

2019

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

GAMING MACHINE AMENDMENT REGULATION 2019 (NO 2)

SL2019–22

EXPLANATORY STATEMENT

**Circulated by the authority of
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OVERVIEW

The *Gaming Machine Act 2004* (the Gaming Machine Act) and the *Gaming Machine Regulation 2004* (the Gaming Machine Regulation) regulate gaming machine operators, venues and gaming machines.

The ACT Government committed in the *Parliamentary Agreement for the 9th Legislative Assembly* to:

- review the current community contribution scheme to maximise the direct community benefit; and
- establish an independent charitable fund to distribute funds to charitable and community causes.

Following extensive consultation, reforms to the community contributions scheme were progressed through the *Gaming Legislation Amendment Act 2018* (the Amendment Act) and the *Gaming Legislation Amendment Regulation 2019 (No 1)*. The reforms, which commenced on 1 July 2019 include:

- an increase to the contribution rate for club licensees;
- a new mandatory minimum community contribution from hotel licensees;
- reforms to improve the effectiveness of the current scheme and enhance its community benefit by broadening the distribution of community contributions;
- increased transparency about contributions made and revised reporting arrangements; and
- a range of specific exclusions from the scheme.

Under the reforms that increase transparency and revise reporting arrangements, a club is no longer required to provide the ACT Gambling and Racing Commission (the Commission) with a separate report at the end of the financial year about their community contributions. Instead, a club's annual report is required to include detail about the community purpose contributions made during the reporting year. There is a long-standing requirement for financial information in annual reports to be audited.

The reforms also provide that a club's annual report, including its financial statements, must be published on the club's website to ensure that information on community purpose contributions is supported by context about club operations and revenues.

Section 54 (1) of the Gaming Machine Act provides that it is a condition of a licence for a club that the club's annual report for a financial year include information about a range of matters. Section 54 (1) (f) provides that other matters prescribed by regulation must be included in a club's annual report. Section 178 provides the regulation-making power for the Gaming Machine Act.

As a result of industry enquiries about the new requirements, this Amendment Regulation clarifies the reporting and publishing requirements for community purpose contributions for clubs with gross gaming machine revenue of \$200,000 or more per reporting year.

In line with long-standing arrangements for smaller clubs, clubs with gross gaming machine revenue under \$200,000 per reporting year are required to provide the Commission with a written statement of their community purpose contributions, attached to their certified income and expenditure statements. The statement must include the same information provided by larger clubs.

HUMAN RIGHTS IMPLICATIONS

The Regulation does not engage any human rights set out in the *Human Rights Act 2004* (HRA). The reporting and publishing requirements for community purpose contributions information in club annual reports apply only to club gaming machine licensees, and all club licensees operate within a corporate or incorporated association structure.

In relation to the right to privacy and reputation (section 12 HRA), the Gaming Machine Act provides that community purpose contribution information does not require the reporting or publication of an individual recipient's name.

REGULATORY IMPACT STATEMENT

Section 34 of the *Legislation Act 2001* requires the preparation of a Regulatory Impact Statement where a subordinate law is likely to impose appreciable costs on the community, or a part of the community.

Reforms to transparency and reporting requirements are part of changes to the scheme that were introduced by the Amendment Act last year. The requirement to include community purpose contributions information as part of third-party auditing of club financial information is offset by the removal of the requirement to provide a separate community contributions return to the Commission at the end of each financial year— which was a particular burden for clubs that prepare their annual reports on a non-standard financial year.

As noted above, this Amendment Regulation clarifies reporting and publishing requirements for community purpose contributions in club annual reports following industry uncertainty about new requirements under the community contributions reforms.

For this reason, a Regulatory Impact Statement has not been prepared for the Amendment Regulation.

NOTES ON CLAUSES

Clause 1 Name of regulation

Clause 1 is a formal provision setting out the name of the Amendment Regulation as the *Gaming Machine Amendment Regulation 2019 (No 2)*.

Clause 2 Commencement

Clause 2 provides the commencement date for the Amendment Regulation. The Amendment Regulation commences on the day after it is notified on the ACT Legislation Register.

Clause 3 – Legislation amended

Clause 3 provides that the Amendment Regulation amends the *Gaming Machine Regulation 2004* (the Regulation).

Clause 4 – New section 74A

Clause 4 inserts new section 74A into the Regulation. New section 74A applies to clubs with gross gaming machine revenue of \$200,000 or more for a reporting year.

New subsection 74A (1) clarifies that these clubs' annual reports must include:

- (a) a copy of the audited financial statements given to the Commission under the Act, section 158; and
- (b) an audited community purpose contribution statement.

New subsection 74A (2) defines the terms 'audited community purpose contribution statement' and 'qualified accountant' for the section.

'Audited community purpose contribution statement' means a statement that—

- (a) sets out the matters required to be included in the annual report under the Act, section 172 (1) (b) to (e) and (2); and
- (b) has been audited by a qualified accountant.

Under amendments made by the *Gaming Machine Amendment Act 2018*, section 172 (1) (b) to (e) of the Gaming Machine Act sets out the following matters that are required to be included as part of a club's annual report:

- (b) the net revenue of the licensee for the reporting year; and
- (c) the total value of community purpose contributions made by the licensee during the reporting year; and
- (d) the percentage of the licensee's net revenue for the reporting year that was paid as a community purpose contribution; and

- (e) the contribution information (other than the name of an individual who is a recipient) for each community purpose contribution made by the licensee during the reporting year.

(Note that reporting on the club's gross gaming machine revenue is provided for under section 158 (1) (a) (ii)).

Under section 172 (2) of the Gaming Machine Act, for subsection 172 (1) (d) of the Act, the annual report must set out the percentage of the licensee's net revenue for the reporting year that was made for each of the following:

- (a) supporting a charitable cause;
- (b) providing recreation opportunities;
- (c) providing education opportunities;
- (d) improving social inclusion, equality or cultural diversity;
- (e) benefitting or increasing participation in community sport;
- (f) preventing or mitigating harm caused by drug or alcohol misuse or dependence;
- (g) benefitting or increasing participation in women's sport conducted in the ACT, or with participants mainly based in the ACT;
- (h) providing relief or assistance to people living in Australia following a natural disaster;
- (i) a purpose prescribed by regulation for section 166 (1), definition of **community purpose**, paragraph (d).

New section 74A (2) includes a signpost to the definition of 'qualified accountant' in the Gaming Machine Act, section 158 (3) meaning:

- (a) a member of the Institute of Chartered Accountants in Australia, the Institute of Public Accountants or the Australian Society of Certified Practising Accountants; or
- (b) a person registered as a registered company auditor under the *Corporations Act 2001* (Cth).