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

**GAMING MACHINE (RED TAPE REDUCTION) AMENDMENT BILL 2014**

**EXPLANATORY STATEMENT**

**Presented by  
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## **GAMING MACHINE (RED TAPE REDUCTION) AMENDMENT BILL 2014**

### **INTRODUCTION**

The *Gaming Machine Act 2004* (the Act) regulates the licensing of gaming machine operators, venues and all gaming machines. For the purposes of the Act, the *Gambling and Racing Control Act 1999* (the Control Act) provides the overarching legislative framework for gambling in the Territory. The *Gaming Machine Regulations 2004* (the regulations) have also been made under the Act.

The Control Act established the ACT Gambling and Racing Commission (the Commission) with a governing board. The Commission has responsibility for administration of gaming laws and control, supervision and regulation of gaming in the Territory. The Commission must exercise its functions under section 7 of the Control Act in a way that best promotes the public interest, in particular, as far as practicable-

- (a) promotes consumer protection;
- (b) minimises the possibility of criminal or unethical activity; and
- (c) reduces the risks and costs, to the community and to the individuals concerned, of problem gambling.

### **OVERVIEW OF THE AMENDMENT BILL**

The Gaming Machine (Red Tape Reduction) Amendment Bill 2014 (the Bill) provides amendments for the Act to minimise unnecessary administrative and regulatory burdens imposed on licensed gaming machine operators. The Bill will repeal a number of functions, for example: the requirement to maintain machine access registers and approval for gaming machines attendants.

The Bill repeals those areas of the legislation where the robust regulatory framework for the gambling industry will not be compromised and regulatory intervention should not be maintained. The amendments do not fetter the Commission's ability to appropriately regulate the gambling industry and have been balanced with consideration to the legislative functions the Commission has mandated under section 7 of the Control Act (noted above).

The key elements of the amendment Bill are:

- providing amendments to authorised gaming areas to minimise the need for unnecessary administrative approvals when relocating gaming machines;
- clarifying that an amendment of a club constitution at the direction of the Commission may occur without an election of voting members;
- removing the requirement to maintain machine access registers and replacing with them with computer cabinets access registers;
- increasing licensing periods for technicians to three years;
- removing the requirement for the licensing of gaming machine attendants; and

- providing assistance to small clubs by redesigning the requirements for payment by licensees to the Problem Gambling Assistance Fund.

The amendments provide that gaming machine operations and the regulatory provisions are, where possible, consistent with other gambling and wagering laws in the Territory and where possible, in step with other Australian jurisdictions, particularly New South Wales.

No other legislation will be amended by this Bill.

#### **HUMAN RIGHTS IMPLICATIONS**

The Bill as a law of the Territory does not engage the *Human Rights Act 2004*.

## CLAUSE NOTES

### PART 1 PRELIMINARY

#### Clause 1 Name of Act

This clause is a formal provision setting out the name of the Act as the *Gaming Machine (Red Tape Reduction) Amendment Act 2014*.

#### Clause 2 Commencement

Subclause (1) provides that the Act will commence on the day after its notification day on the Legislation Register. Subclause (2) provides that new subsection 163A(6) and new section 163AA of the Act will not commence until 1 March 2015.

#### Clause 3 Legislation amended

This clause identifies that the *Gaming Machine Act 2004* (Act) will be amended. No other legislation will be amended by this Bill.

#### Clause 4 Initial Licence applications – contents - Section 11(2)(c), example 3

This clause omits the example number 3 in paragraph 11(2)(c) of the Act and is a consequential amendment as a result of the amendment to Division 4.6 of the Act – removal of the requirement for approving attendants.

#### Clause 5 Additional mandatory requirements for issue of licence – Section 13(2)

This clause amends section 13(2) of the Act to provide clarity to applicants on what the Commission must assess when considering whether a proposed gaming area is suitable. This clause should be read in conjunction with new section 22(1A) and amended section 25(3) at clause 7 and 8 of the Bill.

#### Clause 6 Eligibility of Individuals – Section 20(3)(d)(vii) and (viii)

This clause omits subparagraphs 20(3)(d)(vii) and 20(3)(d)(viii) of the Act and is a consequential amendment as a result of the amendment to Division 4.6 of the Act – removal of the requirement for approving attendants.

