

2018

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

GAMING LEGISLATION AMENDMENT BILL 2018

GOVERNMENT AMENDMENTS

SUPPLEMENTARY EXPLANATORY STATEMENT

**Presented by
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Attorney-General**

Overview

This Supplementary Explanatory Statement outlines proposed amendments to the Gaming Legislation Amendment Bill 2018 (the Bill) to be moved by the Attorney-General.

These Government amendments are minor and technical amendments that correct errors, adjust the commencement or expiry of certain provisions to align with the Bill's intent, and make minor amendments to wording used.

This Supplementary Explanatory Statement should be read in the context of the Explanatory Statement that outlines the Bill as a whole, as tabled in the ACT Legislative Assembly.

Outline of Amendments

Amendment 1 **Clause 20**
Proposed new section 10A, definition of *voluntary surrender day*, paragraph (b)
Page 11, line 4

Clause 20 of the Bill inserts new section 10A in the *Gaming Machine Act 2004* to provide definitions for division 2A.2 (Voluntary surrenders). The definition of *voluntary surrender day* is included in this section.

This amendment omits the word 'Commission' in paragraph (b) of the definition of *voluntary surrender day*, and replaces it with the word 'Territory'.

The amendment ensures that the definition of *voluntary surrender day* aligns with the definition of *voluntary surrender agreement* in section 10C, which provides that an agreement is entered into between the Territory and a gaming machine licensee.

Amendment 2 **Clause 20**
Proposed new section 10J (2), except note
Page 17, line 17

New section 10J is part of division 2A.3 of the Bill that provides for the compulsory surrender of gaming machine authorisations to reach 4,000 by 2020, if required after the voluntary surrender stage established under division 2A.2.

New section 10J provides that the Minister (currently the Attorney-General) must make a determination that establishes the surrender obligation of licensees for each of two compulsory surrender days – the first compulsory surrender day on 1 April 2019 and the second compulsory surrender day on 30 April 2020.

Authorisations can only be surrendered in whole numbers and as a result, the surrender obligation for one of the compulsory surrender days may potentially exceed 10 per cent of the number of authorisations held on the census day (23 August 2018), but the aggregate surrender obligation across both surrender days is not to exceed 20 per cent of that number.

Section 10J(2) is being amended to better reflect the intent of this provision and clarify that the total surrender obligations for a licensee for both compulsory surrender days must not exceed 20 per cent of the authorisations held by the licensee in relation to the authorised premises on the census day.

Amendment 3 **Clause 20**
Proposed new section 10U
Page 25, line 14

New section 10U provides for the expiry of provisions in new part 2A.

Division 2A.2 (Voluntary surrenders) will expire on 1 April 2026, which provides licensees with seven years to access the offset amounts for land-related payments, fees and charges.

As part of the voluntary surrender incentives, licensees may elect to receive a ‘pokie-free’ bonus (25 per cent bonus on other incentives) for voluntarily surrendering a venue’s authorisation certificate. To receive the bonus a licensee must commit, as part of a voluntary surrender agreement, to maintain the venue as a community facility, available for use by members and guests, for a period of five years.

To support this commitment, new section 10G within division 2A.2 provides that such licensees are not eligible to apply for a new authorisation certificate, acquire an existing authorisation certificate from another licensee, or apply for an in-principle approval for an authorisation certificate during this five-year period.

At present, the restrictions under new section 10G expire on 1 April 2026 along with the remainder of division 2A.2. This is an error and amendment 3 revises section 10U to provide that the expiry date for new section 10G (only) is 1 April 2024, which is five years after the first compulsory surrender day.

Amendment 4 **Clause 26**
Page 27, line 1

Amendment 5 **Proposed new clause 26A**
Page 27, line 7

Clause 26 of the Bill currently provides for two new items to be added to the list of matters that must be included in a club's annual report as set out in section 54 of the Gaming Machine Act.

At present, both new sections 54 (e) and (f) commence on 1 July 2019 when the community contributions reforms commence. However, the regulation-making power in new section 54(f) is related to the amendments made by clause 109 of the Bill, which amend section 35 of the Regulation in relation to expired cashless gaming credits. As a result, this regulation-making power needs to commence at the same time as clause 109 (i.e. on the 7th day after notification).

To address this commencement issue, amendment 4 amends clause 26 so that it includes only the amendment relating to the reporting of the total value of any contributions made to registered parties and associated entities. This provision is being relocated from existing section 166(2)(d) of the Gaming Machine Act to section 54 of the Act as part of the community contributions reforms. As set out in clause 2(4) of the Bill, clause 26 will commence on 1 July 2019, along with the other community contributions reforms.

Amendment 5 moves the regulation-making power to new clause 26A. As set out in clause 2(6) of the Bill, the remaining provisions of the Bill commence on the 7th day after notification. Since clause 26A is not listed elsewhere in clause 2, new clause 26A is part of the 'remaining provisions' and will commence on the 7th day after notification.

While these changes to resolve the commencement issue have necessitated some renumbering of the new sections (former new section 54(e) is now new section 54(da); and former new section 54(f) is now new section 54(e)), the effect of the amendments has not changed.

Amendment 6 **Clause 71**
Proposed new section 166 (1), definition of *community purpose contribution*, paragraph (a) (ii)
Page 49, line 6

Section 163A(1) of the Gaming Machine Act establishes required payments to the Problem Gambling Assistance Fund (to be renamed the Gambling Harm Prevention and Mitigation Fund in line with amendments in the Bill). The required payment to the Fund under section 163A(1) is 0.75 per cent of gross gaming machine revenue.

Amendment 6 corrects an error in clause 71, new section 166(1) of the Bill to remove the reference to payments to the Fund required under section 163A(1) as an exclusion under the definition of *community purpose contribution*.

The intention of this amendment is to correct the error so that required payments to the Gambling Harm Prevention and Mitigation Fund under section 163A(1) can be counted as a community purpose contribution, as is currently the case under the existing community contributions scheme (see section 164 of the current Gaming Machine Act, definition of *contribution*, paragraph (b)(xvi)).

However, the new minimum community contribution to the Fund of 0.4 per cent of net gaming machine revenue, required under new section 167(1)(b), will not be able to be counted as part of a club's community purpose contributions.

Amendment 7 **Clause 109**
Proposed new section 35 heading
Page 67, line 13

Clause 109 of the Bill is part of amendments relating to expired cashless gaming credits.

Amendment 7 is a minor and technical amendment that modifies the heading of section 35 of the *Gaming Machine Regulation 2004* so that it more accurately reflects the provisions of the section and the power under which it is made, which is section 54 of the Gaming Machine Act. Section 54 of the Gaming Machine Act relates to club annual reports.

Amendment 8 **Clause 109**
Proposed new section 35
Page 67, line 14

Amendment 9 **Clause 109**
Proposed new section 35
Page 67, line 15

Amendment 10 **Clause 109**
Proposed new section 35(a)
Page 67, line 17

Amendment 11 **Clause 109**
Proposed new section 35(b)
Page 67, line 19

As noted above, clause 109 of the Bill is part of amendments relating to expired cashless gaming credits.

Amendments 8 to 11 are minor and technical amendments to ensure the wording used in section 35 of the Gaming Machine Regulation as amended by the Bill better reflects that the power under which that section is made (section 54 of the Gaming Machine Act) relates to club annual reports.