

NORTHERN TERRITORY OF AUSTRALIA

GAMING AND LIQUOR LEGISLATION AMENDMENT ACT 2015

Act No. 19 of 2015

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NORTHERN TERRITORY OF AUSTRALIA

Act No. 19 of 2015

An Act to amend the *Gaming Machine Act*, *Liquor Act* and *Liquor Regulations*

[Assented to 23 June 2015]
[Second reading 29 April 2015]

The Legislative Assembly of the Northern Territory enacts as follows:

Part 1 Preliminary matters

1 Short title

This Act may be cited as the *Gaming and Liquor Legislation Amendment Act 2015*.

2 Commencement

This Act commences on the day fixed by the Administrator by *Gazette* notice.

Part 2 Amendment of Gaming Machine Act

3 Act amended

This Part amends the *Gaming Machine Act*.

4 Section 3 amended

Section 3

insert (in alphabetical order)

current premises, for Part 3, Division 6, see section 42B(1).

Liquor Act application:

(a) for Part 3, Division 3, see section 37C(2); and

(b) for Part 3, Division 6, see section 42B(3).

new premises, for Part 3, Division 6, see section 42B(1).

proposed transferee, for Part 3, Division 3, see section 37.

substitution application, for Part 3, Division 6, see section 42A.

transfer application, for Part 3, Division 3, see section 37C(1).

transferable licence, for Part 3, Division 3, see section 37.

5 Part 3, Division 1 heading inserted

After Part 3 heading

insert

Division 1 Licensed gaming lawful**6 Part 3, Division 2 heading inserted**

After section 23

insert

Division 2 Gaming machine licences**7 Sections 37 to 40 replaced**

Sections 37 to 40

repeal, insert

Division 3 Transfer of licences**37 Definitions**

In this Division:

Liquor Act application, see section 37C(2).

proposed transferee, in relation to the transfer of a transferable licence, means the person to whom it is proposed to transfer the licence.

transfer application, see section 37C(1).

transferable licence means a gaming machine licence in respect of premises that are:

- (a) premises for which a hotel liquor licence is in force; or
- (b) premises for which a liquor licence that is a prescribed liquor licence for section 24(1)(c) is in force.

37A Gaming machine licence held by club cannot be transferred

A gaming machine licence that is not a transferable licence cannot be transferred to another person.

37B Transfer of gaming machine licence for hotels etc.

A transferable licence may be transferred from the licensee to another person if the transfer is authorised by the Director-General under this Division.

37C Application for transfer of gaming machine licence

- (1) An application for the transfer of a transferable licence (a **transfer application**) must:
 - (a) be made to the Director-General by the proposed transferee; and
 - (b) be in the form determined by the Director-General; and
 - (c) include or be accompanied by the information and material mentioned in section 38(1); and
 - (d) be signed or executed in the manner described in section 24(3)(b); and
 - (e) be accompanied by the prescribed fee.
- (2) A transfer application cannot be made unless an application under section 40 of the *Liquor Act* for the transfer of the licensee's liquor licence to the proposed transferee (the **Liquor Act application**):
 - (a) has been made and has not been refused by the Director-General; or
 - (b) is made at the same time as the transfer application.

38 Information and material

- (1) A transfer application must include or be accompanied by the following:
 - (a) a copy of the *Liquor Act* application or evidence that it has been made;
 - (b) the information or material mentioned in section 24(3)(c), (d), (j) and (ka);
 - (c) a community impact analysis if required by section 38A;
 - (d) details of the proposed transferee's problem gambling risk management and responsible gambling strategies;
 - (e) an affidavit under section 44;
 - (f) any other information or material required by the Director-General.
- (2) The Director-General may require the applicant, or an associate of the applicant, to submit any additional information or material the Director-General considers is necessary in order to determine the transfer application.
- (3) Section 27(1) applies in relation to the applicant as if the transfer application were an application for a licence.

38A Community impact analysis

- (1) A transfer application must be accompanied by a community impact analysis if:
 - (a) the guidelines published by the Director-General under section 161A require the application to be accompanied by a community impact analysis; or
 - (b) the Director-General requires the application to be accompanied by a community impact analysis.
- (2) A community impact analysis must be in the form approved by the Director-General and must provide the following details:
 - (a) the appropriateness of problem gambling risk management and responsible gambling strategies;
 - (b) economic impact of the proposal including contribution to the community, employment creation and significance or reliance of the venue to or on tourism.

