons.
- the positive aspects or benefits of the gaming machine proposal for local community and the broader Canberra community;
- the negative aspects or detriments of the gaming machine proposal for the local community and the broader Canberra community;

- the gambling harm minimisation measures proposed to be taken in relation to the gaming machine proposal;
- the likely overall net economic and social impact of the gaming machine proposal.

This regulation does not limit the matters that may be addressed.

**Regulation 12: Information to be given in social impact assessment –**

**Act, s 18(2)(c)** - provides that, to the extent that the information is available to the applicant, the following information must be given in a social impact assessment for an initial licence application or licence amendment application:

- the number and location of existing gambling outlets in the local community;
- details of the population of the local community, including the number of adults and average incomes;
- expected gaming machine revenue of the applicant for the next 3 years if the application is approved;
- expected community contributions of the applicant for the next 3 years.

This regulation does not limit the information that may be given in a social impact assessment.

## **PART 4                      BALLOTS**

The purpose of a ballot is to ensure that important decisions of the club are conducted fairly and transparently and that the voting members have a genuine say in the operations of their club. Full scrutiny of the ballot process is essential to ensure the reliability and accuracy of the votes.

**Regulation 13: Definitions – part 4** – provides the definitions of the terms *club secretary* and *voting close date* for the purposes of this part.

**Regulation 14: Conduct of ballots** - provides that if the Act requires a ballot to be held under these regulations, the ballot must be held in accordance with this part.

- The following sections of the Act mention ballots:
  - s 11 (3) (d)
  - s 12 (2) (b)
  - s 24 (3) (a)
  - s 32 (1) (d) and (f)
  - s 34 (2) (b) (i)

**Regulation 15: Offence to disclose someone else’s vote** – provides that a person commits an offence if the person tells someone else how another person voted in a ballot conducted for the Act.

Maximum penalty: 2 penalty units.

An offence against this regulation is a strict liability offence.

This provision ensures that pressure cannot be brought to bear on a person by disclosing how they voted in a ballot.

**Regulation 16: Choosing voting close date** – provides that the club secretary must fix a date (the *voting close date*) when voting in the ballot will close. However, the club secretary must not fix a voting close date unless it is at least 6 weeks after the day the secretary fixes the date.

**Regulation 17: Telling Commission about ballot** – provides that subregulation (1) requires that, at the appropriate time, the club secretary must, in writing, tell the Commission that the club is holding a ballot, the reason for holding the ballot as well as the voting close date for the ballot.

Subregulation (2) provides that the club secretary must, at the same time, give the Commission a copy of the following notices:

- the notice proposed to be published under regulation 18 (a);
- the notice proposed to be displayed under regulation 18 (b);
- the notice containing the information mentioned in regulation 20 (c).

Subregulation (3) provides that in subregulation (1) *appropriate time* means at least 5 weeks before the vote closing date for the ballot; and at least 2 weeks before the day notice of the ballot under regulation 18 (a) is published in a newspaper and the material required to be given under regulation 20 (Voting members must be sent ballot papers) is given.

**Regulation 18: Public notice of ballot** – provides that the club secretary must ensure that, at least 3 weeks before the voting close date for the ballot, notice of the ballot is—

- under subregulation (a), published in a newspaper published and circulating in the ACT; and
- under subregulation (b), displayed in each premises to which the ballot relates.

**Regulation 19: Commission may inspect ballot documents** - provides that the Commission may inspect a club's ballot documents and may, in writing, require the club to amend a ballot document if satisfied that the amendment is necessary to ensure that the ballot is fair and transparent or the ballot is held in accordance with this part.

In this regulation, *ballot documents* means—

- a notice required in regulation 17 (2); and
- anything else required to be sent to voting members under regulation 20.

This provision provides that the Commission has the opportunity before the ballot is conducted to ensure that the ballot is likely to be conducted as fairly as possible.



**Regulation 20: Voting members must be sent ballot papers** – provides that at least 3 weeks before the voting close date for the ballot, the club secretary must give (this may be by mail) each voting member the following:

- a voting paper (if a form is approved under the Control Act, s 53D for this provision, the form must be used);
- a reply paid envelope addressed to the club secretary for the return of the voting paper;
- a notice declaring the following information in relation to the question to be decided by the voting members:
  - a fair description of the question;
  - a balanced outline of the arguments for and against the question;
  - a balanced appraisal of the consequences of any possible decision;
- notice of the voting close date;
- notice on when and where the results of the ballot may be obtained.

