

NORTHERN TERRITORY OF AUSTRALIA
GAMING MACHINE AMENDMENT ACT 2004

Act No. 45 of 2004

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NORTHERN TERRITORY OF AUSTRALIA

Act No. 45 of 2004

AN ACT

to amend the *Gaming Machine Act*

[Assented to 14 July 2004]
[Second reading 20 May 2004]

The Legislative Assembly of the Northern Territory enacts as follows:

1. Short title

This Act may be cited as the *Gaming Machine Amendment Act 2004*.

2. Commencement

This Act comes into operation on the date fixed by the Administrator by notice in the *Gazette*.

3. Principal Act

The *Gaming Machine Act* is in this Act referred to as the Principal Act.

4. Repeal and substitution of section 2A

Section 2A of the Principal Act is repealed and the following substituted:

"2A. Objects

"The objects of this Act are –

- (a) to promote probity and integrity in gaming;

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- (b) to maintain the probity and integrity of persons engaged in gaming in the Territory;
- (c) to promote fairness, integrity and efficiency in the operations of persons engaged in gaming in the Territory;
- (d) to reduce any adverse social impact of gaming; and
- (e) to promote a balanced contribution by the gaming industry to general community benefit and amenity."

5. Definitions

Section 3 of the Principal Act is amended –

- (a) by omitting the definition of "club liquor licence" and substituting the following:

" 'club liquor licence' means a licence granted under the *Liquor Act* to a body corporate –

- (a) where the primary activity conducted on or at the premises specified in the licence is the sale and consumption of liquor on or at those premises by members and guests of the body corporate; and
- (b) that is endorsed with the words 'AUTHORITY – CLUB'; and

- (b) by omitting the definition of "hotel liquor licence" and substituting the following:

" 'hotel liquor licence' means a licence granted under the *Liquor Act* –

- (a) where the primary activity conducted on or at the premises specified in the licence is the sale and consumption of liquor on or at those premises; and
- (b) that is endorsed with the words 'AUTHORITY – PUBLIC HOTEL' or 'AUTHORITY – TAVERN';".

6. Powers and functions of Commission

Section 17 of the Principal Act is amended by inserting at the end the following:

"(3) The following principles are to be considered when the Commission is performing its functions:

- (a) minimum regulatory intervention by government;

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- (b) maximum cooperation between industry and government;
- (c) performance-based risk management controls;
- (d) proactive and competitive industry positioning;
- (e) long term viability of the gaming industry;
- (f) a balanced approach to problem gambling."

7. Secrecy

Section 22 of the Principal Act is amended by inserting after subsection (2)(b)(ii) the following:

- "(iia) a person who is employed to administer a law in force in another country that regulates the operations of casinos or gaming in that country;"

8. New section 24A

The Principal Act is amended by inserting after section 24 the following:

"24A. Notice of application

"(1) An applicant for a gaming machine licence must, within 28 days of lodging the application, publish a notice that the application has been made –

- (a) in a newspaper or newspapers nominated by the Director; and
- (b) in any other manner the Director considers suitable to publicise the application.

"(2) The notice must –

- (a) include a description in sufficient detail to identify the location of the premises to which the application relates;
- (b) contain details of the number of gaming machines applied for;
- (c) contain details of where community impact information may be obtained;
- (d) contain a statement that a person may make a written submission to the Director on the application within 30 days of the notice being first published in a newspaper;
- (e) contain any other particulars determined by the Director; and
- (f) be not less than a size determined by the Director."

9. Consideration of application

Section 25 of the Principal Act is amended –

- (a) by omitting from subsection (1) "or as required by the Commission";
- (b) by omitting subsections (2) and (3) and substituting the following:

"(2) The Director must forward to the Commission the results of an investigation initiated under subsection (1) as soon as practicable after the investigation is completed.

