

NORTHERN TERRITORY OF AUSTRALIA
AMENDMENTS OF GAMING MACHINE REGULATIONS

Regulations 2001, No. 33

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NORTHERN TERRITORY OF AUSTRALIA

Regulations 2001, No. 33*

Regulations under the *Gaming Machine Act*

I, JOHN CHRISTOPHER ANICTOMATIS, the Administrator of the Northern Territory of Australia, acting with the advice of the Executive Council, make the following regulations under the *Gaming Machine Act*.

Dated 29 June 2001.

J. C. ANICTOMATIS
Administrator

By His Honour's Command

T. BALDWIN
Minister for Racing, Gaming and Licensing

* Notified in the *Northern Territory Government Gazette* on 29 June 2001.

Gaming Machine Regulations

AMENDMENTS OF GAMING MACHINE REGULATIONS

1. Commencement

(1) Regulations 17 and 18 come into operation on 1 July 2001.

(2) The remaining provisions of these Regulations come into operation on the date on which the *Gaming Machine Amendment Act (No. 2) 2001* commences.

2. Principal Regulations

The Gaming Machine Regulations are in these Regulations referred to as the Principal Regulations.

3. New regulation

The Principal Regulations are amended by inserting after regulation 3 the following:

"3A. Cap on clubs with gaming machines within 1.5 km of Darwin casino

"(1) Subject to subregulation (2), the Commission must not grant a gaming machine licence to a club if the effect of the grant would be to increase the number of clubs within the prescribed area that hold gaming machine licences beyond the number of clubs within that area that immediately before the commencement of this regulation held gaming machine licences.

"(2) For each 5% of 5845 by which the population of the prescribed area increases, the Commission may grant a gaming machine licence to one additional club in the prescribed area.

"(3) In this regulation –

'the prescribed area' means the area within a 1.5 km radius of Lot 5244, Town of Darwin."

4. Repeal

Regulation 5 of the Principal Regulations is repealed.

5. Heading to Part 3

The heading to Part 3 of the Principal Regulations is amended by inserting "**MONITORING PROVIDERS**" after "**CONTRACTORS**".

6. Installations, alterations etc. not subject to section 58 of the Act

Regulation 6 of the Principal Regulations is amended by omitting "section 58(3)" and substituting "section 58(2)".

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7. New regulations

The Principal Regulations are amended by inserting after regulation 6 the following:

"6A. Consideration of applications for licences under Part 4

"For the purposes of section 64(1A) of the Act, the matters set out in Schedule 2 are prescribed.

"6B. Basic monitoring service

"A basic monitoring service is the reading, storage and use of electronic data from gaming machines on licensed premises to provide the information, services and support specified in Schedule 6 in relation to the gaming machines.

"6C. Prescribed conditions of monitoring provider's licences

"For the purposes of section 69 of the Act, the prescribed conditions of a monitoring provider's licence are set out in Schedule 3.

"6D. Licensed monitoring provider's fee

"(1) Subject to subregulation (2), the maximum fee per gaming machine that may be charged by a licensed monitoring provider is \$25.

"(2) The amount prescribed by subregulation (1) is to be varied each year with effect on and from the review date in accordance with the following calculation:

$$B \times \frac{CPI_1}{CPI_2}$$

where –

B is the amount prescribed by this regulation immediately before the review date;

*CPI*₁ is the Consumer Price Index (All Groups Index) for Darwin for the quarter ending on 30 September that is 3 months before the review date; and

*CPI*₂ is the Consumer Price Index (All Groups Index) for Darwin for the quarter ending on 30 September that is 15 months before the review date.

"(3) An amount prescribed under this regulation does not include the amount of GST (if any) payable in relation to a supply to which the amount relates.

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"(4) In this regulation –

'GST' has the same meaning as in the *A New Tax System (Goods and Services Tax) Act* of the Commonwealth;

'review date' means 1 January in each year, beginning with 1 January 2003;

'supply' has the same meaning as in the *A New Tax System (Goods and Services Tax) Act* of the Commonwealth.

"6E. Security for monitoring provider's licence

"(1) On the grant of a monitoring provider's licence, the successful applicant must provide to the Director a security of \$50 000 in the form of a bond, bank guarantee or any other form of security approved by the Director.

"(2) The amount of the security is forfeited to the Territory if –

- (a) the licensed monitoring provider defaults under an agreement to provide a basic monitoring service in respect of gaming equipment on a licensee's licensed premises;
- (b) the licensed monitoring provider surrenders the monitoring provider's licence without giving the Director 90 days notice of the surrender under section 78(3) of the Act; or
- (c) the monitoring provider's licence is cancelled under section 79 of the Act.