This provision ensures that voting members have balanced information available to them regarding the voting decision that they may make.

**Regulation 21: Checking votes** – provides that the club secretary must check every voting paper returned to the secretary to ensure that the voting paper has been filled in by a voting member and the member has not voted more than once.

**Regulation 22: Counting votes for ballot** – provides that the club secretary must not count a vote in the ballot if the secretary receives the voting paper after voting close date; or the member voting has already voted in the ballot; or the vote has been made by someone other than a voting member.

The club secretary must work out the result of the ballot and, as soon as practicable after working out the result, display the result at the each premises to which the ballot relates. The secretary must also give the Commission written notice of the result.

**Regulation 23: Keeping completed ballot documents** – provides that the club secretary must keep the completed ballot documents for at least 7 years after the day notice of the result of the ballot is given to the Commission.

**Completed ballot documents** means a copy of each of the ballot documents and includes the voting papers [voting papers are given or mailed to voting members under regulation 20 (a)] that have been returned to the club secretary, whether or not the club secretary counted them in the ballot.

In relation to this regulation, **ballot documents** is defined in regulation 19 (3).

This provision ensures that scrutiny may take place at a reasonable time after the ballot was conducted.

## PART 5 CENTRALISED MONITORING SYSTEM

These regulations provide the necessary detail for the possible establishment and operation of a CMS, to ensure that it is technically suitable and that all required gaming machines are properly connected.

A CMS, if it is decided to establish one, would assist licensees and the Commission closely monitor gaming machine activity including any variation from normal operations, whether there has been any access to the internal components of a machine, assist in the accurate calculation of revenue and assist in the verification of gaming machine tax liabilities.

**Regulation 24: Approval of CMS – Act, s 66(1)** – provides that the Commission must not approve a centralised monitoring system unless the Commission has considered the results of a technical evaluation of the system by an approved entity and the system (as approved) does not include the gaming machines connected to it. For example, the system may include the “black box” relay or communication station connected to gaming machines but not the gaming machines themselves.

In this regulation, *approved entity* has the same meaning as defined in section 69 (4) of the Act.

**Regulation 25: Gaming machines to be on CMS** – outlines that subregulation (1) provides that a licensee commits an offence if—

- the licensee operates a gaming machine; and
- the machine is required to be connected to the CMS; and
- the machine is not connected to the CMS.

Maximum penalty: 5 penalty units.

Subregulation (2) provides that a gaming machine is *required to be connected* to the CMS if connection is required—

- under these regulations; or
- under the licence for the machine.

An offence against subregulation (1) is a strict liability offence.

**Regulation 26: CMS access** – outlines that subregulation (1) provides that a person commits an offence if the person does any of the following in relation to the CMS on licensed premises:

- opens the CMS;
- repairs the CMS;
- adjusts the CMS;
- modifies the CMS.

Maximum penalty: 10 penalty units.

Note that the CMS does not include a gaming machine connected to it – regulation 24(1)(b) refers.

Subregulation (2) provides that subregulation (1) does not apply to the following people:

- an approved supplier;
- an approved technician;
- someone authorised in writing by the Commission.

Subregulation (3) provides that an offence against subregulation (1) is a strict liability offence.

This provision ensures that only suitably qualified and trained persons access or adjust the CMS.

## **PART 6                      GAMING MACHINE TICKETS**

A Gaming Machine Ticket system provides electronic printouts of credits or amounts instead of actual cash amounts. It is a form of cashless gaming in that it provides patrons with a written document that can be redeemed for cash immediately or at a later date.

Depending on the system approved, it could be used for machine payouts only (also called “ticket-out”, with or without the option of a cash payout instead) or additionally for machine input or credit (also called “ticket-in” systems).

A Gaming Machine Ticket system may also be a method of increasing the operational efficiency of a licensee and may provide a certain level of convenience to the patron.

**Regulation 27: Definitions – part 6** - provides the definitions of the terms *gaming credits*, *gaming machine ticket* and *redeems* for the purposes of this part.

**Regulation 28: Issue of gaming machine ticket offences** – provides that a licensee commits an offence if a gaming machine ticket is issued on the licensee’s licensed premises and the machine that issued the ticket is not approved by the Commission under the Act, section 69.

Maximum penalty: 10 penalty units.

A licensee also commits an offence if a gaming machine ticket is issued on the licensee’s licensed premises and the ticket does not show the value of gaming credits for the ticket.

Maximum penalty: 5 penalty units.

An offence against this regulation is a strict liability offence.

