

Australian Capital Territory

Gaming Machine (Determination of Surrender Obligations) Guidelines 2025 (No 1)

Disallowable instrument DI2025–2

made under the

Gaming Machine Act 2004, section 10L (Guidelines for assessment etc)

EXPLANATORY STATEMENT

This instrument is the *Gaming Machine (Determination of Surrender Obligations) Guidelines 2025 (No 1)*.

The *Gaming Machine Act 2004*, division 2A.3, establishes a scheme providing for the compulsory surrender of gaming machine authorisations by gaming machine licensees to reduce the cap on authorisations in the ACT to a target of 3 500 authorisations by 1 July 2025. The scheme is supported by a government offer made to allow these licensees to surrender authorisations on a voluntary basis in exchange for a financial incentive.

The Act requires the Minister to assess the surrender obligation of each licensee proportionally based on the number of authorisations held by a licensee for an authorised premises on the ‘census day’, being a day determined by the Minister by notifiable instrument. The Minister must make an assessment by 1 June 2025.

The Act provides broad rules governing the Minister’s assessment of the surrender obligation of each licensee and authorises the Minister to make guidelines by disallowable instrument regarding the making of an assessment of the surrender obligation of each licensee. The Minister’s guidelines are made by the instrument and included at Schedule 1.

As at the census day the reduction in authorisations required to achieve the target of 3,500 authorisations is the ‘target reduction’.

Schedule 1, part 3, details the proportional determination of the surrender obligation of each licensee on the census day. The surrender obligation of each licensee is the sum of the surrender obligation for each of a licensee’s authorised premises. The guidelines describe the calculation of the surrender obligation for each authorised premises. The target reduction is allocated to each authorised premises proportionally by the ratio of authorisations held for a premises to the total of authorisations held for all authorises premises holding 20 or more authorisations.

Consistent with the intent of the scheme and voluntary surrender financial incentive, the guidelines contemplate that the Minister will make an initial surrender obligation

assessment well prior to 1 June 2025 and while the financial incentive is open to receive voluntary surrender applications from licensees. This allows licensees to inform their decision-making about meeting their future surrender obligation in advance, for example by taking up the government offer of voluntary surrender in exchange for a financial incentive.

While licensees that hold fewer than 20 authorisations on the census day are exempt from the surrender obligation ('exempt licensees'), these licensees may nonetheless access the government financial incentive for voluntary surrender of authorisations. Where this occurs prior to the closure of the incentive offer on 1 May 2025 ('adjusting day') the target reduction and therefore the surrender obligation of all licensees will reduce.

The guidelines manage the involvement of exempt licensees in the voluntary surrender offer by exempting each *authorised premises* for which a licensee, including an exempt licensee, holds fewer than 20 authorisations on the census day when determining the proportional surrender obligation of each licensee.

Additionally, the Minister is required to adjust the surrender obligation of each licensee to reduce any authorisations voluntarily surrendered or forfeited between the census day and adjusting day.

Schedule 1, part 4, details the process through which the census day surrender obligation of each licensee is adjusted consistent with the Act and the following principles:

- Voluntary surrender of authorisations by an exempt licensee reduces the adjusting day target reduction and thereby the proportional determination of each non-exempt licensee's adjusting day surrender obligation. Cancellation of authorisations for any authorisations are treated in the same way.
- Voluntary surrender of authorisations by a non-exempt licensee reduces the adjusting day surrender obligation of that licensee only. Where a non-exempt licensee fulfils their census day surrender obligation, their adjusting day surrender obligation is zero and the licensee is treated as an exempt licensee.
- If the trading scheme brings about forfeiture of authorisations by an acquiring licensee with a census day surrender obligation it reduces the adjusting day surrender obligation of that licensee only.
- Where the authorisations held for an authorised premise changed after the census day due to acquisition or disposal of authorisations through the trading scheme the proportional determination of the surrender obligation of affected licensees is revised to reflect the number of authorisations held on the adjusting day.

The adjusting treatment of voluntary surrender of authorisations by an exempt licensee is intended to provide fairness by reducing the proportional surrender obligation of all non-exempt licensees.

Cancelled authorisations that do not arise from voluntary surrender are the result of disciplinary action under the Act. The penalty intended by cancellation of authorisations in these circumstances would be undermined if this reduction in authorisations was counted towards the surrender obligation of the relevant licensee

only. The adjusting treatment in these circumstances is intended to provide fairness to all licensees.

The adjusting treatment of authorisations forfeited through the trading scheme is intended to recognise the financial contribution of the acquiring licensee towards the target reduction of authorisations. However, this is balanced against the government's intent that all licensees reduce their reliance on revenue derived from gaming machines. For this reason, the adjusting day surrender obligation of a licensee disposing authorisations is reduced, and of an acquiring licensee increased, in proportion to the change in the number of authorisations held by the respective licensees.