"(3) The Commission must consider the application and anything accompanying it together with the results of investigations made under subsection (1) and any submissions received under section 24A and make an assessment of –

- (a) the suitability of the premises to which the application relates having regard to the size, layout and facilities of the premises;
- (b) the suitability of the premises to which the application relates having regard to the primary activity conducted at the premises;
- (c) the suitability of the location to which the application relates having regard to the population of the local area, the proximity of the premises to other gaming venues and the proximity of the premises to sensitive areas such as schools, shopping centres, other community congregation facilities, welfare agencies, banks and pawn brokers;
- (d) the appropriateness of problem gambling risk management and responsible gambling strategies;
- (e) economic impact of the proposal including contribution to the community, employment creation and significance or reliance of the venue to or on tourism;
- (f) if the applicant is a natural person – the financial stability, general reputation and character of the applicant;
- (g) if the applicant is a body corporate – the business reputation and financial stability of the body corporate and the general reputation and character of the secretary and executive officers of the body corporate;
- (h) if the applicant is a federation of clubs – the business reputation and financial stability of each constituent club and the general reputation and character of the secretary and executive officers of each constituent club;

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- (i) whether the applicant is a fit and proper person to hold a licence;
 - (j) if a person is referred to in the affidavit under section 44 – whether that person is a fit and proper person to be an associate of a licensee;
 - (k) if the Commission considers it appropriate – whether any other associate of the applicant is a fit and proper person to be an associate of a licensee; and
 - (l) any other matter that the Commission considers necessary."; and
- (c) by omitting from subsection (3A) "the suitability of an applicant" and substituting "whether an applicant is a fit and proper person".

10. Community contribution by clubs

Section 36 of the Principal Act is amended by inserting after subsection (1) the following:

"(1A) The guidelines may specify the following:

- (a) how the contribution is to be calculated;
- (b) the type and nature of contributions that are of benefit to the community;
- (c) the reporting, accountability and acquittal process that a licensee must use;
- (d) the minimum rate of contribution."

11. Increase in gaming machines

Section 41 of the Principal Act is amended –

- (a) by inserting after subsection (2)(ca) the following:

"(cb) if section 41A applies – must be accompanied by a community impact analysis;"; and

- (b) by inserting after subsection (4)(a) the following:

"(b) if section 41A applies – the community impact analysis;

(ba) if section 41B applies – any submissions received under the section;".

12. New sections 41A and 41B

The Principal Act is amended by inserting after section 41 the following:

"41A. Community impact analysis

"(1) An application under section 41 must be accompanied by a community impact analysis if –

- (a) the increased number of gaming machines sought to be authorised for use under the licence is 5 machines or more;
- (b) the guidelines published by the Director under section 161A require the application to be accompanied by a community impact analysis; or
- (c) the Director requires the application to be accompanied by a community impact analysis.

"(2) A community impact analysis must be in the form approved by the Commission and must provide the following details:

- (a) the suitability of the premises to which the application relates having regard to the size, layout and facilities of the premises;
- (b) the suitability of the premises to which the application relates having regard to the primary activity conducted at the premises;
- (c) the suitability of the location to which the application relates having regard to the population of the local area, the proximity of the premises to other gaming venues and the proximity of the premises to sensitive areas such as schools, shopping centres, other community congregation facilities, welfare agencies, banks and pawn brokers;
- (d) the appropriateness of problem gambling risk management and responsible gambling strategies;
- (e) economic impact of the proposal including contribution to the community, employment creation and significance or reliance of the venue to or on tourism.

"41B. Notice of application

"(1) If section 41A applies, the licensee must, within 28 days of lodging the application under section 41, publish a notice that the application has been made –

- (a) in a newspaper or newspapers nominated by the Director; and

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(b) in any other manner the Director considers suitable to publicise the application.

"(2) The notice must –

(a) include a description in sufficient detail to identify the location of the premises to which the application relates;

(b) contain details of the increased number of gaming machines sought to be authorised for use under the licence;

(c) contain details of where community impact information may be obtained;

(d) contain a statement that a person may make a written submission to the Director on the application within 30 days of the notice being first published in a newspaper;

(e) contain any other particulars determined by the Director; and

(f) be not less than a size determined by the Director."