**Regulation 29: Gaming machine not to accept excessive accumulated credits** – provides that a licensee commits an offence if the licensee operates a gaming machine on the licensee’s licensed premises and the gaming machine accepts gaming credits from a gaming machine ticket of more than the prescribed amount. This regulation is only relevant where a gaming machine ticket system is approved for the operation of ticket credits being accepted by gaming machines (“ticket-in” system).

Maximum penalty: 10 penalty units.

An offence against this regulation is a strict liability offence.

In this regulation *prescribed amount* means the amount prescribed under the *Gambling and Racing Control (Code of Practice) Regulations 2002*, schedule 1 (Code of Practice), table 1.23, item 4, column 3. This regulation ensures that the maximum credit that can be loaded into a machine through a gaming machine ticket is the same amount established under the Code of Practice as the maximum cash payout amount.

**Regulation 30: Keeping redeemed gaming machine tickets** – provides that a licensee commits an offence if the licensee redeems the gaming credits on a gaming machine ticket and does not keep the gaming machine ticket for 1 year after the day the credits are redeemed. This will allow the Commission, and the licensee, to conduct checks and audits on the ticket system.

Maximum penalty: 5 penalty units.

An offence against this regulation is a strict liability offence.

**Regulation 31: Requirements for gaming machine tickets** – provides that a gaming machine ticket issued on a licensee’s licensed premises must contain information detailing the amount of gaming credits, a unique identification number for the ticket and the licensee’s name.

**Regulation 32: Control procedures about gaming machine tickets** – provides that a licensee’s control procedures must require the licensee—

- to keep a record of gaming machine tickets issued and the information contained on each ticket [Regulation 31 sets out the information that must be on a ticket];
- to prepare a report of the records kept for each month within 1 week after the end of the month to which the information relates; and
- to give the report to the Commission if asked.

**Regulation 33: Unredeemed gaming machine tickets** – provides that this regulation applies if a gaming machine ticket is not redeemed within 1 year after the day it is issued. The amount of gaming credits recorded on the gaming machine ticket is then forfeited to the Territory.

After the amount is forfeited, the holder of the ticket—

- is not entitled to recover the amount from the licensee that issued the ticket; and
- is entitled to recover the amount from the Territory within 6 years after the day the ticket is issued; and
- is not entitled to recover interest on the amount from the Territory.

These provisions relating to unredeemed tickets are consistent with other gaming laws (such as for linked jackpot arrangements and lotteries) and ensure that the Territory provides that any long-term outstanding claims on tickets are properly verified and paid as required.

## **PART 7                      PLAYER CARDS**

A Player Card system, which is a form of cashless gaming, if approved would operate by patrons using a swipe card with pre-paid amounts electronically available. A card system would provide patrons with the ability to set limits on their level of gaming machine expenditure and provides a record of their transactions over a period of time. Therefore it is a method for the person to monitor and restrict their gambling expenditure.

A Player Card system may also be a method of increasing the operational efficiency of a licensee and may provide a certain level of convenience to the patron.

**Regulation 34: Definitions – part 7** – provides the definitions of *player account* and *player card* for the purposes of this part.

**Regulation 35: Player accounts** – outlines that subregulation (1) provides that an individual may have an account (a *player account*) with a licensee that allows the individual to hold an amount of up to \$500 with the licensee for use in gaming machines on the licensee’s licensed premises.

As a harm minimisation measure for patrons, a maximum level of funds for gambling by the patron, in this case \$500, is specified.

Subregulation (2) provides that a licensee commits an offence if—

- the licensee opens a player account for an individual; and
- either—
  - the individual is a child; or
  - the individual already has a player account with the licensee.

Maximum penalty: 5 penalty units.

Subregulation (3) provides that a licensee commits an offence if amounts in player accounts held by the licensee are not kept separate from other amounts held by the licensee.

Maximum penalty: 10 penalty units.

An offence against this regulation is a strict liability offence.

**Regulation 36: Player cards** – provides that a licensee must give a card (a *player card*) to an individual who has a player account with the licensee to allow the person to use funds in the player account in gaming machines on the licensee’s licensed premises.

A licensee commits an offence if the licensee gives 2 or more player cards to an individual.

Maximum penalty: 5 penalty units.

However, a licensee does not commit an offence if—

- the card is given to replace a card that has been lost, damaged, destroyed or stolen; and
- the licensee has taken all reasonable steps to ensure that the card that is being replaced has been lost, damaged, destroyed or stolen.