"(3) The Director may use all or any part of a bond forfeited under subregulation (2) to offset the cost of providing, or arranging the provision of, a basic monitoring service in place of the service that should or would have been provided but for the default, surrender or cancellation."

8. New regulation

The Principal Regulations are amended by inserting after regulation 9 the following:

"9A. Site controllers

"(1) For the purposes of section 83 of the Act, the site controller for the monitoring system installed on a licensee's licensed premises is prescribed gaming equipment.

"(2) A person must not install, replace or otherwise interfere with the

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site controller for the monitoring system installed on a licensee's licensed premises.

Penalty: 50 penalty units.

"(3) Subregulation (2) does not apply to the licensed monitoring provider who provides a basic monitoring service in respect of gaming equipment on the licensee's licensed premises.

"(4) A licensee does not commit an offence against subregulation (2) if the licensee installs or replaces the site controller in accordance with the instructions of the licensed monitoring provider who provides a basic monitoring service in respect of gaming equipment on the licensee's licensed premises."

9. Repeal

Regulation 11 of the Principal Regulations is repealed.

10. New regulation

The Principal Regulations are amended by inserting after regulation 12 the following:

"12A. Returns to players

"(1) For the purposes of section 95(2) of the Act, the prescribed minimum percentage for a gaming machine is 85% of the total amount of bets made by players each year on the gaming machine.

"(2) A licensee may cause the rate of return to players from a particular gaming machine to be varied within the range approved by the Director.

"(3) A licensee must not cause the rate of return to players from a particular gaming machine –

- (a) to be varied so that it falls outside the range referred to in subregulation (2); or
- (b) to be varied more than once in any 30-day period.

Penalty: 50 penalty units."

11. Day prescribed (section 101(2) of the Act)

Regulation 16 of the Principal Regulations is amended by omitting "tenth" and substituting "fifteenth".

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12. Repeal and substitution

Regulations 19 and 20 of the Principal Regulations are repealed and the following substituted:

"18A. Evaluating gaming machine types

"When evaluating a type of gaming machine under section 131 of the Act, in addition to any other relevant matters, the Director or an approved evaluator must take into account whether or not the gaming machine type has a facility to accept notes that is functioning.

"19. Allocation of serial numbers

"A manufacturer must ensure that each gaming machine supplied by the manufacturer for use in the Territory has permanently affixed to the machine a serial number that identifies the gaming machine and distinguishes it from all other gaming machines.

Penalty: 50 penalty units.

"20. Affixing of labels

"(1) A person must not affix a label referred to in section 135 of the Act to a gaming machine unless the person is –

- (a) a licensed service contractor; or
- (b) a person approved by the Director.

Penalty: 50 penalty units.

"(2) A person who affixes a label referred to in section 135 of the Act to a gaming machine must, as soon as practicable after affixing the label, notify the Director in writing of –

- (a) the identification number on the label;
- (b) the serial number of the gaming machine;
- (c) the type of the gaming machine; and
- (d) the manufacturer of the gaming machine.

Penalty: 50 penalty units.

"(3) Labels referred to in section 135 of the Act that are issued by the Director for gaming machines on a particular licensee's licensed premises are not to be affixed to gaming machines on any other licensee's licensed premises without the approval of the Director.

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"(4) A person who affixes a label referred to in section 135 of the Act to a gaming machine in contravention of subregulation (3) commits an offence.

Penalty: 50 penalty units."

13. Repeal and substitution

Regulation 22 of the Principal Regulations is repealed and the following substituted:

"22. Accounting for broken and removed seals

"A person who breaks or removes a seal affixed to a gaming machine –

- (a) must keep the broken or removed seal until the seal is accounted for under paragraph (b); and
- (b) must account for the broken or removed seal, or cause the broken or removed seal to be accounted for, to the Director within 7 days after the end of the month in which the person broke or removed the seal.

Penalty: 50 penalty units."

14. New regulation

The Principal Regulations are amended by inserting after regulation 24 in Part 5 the following:

"24A. Disposal of gaming machines

"(1) A licensee must not dispose of a gaming machine without the approval of the Director.

Penalty: 50 penalty units.

"(2) An application for approval to dispose of a gaming machine is to be in the form approved by the Director and is to include the following:

- (a) details of the arrangements for disposal, including details of the person to whom the gaming machine is to be transferred or details of how the gaming machine is to be destroyed;
- (b) a statement as to whether or not the gaming machine is the subject of a finance arrangement;
- (c) the identification number on the label affixed to the gaming machine;
- (d) the serial number of the gaming machine;

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- (e) any other information required by the Director."