38B Consideration of transfer application

- (1) For the purpose of considering a transfer application, the Director-General may initiate and have followed through the investigations the Director-General considers are necessary.
- (2) In considering the application the Director-General must have regard to:
 - (a) the matters mentioned in section 25(3)(d) to (g) and (i) to (k); and
 - (b) any matters prescribed for section 25(3A); and
 - (c) the community impact analysis if required by section 38A; and
 - (d) any other matters the Director-General considers relevant.

38C Relationship with *Liquor Act* application

- (1) The Director-General must not determine a transfer application until the applicant's *Liquor Act* application has been determined.
- (2) If the *Liquor Act* application is refused, the Director-General must:
 - (a) if the applicant applies to the Civil and Administrative Tribunal under section 120ZC of the *Liquor Act* for a review of the decision – defer consideration of the transfer application until the review, and any subsequent appeal, has been completed; or
 - (b) if the time allowed for applying for a review expires and the applicant has not applied for a review – refuse the transfer application.

39 Transferee or executive officers must be at least 18 years of age

The Director-General must refuse a transfer application:

- (a) if the proposed transferee is an individual and has not attained the age of 18 years; or
- (b) if the proposed transferee is a body corporate and the secretary or any executive officer of the body corporate has not attained the age of 18 years.

39A Determination of transfer application

- (1) After considering a transfer application the Director-General must:
 - (a) grant the application and authorise the transfer of the licence;
or
 - (b) refuse the application.
- (2) As soon as practicable after making the decision, the Director-General must give the applicant written notice of:
 - (a) the decision; and
 - (b) if the application is refused, the reasons for the refusal.
- (3) If the Director-General authorises the transfer of the licence, the Director-General must issue to the applicant a replacement licence updated to show:
 - (a) the applicant as the licensee; and
 - (b) the date on which the transfer takes effect; and
 - (c) the conditions imposed under section 33(1)(b); and
 - (d) any other changes made to the terms and conditions of the licence.
- (4) The replacement licence must comply with section 28 and include the schedule mentioned in section 29 updated as necessary.

Note for section 39A

When determining an application under this Division, the Director-General may also exercise any of the Director-General's other powers in relation to the licence including, for example, the power under section 34 to impose or vary conditions and the powers under Part 3, Division 3 to change the number of gaming machines authorised for use under the licence.

39B Effect of transfer

- (1) If the Director-General authorises the transfer of a transferable licence, on the date specified in the replacement licence under section 39A(3)(b):
 - (a) the proposed transferee becomes the licensee; and
 - (b) any other changes mentioned in section 39A(3)(d) take effect.

- (2) The transfer of the licence does not affect the liability of the former licensee in relation to anything that occurred before the transfer date.
- (3) The former licensee must deliver the former licensee's licence to the Director-General not later than 14 days after the transfer takes effect.

Maximum penalty: 40 penalty units.

Division 4 Alteration of gaming machines

8 Part 3, Division 5 heading inserted

After section 40A

insert

Division 5 Number of gaming machines

9 Section 42 amended

Section 42(4)(a)(i), after "subsection (3)"

insert

(b) or (c)

10 Part 3, Division 6 inserted

After section 42

insert

Division 6 Substitution of premises or change to gaming machine areas

42A Definitions

In this Division:

current premises, see section 42B(1).

Liquor Act application, see section 42B(3).

new premises, see section 42B(1).

substitution application means an application under section 42B(1).

42B Application for transfer of gaming machine licence

- (1) A licensee may apply to have other premises (the ***new premises***) substituted for the premises specified in the licence (the ***current premises***) as the premises on which the licensee is licensed to conduct gaming.
- (2) The application must:
 - (a) be made to the Director-General in the form determined by the Director-General; and
 - (b) include or be accompanied by the information and material mentioned in section 42C; and
 - (c) be signed or executed in the manner described in section 24(3)(b); and
 - (d) be accompanied by the prescribed fee.
- (3) A substitution application cannot be made unless an application under section 46A of the *Liquor Act* for the substitution of the new premises for the current premises in the applicant's liquor licence for the current premises (the ***Liquor Act application***):
 - (a) has been made and has not been refused by the Director-General; or
 - (b) is made at the same time as the substitution application.
- (4) Before making a substitution application the applicant must comply with section 24A as if the substitution application were an application for a licence for the new premises.