A licensee commits an offence if the licensee gives a player card to a child.

Maximum penalty: 5 penalty units.

A licensee commits an offence if—

- the licensee gives an individual a player card; and
- the licensee does not give the individual a notice explaining—
  - the potential harm associated with gambling; and
  - the security conditions that apply to the personal identification number for use with the player card, and the consequences of contravening those conditions.

Maximum penalty: 5 penalty units.

An offence against this regulation is a strict liability offence.

**Regulation 37: Records of use of player accounts** – provides that a licensee must keep a record of each transaction involving a player account held with the licensee.

Maximum penalty: 5 penalty units.

Within 1 week after the end of a month, the licensee must give each holder of player account held with the licensee an activity statement for the account for the month.

Maximum penalty: 5 penalty units.

A licensee commits an offence if—

- an individual who holds a player account with the licensee asks in writing for an activity statement; and
- the licensee does not give the individual the activity statement within 1 week after the day the licensee receives the request.

Maximum penalty: 5 penalty units.

An offence against this regulation is a strict liability offence.

In this regulation:

**activity statement**, for a player account for a period, means a statement of the following:

- each transaction involving the player account during the period;
- the balance of the account at the beginning and end of the period; and
- any other information kept by the licensee in relation to use of the player card on the account during the period. Examples of other information that may be kept include time spent gambling; gambling turnover; total win; and total expenditure.

This provision ensures that useful gambling information is available to patrons so that they may monitor their level of activity if they wish.

**Regulation 38: Limits on use of player accounts** – provides that the holder of a player account (the *player*) with a licensee may, by written notice given to the licensee, set limits on the amount the player may hold in the player account; and the amount the player may use from the account at a time or during a period.

This provides individual controls by the player that can be varied according to the player's circumstances. An example of a control is that no more than \$200 may be held in the player account; or that no more than \$50 may be used from the account during a week.

The player may, by written notice given to the licensee, change a set limit. However, if the player changes a limit in a way that makes funds more readily available for gambling (for example, by increasing the amount that may be used during a period) the change does not take effect until 1 week after the day the licensee is given notice of the change.

Also, a player account must not hold more than \$500 (see regulation 35 (1)).

A licensee commits an offence if—

- the licensee allows the player to use the player account otherwise than in accordance with any limit set under this regulation; or

- the licensee allows the player to use the player account in accordance with a change to a limit under subregulation (2) before the change takes effect; or
- the licensee allows the player to overdraw the player account; or
- the licensee allows the player to hold more than \$500 in the player account.

Maximum penalty: 5 penalty units.

An offence against this regulation is a strict liability offence.

## **PART 8 LINKED JACKPOT ARRANGEMENTS**

These regulations ensure that linked jackpot arrangements are properly conducted and controlled to protect patrons and licensees.

### **Division 8.1 Linked jackpot arrangement generally**

**Regulation 39: Application—div 8.1** – provides that this division applies in relation to a linked jackpot arrangement under a single-user authorisation or multi-user permit.

**Regulation 40: Definition for part 8** – provides the definitions for the terms *link equipment* and *single-user authorisation* for the purposes of this part.

**Regulation 41: Arrangement to operate under pt 8 – Act, s 134(3)(b) and s 135(3)(d)** - provides that a linked jackpot arrangement must operate in accordance with this part.

**Regulation 42: Percentage of turnover set aside and reset value** – provides that the application for authorisation to operate a linked jackpot arrangement must contain a statement of the percentage of the turnover of each machine in the arrangement to be set aside for payment of linked jackpots under the arrangement and the reset value for each gaming machine.

If the authorisation is given by the Commission, each gaming machine that is part of the linked jackpot arrangement must set aside the stated percentage of the stake for the payment of linked jackpots.

**Regulation 43: Linked jackpot contributions** – provides that the linked jackpot contribution for a linked gaming machine is the amount that the linked jackpot for the machine must increase after each game played on the machine in accordance with the following formula (except if the linked jackpot must be reset under this regulation):

$$\text{stake} \times \text{percentage of turnover}$$

In this regulation:

*percentage of turnover*, for a gaming machine, means—

- for a gaming machine operated under a multi-user permit—the percentage of the machine’s turnover required to be set aside for payment of linked jackpots under the contract between the permit-holder and the licensee; or



- for a gaming machine operated under a single-user authorisation—the percentage of the machine’s turnover required to be set aside for payment of linked jackpots under the licence for the gaming machine.

*stake* means the amount staked in the game.