#### Clause 7 Licence amendment – applications – New section 22(1A)

This clause introduces a new section 22(1A). The amendment at clause 5 to the Bill clarifies for applicants of a gaming machine licence the matters that the Commission must assess when deciding whether to approve a gaming area. New section 22(1A) extends this concept by providing that moving a gaming machine from one part of a gaming area to another part does not require approval by the Commission. The policy position for this provision is to remove unnecessary regulatory requirements where there is no perceived regulatory benefit. Accordingly, if a licensee wishes to move gaming machines within the existing approved gaming

area, there is no need for the licensee to apply to the Commission for any type of additional approval or provide such information as drawings and plans depicting seating arrangements.

**Clause 8      Licence amendment decision – structural change amendment – Section 25(3)**

This clause amends existing section 25(3) of the Act and complements amendments made under clause 5 and clause 7. The amendment clarifies for applicants of a gaming machine licence the matters that the Commission must assess when deciding whether to approve a modified gaming area that is a structural in nature. A ‘structural’ change does not include the movement or relocation of gaming machines within an existing approved gaming area.

**Clause 9      Transfer of Licence – Section 32(3)(b)**

This clause removes the requirements for the prospective licensee to be given machine access registers and replaces this with a requirement to give computer cabinet access registers for gaming machines on transfer of a licence. Paragraph 32(3)(b) is consequential to the amendments made at clause 13.

**Clause 10      Current licensee obligations on proposed transfer of licence – Section 33(b)**

This clause removes the requirements for the current licensee to give the Commission machine access registers and replaces this with a requirement with to give computer cabinet access registers for gaming machines if the Commission proposes to transfer a licence. Subsection 32(b) is consequential to the amendments made at clause 13.

**Clause 11      Condition about club’s constitution – amendment if inconsistent with gaming laws – Section 53B(1)**

Clause 11 amends existing subsection 53B(1) to provide clarity that it is not the Commission amending a club’s constitution. Rather it is the Commission that may direct a club under section 148B to amend its constitution. The process for an amendment by a licensee may be as a result of an election of its voting members or without a vote by members.

**Clause 12      Part 6 heading**

This clause amends the heading to Part 6 to give effect to the policy position that attendants will no longer be approved under the Act.

**Clause 13      Section 71**

Clause 13 removes the regulatory requirement for the keeping of a machine access register which must be signed by an approved person every time a machine is opened. The removal of this requirement represents significant savings to the licensee in administrative requirements and resources due to the need to repetitively open gaming machines.

The machine access requirement has been replaced with a more appropriate regulatory action for the oversight of the computer cabinet. The computer cabinet is the integral piece of machinery that operates the gaming machine program and is sealed and securely housed within the gaming machine. Access is restricted to an approved supplier, approved technicians

and an authorised officer. The monitoring of the computer cabinet access is more appropriate than when a machine is accessed as the focus is on possible criminal behaviour by tampering with the program and the possible impacts on payouts to patrons. The requirement for the computer cabinet to be sealed has been retained and these provisions are strengthened by the requirement for official registers to be held to enable monitoring and enforcement activities. As access to computer cabinets is a limited occurrence the regulatory advantages gained by the removal of the machine access register requirements is still beneficial.

Subsection 71(1) requires that a licensee must keep a computer cabinet access register for each gaming machine held on the licensed premises. Subsection 71(2) makes it clear that only an approved supplier, approved technician and an authorised officer may open or replace a computer cabinet in a gaming machine. Paragraphs 71(2)(a) to 71(2)(g) detail what must be recorded in the computer cabinet access register. Paragraph 71(2)(h) provides that regulations may be made to further specify other information that may be required to be recorded in the register.

**Clause 14 Approval of technicians – Section 75(2)**

This clause increases licensing approvals for gaming machine technicians to three years from the existing period of two years. This policy position is consistent with the *Red Tape Reduction Amendment Act 2014* which increased other licensing periods for people employed in the gaming industry to three years.

**Clause 15 Division 6.4**

Division 6.4 provided the requirements for approving gaming machine attendants which is now obsolete with the removal of the requirements for machine access registers. There are no justifiable grounds for which the approval of gaming machine attendants should be retained, or where the integrity of the gaming machine industry is likely to be compromised. There is no foreseeable benefit for this level of regulatory intervention. However, at this stage the approval requirements for gaming machine technicians and suppliers have been retained. The amendment will also assist the Territory to be in step with New South Wales where there is no requirement for the regulation of attendants.