42C Information and material

- (1) A substitution application must include or be accompanied by the following:
 - (a) a copy of the *Liquor Act* application or evidence that it has been made;
 - (b) the information or material mentioned in section 24(3)(d)(iii), (e), (g), (j), (ka) and (ma);
 - (c) a statutory declaration as mentioned in section 24(3)(h) (read as if subparagraph (i) had been amended to read "that the proposed locations referred to in paragraph (g) are within the new premises");

- (d) a statement of the number of gaming machines that the applicant seeks to have authorised for use under the licence at the new premises (being not more than the number authorised for use under the licence at the time the application is made);
 - (e) a community impact analysis, subject to section 42D(2);
 - (f) details of the applicant's problem gambling risk management and responsible gambling strategies for the new premises;
 - (g) any other information or material required by the Director-General.
- (2) The Director-General may require the applicant, or an associate of the applicant, to submit any additional information or material the Director-General considers is necessary in order to determine the substitution application.
- (3) Section 27(1) applies in relation to the applicant as if the substitution application were an application for a licence.

42D Community impact analysis

- (1) A community impact analysis for a substitution application must be in the form approved by the Director-General and must provide the following details:
- (a) the suitability of the new premises having regard to the size, layout and facilities of the premises;
 - (b) the suitability of the new premises having regard to the primary activity conducted at the premises;
 - (c) the suitability of the new premises 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.

- (2) The Director-General may exempt an applicant from the requirement to provide a community impact analysis if satisfied that:
 - (a) the impact on the community of the new premises being licensed premises will be substantially similar to the impact of the current premises being licensed premises; or
 - (b) there are exceptional circumstances that make it appropriate to not require a community impact analysis.

42E Consideration of substitution application

- (1) For the purpose of considering a substitution application, the Director-General may initiate and have followed through the investigations the Director-General considers are necessary.
- (2) In considering the application the Director-General must have regard to:
 - (a) the matters mentioned in section 25(3)(a) to (e); and
 - (b) the community impact analysis, unless exempted under section 42D(2); and
 - (c) any submissions received in response to the notice required under section 42B(4); and
 - (d) in relation to the number of gaming machines to be authorised for use under the licence at the new premises:
 - (i) the matters mentioned in section 25(13); and
 - (ii) any submission made under section 42G(1)(b); and
 - (e) any other matters the Director-General considers relevant.
- (3) Section 25(4), (5), (9)(c), (10) and (11) apply in relation to the substitution application as if it were an application for a license.

42F Relationship with *Liquor Act* application

- (1) The Director-General must not determine a substitution application until the applicant's *Liquor Act* application has been determined.
- (2) If the *Liquor Act* application is refused, the Director-General must:
 - (a) if the applicant applies to the Civil and Administrative Tribunal under section 120ZC of the *Liquor Act* for a review of the decision – defer consideration of the substitution application until the review, and any subsequent appeal, has been completed; or

- (b) if the time allowed for applying for a review expires and the applicant has not applied for a review – refuse the substitution application.

42G Decrease in number of gaming machines

- (1) If the Director-General proposes to determine a substitution application as mentioned in section 42H(1)(b), before doing so the Director-General must:
 - (a) advise the applicant by written notice of the proposal; and
 - (b) invite the applicant to make a submission with respect to the proposal within the time as is specified in the notice.
- (2) If a substitution application is granted and the number of machines authorised for use under the licence at the new premises is less than the number authorised immediately before the application was granted, section 42(5) and (6) apply as if the decrease in the number of machines had been effected by a determination under section 42(1).

42H Determination of substitution application

- (1) After considering a substitution application the Director-General must:
 - (a) grant the application and authorise the substitution of premises with the licence authorising for use the number of gaming machines specified in the application; or
 - (b) grant the application and authorise the substitution of premises with the licence authorising for use a number of gaming machines less than that specified in the application; or
 - (c) refuse the application.
- (2) As soon as practicable after making the decision, the Director-General must give the applicant written notice of:
 - (a) the decision; and
 - (b) if the application is granted under subsection (1)(b) or refused – the reasons for the decision.
- (3) If the Director-General authorises the substitution of premises, the Director-General must issue to the applicant a replacement licence updated to show:
 - (a) the new premises as the licenced premises; and

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- (b) the date on which the substitution of premises takes effect; and
 - (c) any other changes made to the terms and conditions of the licence.
- (4) The replacement licence must comply with section 28 and include the schedule mentioned in section 29 updated as necessary.