**Regulation 44: Electronic polling** – provides that each linked gaming machine must be polled electronically at least once between games played on the machine. Electronic polling or pulsing refers to the communication between the gaming machine and the computer system providing the linked jackpot arrangement. The polling provides an “interrogation” of the gaming machine for certain information that is required for the operation of the linked jackpot arrangement.

**Regulation 45: Display of linked jackpot amount** – provides that the amount of the linked jackpot must be displayed so that it can be easily read from each linked gaming machine at all times while the linked jackpot arrangement is operating.

**Regulation 46: Winning linked jackpots** – applies if a person claims to have won a linked jackpot on a linked gaming machine on licensed premises.

The licensee of the premises where the linked gaming machine is located must—

- make the gaming machine inoperable until the licensee has worked out the matters to be worked out under these paragraphs;
- work out whether the person has won a linked jackpot; and
- if the person has won, work out the amount of the linked jackpot the person has won by referring to the electronic poll of the gaming machine on which the jackpot was won.

**Regulation 47: Resetting linked machines** – applies if a licensee has worked out the linked jackpot won by a person on a linked gaming machine under regulation 46.

As soon as practicable after the licensee works out the linked jackpot, the jackpot must be reset in accordance with the authorisation for the linked jackpot arrangement under which the jackpot was won.

**Regulation 48: Multiple winners** – provides that if the electronic poll of linked gaming machines indicates that there is more than 1 winner of a linked jackpot, the linked jackpot must be divided equally between the winners.

**Regulation 49: Payment of linked jackpots** – provides that the licensee must pay a linked jackpot to a person if the person claims to have won the jackpot and the licensee is satisfied, on reasonable grounds, that the person has won the linked jackpot on the licensee’s gaming machine.

**Regulation 50: Meter readings** – provides that the licensee of licensed premises must ensure that meter readings from a linked gaming machine on the premises are recorded—

- immediately before the machine is linked;

- if a linked jackpot is won on the machine—immediately after the jackpot is won; and
- if the machine is to stop being part of the linked jackpot arrangement—immediately before the machine is removed from the arrangement. A machine may stop being part of a linked jackpot arrangement if, for example, the licensee intends to stop using the machine under the arrangement or the linked jackpot arrangement is to end.

**Regulation 51: Link equipment in single-user authorisations** – applies only to link equipment on a licensed premises that is being used under a single-user authorisation. If the link equipment malfunctions, the licensee of the premises must take reasonable steps to arrange for the repair of the malfunction by an authorised person as soon as practicable after it happens.

In this regulation *authorised person* means—

- an authorised officer;
- an approved supplier; or
- an approved technician.

**Regulation 52: Records on ending arrangement** – provides that, immediately before a linked jackpot arrangement operating at the licensed premises ends, the licensee of the premises must record the meter readings of each linked gaming machine and the amount of the potential linked jackpot available.

**Regulation 53: Uncollected linked jackpots** – applies if a person wins a linked jackpot and the person is not paid the jackpot before the end of the linked jackpot arrangement under which the jackpot is won.

The licensee must pay the amount to the person as soon as practicable as if the linked jackpot arrangement had not ended.

## **Division 8.2 Multi-user permits**

**Regulation 54: Application—div 8.2** – provides that this division applies only in relation to multi-user permits.

**Regulation 55: Definitions—div 8.2** – provides the definitions for the terms *jackpot trust account*; *link service fee*; *linked jackpot contract*; *linked jackpot contribution*; *linked licence* and *linked licensee* for the purposes of this division.

**Regulation 56: Jackpot trust accounts** – provides that the permit-holder must keep a trust account (the *jackpot trust account*) for the payment of linked jackpots.

Payments from the jackpot trust account must be by cheque signed by 2 people authorised in writing by the permit-holder. This provision ensures protection of licensees' funds.

**Regulation 57: Link service fee** – provides that the linked jackpot contract may provide for the licensee to pay a fee to the permit-holder for use of the linked jackpot arrangement (the *link service fee*).

A link service fee must be worked out at the same rate for each linked licensee under the linked jackpot arrangement. This ensures transparency and fairness between subscribers to the linked arrangement.

Further to enhance the soundness of operations, a link service fee for a linked jackpot arrangement must be fair and reasonable, having regard to the following considerations:

- the amount spent by the permit-holder to set up the arrangement;
- the amount spent by the permit-holder to operate the arrangement;
- the best interests of each linked licensee and the people who play the machines in the linked jackpot arrangement;
- anything else relevant to the costs and returns of the arrangement for both the permit-holder and the linked licensee.