13. Investigation of licensees and associates

Section 45 of the Principal Act is amended by omitting from subsection (1) "suitable" and substituting "fit and proper".

14. Cancellation, suspension etc. of gaming machine licences

Section 49 of the Principal Act is amended –

(a) by omitting from subsection (1)(c)(v)(M) "gaming; or" and substituting "gaming;";

(b) by omitting from subsection (1)(c)(vi) "premises." and substituting "premises; or"; and

(c) by inserting after subsection (1)(c)(vi) the following:

"(vii) considers that the financial circumstances of the licensee have changed since the granting of the licence and that the licensee is no longer financially viable."

15. Consideration of application

Section 64 of the Principal Act is amended –

(a) by omitting from subsection (1)(c)(iii) "the suitability of that person" and substituting "whether that person is a fit and proper person";

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- (b) by omitting from subsection (1)(c)(iv) "the suitability of any other associate of the applicant" and substituting "whether any other associate of the applicant is a fit and proper person";
- (c) by omitting from subsection (1)(c)(v) "the suitability of the applicant" and substituting "whether the applicant is a fit and proper person";
- (d) by omitting from subsection (2)(b) "18 years; or" and substituting "18 years;";
- (e) by omitting from subsection (2)(c) "subsection (3)." and substituting "subsection (3); or"; and
- (f) by inserting after subsection (2)(c) the following:
 - "(d) subject to the *Criminal Records (Spent Convictions) Act* – the applicant has been found guilty of an offence –
 - (i) involving dishonesty since he or she attained the age of 18 years;
 - (ii) against this Act; or
 - (iii) that is punishable, on conviction, by a maximum penalty of not less than 5 years imprisonment."

16. Investigation of holder of licence and associates

Section 75 of the Principal Act is amended by omitting from subsection (1) "suitable" and substituting "fit and proper".

17. Investigation of suitability of listed persons

Section 118 of the Principal Act is amended by omitting from subsection (1) "suitable" and substituting "fit and proper".

18. Audit of accounts

Section 146 of the Principal Act is amended –

- (a) by omitting subsection (2)(a) and substituting the following:
 - "(a) prepare, or cause to be prepared, a statement of income and expenditure, a statement of financial position and a statement of cash flow that also identifies receipts, payments and all accounts relating to gaming on the licensee's licensed premises during the year; and";
- (b) by omitting from subsection (3)(a) "of receipts and payments for gaming and the conduct of" and substituting "of income and expenditure, a

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statement of financial position and a statement of cash flow that also identifies receipts, payments and all accounts relating to";

- (c) by omitting subsections (4) and (5);
- (d) by omitting from subsection (6) "it shall also submit –" and substituting "it must include in the statement of receipts and payments prepared under subsection (2)(a) or (3)(a) –"; and
- (e) by omitting subsection (6)(b) and substituting the following:
 - "(b) a statement detailing the club's contributions to the community, including the identity of recipients and the amounts dispersed;"

19. New section 193A

The Principal Act is amended by inserting after section 193 the following:

"193A. Codes of practice

"(1) For the purpose of providing practical guidance to persons granted licences under this Act on any matter relating to this Act, the Minister may, by notice in the *Gazette*, approve a code of practice.

"(2) A code of practice may consist of a code, standard, rule, specification or provision relating to matters in this Act formulated, prepared or adopted by the Minister and may apply, incorporate or refer to a document formulated or published by a body or authority as in force at the time the code of practice is approved or as amended, formulated or published from time to time.

"(3) A notice under subsection (1) must indicate where a copy of the code of practice to which it relates, and all documents incorporated or referred to in the code, may be inspected by members of the public and the times during which they may be inspected.

"(4) A person who is the holder of a licence granted under this Act must not contravene or fail to comply with a code of practice approved under this section.

Penalty: \$10 000 or imprisonment for 2 years."