Note for section 42H

When determining an application under this Division, the Director-General may also exercise any of the Director-General's other powers in relation to the licence including, for example, the power under section 34 to impose or vary conditions and the powers under Part 3, Division 3 to change the number of gaming machines authorised for use under the licence.

42J Effect of substitution

- (1) If the Director-General authorises the substitution of premises, on the date specified in the replacement licence under section 42H(3)(b):
- (a) the new premises becomes the premises on which the licensee is licensed to conduct gaming; and
 - (b) any other changes mentioned in section 42H(3)(c) take effect.
- (2) The applicant must deliver the applicant's former licence to the Director-General not later than 14 days after the substitution of premises takes effect.

Maximum penalty: 40 penalty units.

11 Part 3, Division 7 heading inserted

After section 43

insert

Division 7 Licensees, associates, beneficial parties etc.

12 Section 44 amended

Section 44(1), after "application for"

insert

, or for the transfer of,

13 Section 46 amended

Section 46, after "section 24"

insert

or 37C

14 Part 3, Division 8 heading inserted

After section 46

insert

Division 8 Surrender, suspension and cancellation

15 Section 49 amended

Section 49(1)(c)(iv)

omit

all words from "was" to "refused"

insert

, or for the transfer of the licence to the licensee, was being considered, may have resulted in the application being refused

16 Part 3, Division 9 heading inserted

After section 52

insert

Division 9 Miscellaneous matters

17 Section 174 amended

Section 174(3), after "applicant for"

insert

, or for the transfer of,

18 Section 190 amended

- (1) Section 190(a) and (b)

omit

a licence under Part 3 or 4

insert

, or for the transfer of, a licence under Part 3 or for a licence under Part 4

- (2) Section 190(e)

omit

all words from "25(8)," to "130(3)"

insert

25(6), 38(2), 42C(2), 45(2), 64(3), 75(2), 118(2) or 131(3)

19 Schedule amended

Schedule

insert (in numerical order)

39A Decision to grant or refuse application

42H Decision to grant or refuse application

Part 3 Amendment of Liquor Act**20 Act amended**

This Part amends the *Liquor Act*.

21 Section 32A amended

- (1) After section 32A(1)

insert

- (1A) Despite subsection (1), an application can not be made by the holder of a store licence for a variation of the conditions of the store licence that would have the effect of permitting the sale of liquor for consumption away from the premises on a day on which that is not permitted under the licence as in force immediately before the

commencement.

(2) Section 32A(10)

insert (in alphabetical order)

commencement means the commencement of the *Gaming and Liquor Legislation Amendment Act 2015*.

store licence means a licence that authorises the sale of liquor for removal and consumption away from the licensed premises and that is endorsed with the words:

- (a) "AUTHORITY – STORE"; or
- (b) "AUTHORITY – LIQUOR MERCHANT".

22 Part XX inserted

After section 162

insert

Part XX Transitional matters for Gaming and Liquor Legislation Amendment Act 2015

163 Application not determined

- (1) This section applies in relation to an application for a variation of the conditions of a store licence that would have the effect of permitting the sale of liquor for consumption away from the premises on a day on which that is not permitted under the licence as in force immediately before the commencement.
- (2) If the application has not been decided as at the commencement, it is taken to have been rejected.
- (3) Part XAC does not apply to give a right of review in a matter that is taken under this section to have been rejected.
- (4) In this section:

commencement means the commencement of the *Gaming and Liquor Legislation Amendment Act 2015*.

store licence, see section 32A(10) of the Act.

Part 4 Amendment of Liquor Regulations

23 Regulations amended

This Part amends the *Liquor Regulations*.

24 Regulation 4 amended

(1) Regulation 4(1A)

omit

or (1AA)

(2) Regulation 4(2), definition **store licence**

omit, insert

store licence, see section 32A(10) of the Act.

Part 5 Expiry of Act

25 Expiry of Act

This Act expires on the day after it commences.