A link service fee is not part of, or related to, the linked licensee's linked jackpot contributions.

**Regulation 58: Access to funds to cover linked jackpot winnings** – provides that the permit-holder must have access at all times to sufficient funds for the payment of any linked jackpot that may be won on the linked gaming machines.

**Regulation 59: Stating maximum potential linked jackpot** – provides that the linked jackpot contract may provide for a maximum potential linked jackpot for a linked gaming machine by stating a particular amount or by stating a method by which the maximum can be worked out at any time.

**Regulation 60: Collection of linked jackpot contributions** – subregulation (1) provides that the permit-holder must, on each day the linked jackpot arrangement is operating—

- work out the amount of the linked jackpot contribution of each linked gaming machine—
  - for the period since the linked jackpot contribution of the machine was last worked out; or
  - if no linked jackpot contribution has been worked out for the machine—for the period since the machine was linked; and
- give each linked licensee written notice of the licensee's total linked jackpot contribution.

Subregulation (2) provides that a linked licensee must deposit the licensee's total linked jackpot contribution into the jackpot trust account within 24 hours after receiving notice of the total linked jackpot contribution.

Subregulation (3) provides that in this regulation ***total linked jackpot contribution*** for a licensee means the total of all linked jackpot contributions for all linked gaming machines operated by the licensee.

**Regulation 61: Link equipment** – provides that all link equipment must be the property of the permit-holder. This ensures that proper control, security and maintenance of the equipment is undertaken by the approved operator of the linked arrangement.

If link equipment on licensed premises malfunctions, the permit-holder must take reasonable steps to arrange for the repair of the equipment by an authorised person as soon as practicable after it happens.

A licensee must ensure that no one interferes with link equipment on the licensed premises without the permission of the permit-holder.

In this regulation ***authorised person*** means—

- an authorised officer;
- an approved supplier;
- an approved technician; or
- someone else authorised in writing by the Commission.

**Regulation 62: Division of jackpot trust account on ending arrangement** – provides that subregulation (1) requires that as soon as practicable after the linked jackpot arrangement ends, the person who was the permit-holder (the ***former permit-holder***) must try to reach a written agreement with each person who was a linked licensee (the ***former linked licensees***) about the distribution of the remaining balance of the jackpot trust account.

Subregulation (2) provides that if agreement is not reached within 4 weeks after the day the linked jackpot arrangement ends, the former permit-holder must give the Commission a written recommendation about the distribution of the remaining balance of the jackpot trust account between the former linked licensees.

Subregulation (3) provides that if the Commission is given a recommendation under subregulation (2), the Commission must consider the recommendation, decide the distribution of the remaining balance of the jackpot trust account and tell the former permit-holder about the decision.

Subregulation (4) provides that as soon as practicable after a distribution is agreed or decided, the former permit-holder must give each of the former linked licensees the amount to be distributed to the licensee from the jackpot trust account.

Subregulation (5) provides that in this regulation ***remaining balance of the jackpot trust account*** does not include any amount won under the linked jackpot arrangement or uncollected from the linked jackpot.

**PART 9****COMMUNITY CONTRIBUTIONS****Regulation 63: Guidelines for approving contributions generally—**

**Act, s 164(2)(a)** [Note, section 164(3) of the Act is relevant to the definition of *contribution*, see paragraph (b) (i)-(iii)] – provides that the Commission must not approve an amount spent on the following as a contribution:

- professional entertainment provided for patrons or used for the purpose of directly promoting activities associated with the operation of the licensee and, if the licensee is a club, with the operation of an associated organisation;
- the provision of alcoholic beverages either directly or indirectly through the provision of gifts, donations or prizes;
- the provision of expenditure, funds, subsidies or discounts relating in any way to a gambling activity (this, however, does not prevent the Commission from approving an amount spent on the provision of prizes for raffles conducted by an entity that is not the licensee or an associated organisation if the amount is otherwise an eligible contribution);
- subsidised or free meals, snacks, other food or beverages provided to a licensee’s patrons.

**Regulation 64: Guidelines for approving contributions as charitable and social welfare community contributions—Act, s 164(2)(a)** – provides that the Commission may approve a contribution as a charitable and social welfare community contribution only if—

- the contribution is made to a charitable organisation (example - the Salvation Army; St Vincent de Paul; the Smith Family); or
- the contribution—
  - is made to another entity for charitable and welfare purposes; and
  - in the commission’s opinion, supports the development of a community or helps to raise the standard of living of a community, whether within or outside the ACT (the Act, section 164(3) provides that the community can be either within or outside the ACT). Examples include child protection and family support; drug, alcohol and problem gambling support; hospital equipment for use in retirement villages or facilities for use by resident of the villages or facilities.