**Clause 16 Sealing computer cabinet – Section 123(1)(a)**

This clause amends section 123(1)(a) by clarifying that the existing provision requires the sealing of a computer cabinet must occur at all times and not just at installation.

**Clause 17 Machine access generally – Section 128(1) and (2)**

The removal of this offence provision is consequential to the amendments made at clause 13 and clause 15. Access to the gaming machines to account for, or to replace money in the machine, was a purpose that was originally restricted as a result of the requirement to detail all access to the gaming machine in the access register. As those provisions are being removed

access to the machine for the purposes of refills or accounting for the money will be the responsibility of the licensee.

**Clause 18 Required payment to problem gambling assistance fund – New section 163A(6)**

This amendment give effect to clause 19 to enable new section 163AA will apply to the requirements of subsection 163A(6) of the Act.

**Clause 19 New section 163AA**

This clause inserts a new provision in the Act that will allow licensees, on meeting certain criteria, to pay their liability to the problem gambling assistance fund on an annual basis. This will enable licensees to make one payment a year on an in arrears basis. The provision has been designed to allow a licensee to 'opt-in' to the ability to pay in arrears, however once that election is made and the new financial year occurs the licensee will be bound by that election for that financial year.

New subsection 163AA(1) makes it clear that the Commission must by 1 May each year asses a licensee's liability to pay into the problem gambling assistance fund (PGAF). The assessment period is the period beginning on 1 July in the previous year and ending on 31 March in the year the assessment is made. Subsection 163AA(2) provides that if the Commission determines that a licensee's liability is less than \$100.00 for each month over the assessment period a licensee is eligible to pay the amount of the liability annually in the following financial year. The Commission is to provide the licensee with a written notice advising that they may pay by an annual payment at the end of the next financial year.

*For example: Tim Club is a licensee. The Commission considers the amount Tim Club would be required to pay for the PGAF during the period 1 July 2014 to 31 March 2015. The Commission determines that Tim Club would on average be required to pay an average of \$25.00 per month. The Commission provides Tim Club with a notice advising that they may pay as an annual payment the liability for 2014 – 2015 financial year at the end of the next financial year(July 2016).*

Subsection 163AA(3) provides that a licensee may elect to make an annual payment in the next financial year to the PGAF in place of making monthly payments as required under 163A(5). Subsection 163AA(4) requires that the licensee must make an election in writing to the Commission before the commencement of the next financial year. If an election is made then under subsection 163AA(5) a licensee will not be able to make an annual payment for any month during that financial year.

*For example: Tim Club receives a notice from the Commission advising that the Club may elect to make an annual payment for the 2014-15 financial year at the end of the*

*2015-16 financial year. Tim Club advises the Commission before 1 July 2015 that it will elect to make the annual payment. Tim Club knows that they may not make a monthly payment during the 2015 – 2016 financial year.*

Subsection 163AA(6) provides that at the end of each financial year, the Commission must give to a licensee, that elects to make an annual payment, a written notice of reconciliation advising the amount of the licensee's liability for the financial year. Under subsection 163AA(7) the licensee must pay the financial year liability within 7 days after receiving the notice of reconciliation.

**Clause 20      Annual reporting about problem gambling assistance fund - New section 163C(ba)**

This clause places a requirement by the Commission to identify in the annual report the licensees who have elected to pay annually in areas to the PGAF. This provision has been inserted to enable the annual report to clearly reflect all payments and licensees that pay into the PGAF during each financial year.

**Clause 21      Reviewable decisions – Schedule 1, items 42 to 46**

This amendment gives effect of the removal of Division 6.4 of the Act at clause 15.

**Clause 22      Dictionary, definition of *approval certificate***

This amendment gives effect of the removal of Division 6.4 of the Act at clause 15.

**Clause 23      Dictionary, definition of *approved attendant***

This amendment is consequential as clause 15 removes the requirements for the approval of attendants.

**Clause 24      Dictionary, new definition of *computer cabinet access register***

This amendment is consequential as clause 13 inserts the requirements for computer cabinet access registers.

**Clause 25      Dictionary, definition of *machine access register***

This amendment is consequential as clause 13 removes the requirements for machine access registers.

**Clause 26      Dictionary, definition of *short-term approval***

This amendment gives effect of the removal of Division 6.4 of the Act at clause 15.