

Australian Capital Territory

Unlawful Gambling (Exempt Game) Declaration 2010 (No 1)

Disallowable Instrument DI2010–29

made under the

Unlawful Gambling Act 2009 section 9(2) (Declaration of an exempt game)

EXPLANATORY STATEMENT

The *Unlawful Gambling Act 2009* (the Act) regulates unlawful gambling in the ACT.

Section 9 of the Act provides for certain games to be exempt games and they are consequently not unlawful games even though they may be captured by the definition of an unlawful game at paragraph 7(1)(a) of the Act. Subsection 9(1) provides the meaning of ‘exempt game’ for the Act which includes any games declared by the ACT Gambling and Racing Commission (the Commission). Subsection 9(2) of the Act provides that the Commission may declare a game to be an exempt game.

This provision is intended to create certainty about a particular game where there may be some doubt if it falls under the general description. It also allows the declaration of common non-gambling games to be exempt where otherwise they may have inadvertently been captured by the general description.

The games described below are declared exempt, provided that nothing is risked or staked by a participant or someone else. This is to ensure that there is no unlawful gambling (through betting or wagering) either by the participants or someone else on the games.

The instrument also specifies that the payment of an entry fee and/or the awarding of a prize are not included within the concepts of “risking” or “staking” for the purposes of this instrument. For example, while arcade type games are generally exempt (including where prizes are offered to the highest point scorer) an arcade game where persons were betting on who would get the highest score would not be an exempt game.

Exempt games:

- (a) any game that is held in a tournament format provided that it is not a declared unlawful game under section 7(2) of the Act.

The aim of this provision is to allow common non-gambling games to be conducted in a tournament format in a public place. Examples include, but are not limited to, Monopoly, Scrabble, chess, Backgammon, war or strategy games and Mahjong.

‘Tournament format’ means a competition involving a game or games where entrants compete against each other until a winner is determined. Entry may be either via paying an entry fee to participate or some other means common to all the entrants, examples include a draw, membership or purchasing a product. Entrants may be teams or individual players. Prizes or some form of recognition may be awarded to the winner of the tournament. The structure of a tournament may vary and could consist of a number of rounds where entrants/competitors are knocked out until a winner is determined. Alternatively the winner may be determined by the accumulation of points resulting from the results of individual rounds. Each round may consist of the same game being played repeatedly or various games. A tournament may also comprise of a single round event where one round of a game is played to determine a winner, for example, the person with the highest pointscore.

- (b) games or activities ordinarily found at fairs, fetes or shows that are designed for recreational or entertainment purposes and that predominantly require skill to obtain any reward. Examples of non-gambling recreational type games include, but are not limited to, laughing clowns, shooting gallery, balloon pop, strong man and ball throwing competitions.
- (c) games commonly known as arcade and amusement games, including games known as ‘skill testers’. Examples include, but are not limited to, pin-ball, space invaders, machine-based car/bike racing, shooting/target games and pac-man.
- (d) Chocolate Wheel and any of its variants where the prizes are goods or services but not cash or cash equivalents. Chocolate Wheels are not accompanied by a betting layout or area. Persons purchase tickets and win a prize if their ticket number or symbol corresponds to the number of symbol that is the result or outcome of the relevant spin of the wheel.