**Regulation 65: Guidelines for approving contributions as sport and recreation community contributions—Act, s 164(2)(a)** – provides that the Commission may approve a contribution as a sport and recreation community contribution only if the contribution is made to promote, develop or encourage sport or sporting or recreational activities.

Examples of promoting or developing sport or sporting activities include junior coaching sessions for a sport; sports skills seminars; workshops to increase sports skills.

The following contributions promote, develop or encourage sport or sporting activities:

- payment of a sportsperson's wages or expenses (for example, match payments);
- payment for sports uniforms and equipment;
- payment for sporting coaches and umpires (however described);
- maintenance of sporting facilities that are available to the public, whether generally available or only for limited periods;
- payments to an entity that promotes or develops sport or sporting activities, whether or not the entity is part of the licensee or, if the licensee is a club, an associated organisation. Examples of entities include a soccer club; darts club; or snooker club.

Without limiting the above contributions, the following contributions would also promote, develop or encourage women's sport:

- payment for women's sporting teams;
- payment for women's sporting events or programs;
- payment for coaching, equipment, training or insurance for women's sporting activities.

Eligible contributions are not limited to these kinds of sports or sporting activities.

The following contributions promote, develop or encourage recreational activities:

- maintenance of recreational facilities that are available to the public and whether generally available or only for limited periods;
- payment for recreational activities or events that are available to the public, for example, bushwalking or orienteering;
- payments to an entity that promotes or develops recreational activities, whether or not the entity is part of the licensee or, if the licensee is a club, an associated organisation. For example a bridge club; fishing club; film club; or fitness club.

Eligible contributions are not limited to these kinds of recreational activities.

**Regulation 66: Guidelines for approving contributions as non-profit activities community contributions—Act s 164(2)(a)** – provides that the Commission may approve a contribution as a non-profit activities community contribution only if—

- the contribution is made to a non-profit entity established to conduct non-political activities that benefit the community; or
- the contribution is made to an entity for an activity that is non-political and, in the commission's opinion, intended to develop a community, or to raise the standard of living of a community or help develop community spirit.

Examples of eligible contributions include:

- contributions to schools or other educational institutions or programs, such as the purchase of school equipment or facilities for use by students or the provision of educational activities or events;
- scholarships that are otherwise eligible contributions;
- contributions to ethnic organisations for multicultural activities, such as music, dance, art or language groups organised by ethnic communities;
- support for events to develop a community spirit or participation, such as the promotion of physical activity, social activity, community clean ups or volunteer environmental or land care groups;
- special services or celebrations, such as significant public memorial services, including ANZAC Day, and celebrations such as Canberra Day or Australia Day;
- significant ACT public events, such as Sky Fire;
- contributions to volunteer organisations that provide benevolent or community related services, such as Safety House projects and Neighbourhood Watch.

**Regulation 67: Guidelines for approving contributions as community infrastructure community contributions—Act, s 164(2)(a)** – provides that the Commission may approve a contribution as a community infrastructure community contribution only if the contribution—

- is made for the construction or development of infrastructure for, or use by, a community; and
- is intended to result in the development of an asset; and

Examples of eligible contributions include expenses to design, build or upgrade sporting ovals, grandstands, oval lighting, museums, art galleries, playground, public car parks, parklands or gymnasiums.

**Regulation 68: Claiming contributions if income related to contribution—Act, s 164(2)** - applies to any community contribution made by a licensee.

If the licensee or, if the licensee is a club, an associated organisation, receives an amount that is charged in relation to the activity or facility contributed to, the licensee may only claim the contribution if the licensee has records that clearly identify the amount charged. In addition, the amount charged must be subtracted from the amount of the contribution.

In this regulation, *charged*, in relation to an activity or facility, includes an amount otherwise earned by the licensee in relation to the activity or facility. Examples of charges or other amounts earned include a charge for use of a facility or an entry fee.

**Regulation 69: Timing of claiming contributions—Act, s 164(2)** - applies to a community contribution other than an in-kind contribution. In order to remove any doubt, a contribution that is an amount is made when the amount is given, not when the thing for which the amount is given is provided or agreed to.

Examples include:

- if an agreement to sponsor a team is made in June 2005 but the 1st payment is not made until July 2005, the community contribution cannot be claimed until the 2005-06 financial year.
- if an item is paid for in June 2005 but is not delivered or conducted until July 2005, the community contribution must be claimed in the 2004-05 financial year.

**Regulation 70: Claiming in-kind contributions—Act, s 164(2)** – provides that a licensee may claim a contribution other than a monetary contribution as a community contribution only if the licensee has records that set out how the value of the contribution was worked out and provides evidence that the value worked out is based on the cost of providing the contribution or the market value of the contribution.

Examples include:

- discounts on the usual selling or supply price of goods or services provided by licensee;
- free or subsidised use of licensee’s facilities or equipment if the value of the contribution is worked out in relation to the usual hire fee.

## **PART 10 MISCELLANEOUS**

**Regulation 71: Times licensee must not operate gaming machines—Act, s 8(3)** – provides that a licensee must not operate a gaming machine between 4 am and 9 am.

The purpose of having a restriction on operating times is to reduce the availability of gaming machines to gamblers and to provide a break for gamblers from possible 24 hour gaming. This is part of a harm minimisation strategy to assist in reducing the availability of gaming machines and possibly reducing the cost or impact of gambling on problem gamblers.

**Regulation 72: Maximum stake amount—Act, s 49** – provides that the maximum stake amount is \$10.

The maximum stake amount, or maximum bet, is set as a harm minimisation strategy in an attempt to limit the financial exposure or the amount at risk in playing a gaming machine. It is reasoned that by limiting the amount staked or bet the amount lost may be limited or the amount of time a person plays a gaming machine may be extended for the same amount of money that may be bet (the so-called “entertainment value”).

**Regulation 73: Contractual arrangements and consultancies in annual report of clubs—Act s 54(a)(ii)** – provides that the prescribed amount for contractual arrangements or consultancies is—

- \$49 999; or
- if the club has entered into 2 or more contractual arrangements or consultancies with an entity and the total payments for the arrangements or consultancies with



the entity for the year are more than \$49 999—any arrangement or consultancy with the entity worth more than \$1.

The reporting of these amounts ensures transparency in the contractual arrangements entered into by clubs and allows members to decide whether arrangements are in the best interests of the club.

**Regulation 74: Remuneration in annual report of clubs—Act s 54(b)** – provides that the prescribed remuneration is \$100 000.

The reporting of these amounts ensures transparency in the financial arrangements entered into by clubs and allows members to decide whether arrangements are in the best interests of the club. This regulation ensures that a club’s members are aware of the remuneration package being offered to the club’s executives if the package is valued at over \$100,000. This enables members to determine whether the remuneration package is reasonable in the circumstances.

**Regulation 75: Offence to operate high denomination note acceptor—Act, s 178(2)(a)** – provides that a licensee commits an offence if the licensee operates a note acceptor that accepts \$50 or \$100 notes.

Maximum penalty: 5 penalty units.

An offence against this regulation is a strict liability offence.

This regulation is part of the harm minimisation strategy for minimising the amount of money that gamblers may enter into a gaming machine at any one time. The restriction on \$50 and \$100 notes is expected to slow down a gambler’s expenditure and perhaps limit the total amount a gambler may bet.

**Regulation 76: Minimum payout of gaming machine—Act, s 178(2)(b)** – provides that the minimum percentage payout of a gaming machine is 87%.

If a gaming machine is connected to a linked jackpot arrangement, the minimum percentage payout is the total of the percentage payout for the machine and the *percentage turnover* for the machine. In this regulation, *percentage turnover* is as defined in regulation 43(3) and refers to the contribution made under a linked jackpot arrangement.

For example, if the machine pays out 85% directly on its prize schedule and makes a 3% contribution to a link, the total percentage payout of the machine is 88%, which is above the minimum requirement of 87%.

**Regulation 77: Not gaming machines—Act, dictionary, def *gaming machine*** – provides that each of the following devices is not a gaming machine:

- a device for playing a game of skill only;
- an amusement device that usually involves an element of skill and is played for entertainment only; for example, a pinball machine;

- a device that is ordinarily found at fairs, fetes or shows, whether or not a prize is offered or given and usually involves an element of skill and is played mainly for entertainment. For example, “laughing clowns” amusement machine.

## **DICTIONARY**

This dictionary is the dictionary referred to in regulation 3 and provides definitions relevant to the regulations. Additional definitions are included in the Act and in the *Legislation Act 2001*.