15. Heading to Part 7

The heading to Part 7 of the Principal Regulations is amended by omitting "AND FEES" and substituting ", FEES AND OTHER AMOUNTS PAYABLE TO DIRECTOR".

16. Day prescribed (sections 149(2), 150(2), 152(1), 153(1) and (2) of the Act)

Regulation 32 of the Principal Regulations is amended by omitting "tenth" and substituting "fifteenth".

17. Repeal and substitution

Regulation 33 of the Principal Regulations is repealed and the following substituted:

"32A. Prescribed manner of payment (sections 149(2), 150(2) and 153(2) of the Act)

For the purposes of sections 149(2), 150(2) and 153(2) of the Act, the manner in which amounts payable under those sections are to be paid to the Director is as follows:

- (a) the licensee must pay the amounts into an account held by the licensee for that purpose;
- (b) the licensee or, if the licensee enters an arrangement with a licensed monitoring provider for the licensed monitoring provider to pay the amounts on behalf of the licensee, the licensed monitoring provider must remit the amounts to the Director by electronic funds transfer from the account referred to in paragraph (a);
- (c) amounts payable under sections 149(2), 150(2) and 153(2) of the Act are to be transferred out of the account referred to in paragraph (a) in priority to any other amounts and no other amounts are to be transferred out of the account unless and until all amounts payable under sections 149(2), 150(2) and 153(2) of the Act have been transferred out of the account.

"33. Gaming Machine Tax

"(1) For the purposes of section 149(3) of the Act, the prescribed percentage of the gross monthly profit of Category 1 licensed premises is 42.91%.

"(2) For the purposes of section 149(3) of the Act, the prescribed percentage of the part of the gross monthly profit of Category 2 licensed premises

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that is within a range specified in the table below is the percentage specified opposite the range.

Range of Gross Monthly Profit (\$)	Percentage (%)
up to \$5 000	12.91%
\$5 001 to \$50 000	22.91%
\$50 001 to \$150 000	32.91%
\$150 001 and over	42.91%

18. Gaming Machine Community Benefit Levy

Regulation 34 of the Principal Regulations is amended by omitting from paragraph (a) "25%" and substituting "10%".

19. Fees

Regulation 37 of the Principal Regulations is amended by omitting subregulation (2) and substituting the following:

"(2) The fee for accepting a gaming machine type or game for evaluation under section 131 of the Act is –

- (a) if the evaluation is to be conducted by the Director – \$150 multiplied by the number of hours required to make the evaluation; or
- (b) if the evaluation is to be conducted by an approved evaluator – \$100."

20. New regulation

The Principal Regulations are amended by inserting after regulation 37 the following:

"37A. Monthly gaming machine costs

"(1) For the purposes of section 149A(3) of the Act, the costs and charges in respect of gaming machines provided by the Director is \$335.50 per machine per month.

"(2) The amount prescribed by subregulation (1) includes the amount of GST (if any) payable in relation to a supply to which the amount relates.

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"(3) In subregulation (2), 'GST' and 'supply' have the same respective meanings as in the *A New Tax System (Goods and Services Tax) Act* of the Commonwealth."

21. Refunds

Regulation 38 of the Principal Regulations is amended by omitting from subregulation (1) "or penalty" and substituting ", penalty or other amount payable to the Director under the Act or these Regulations".

22. Repeal and substitution

Schedules 1, 2 and 3 to the Principal Regulations are repealed and the following substituted:

"SCHEDULE 1

Regulation 4

GAMING MACHINE LICENCE PRESCRIBED CONDITIONS

1. The licensee must take all reasonable steps to carry out the activities authorised under the gaming machine licence in a manner that is consistent with the objectives set out in section 2A of the Act and, as soon as practicable after becoming aware that the licensee is or may be carrying out such an activity in a manner that is inconsistent with those objectives, must take all reasonable steps to remedy the situation.
2. If the licensee is a club, the licensee must take all reasonable steps to give effect to its proposals for the allocation or distribution of the club's profits –
 - (a) toward development of the club's neighbourhood; and
 - (b) as donations to or funding for community, recreation or service organisations operating in the club's neighbourhood.
3. The licensee must take all reasonable steps to comply with the Act, these Regulations and the conditions of the gaming machine licence and, as soon as practicable after becoming aware that the licensee is or may not be complying with the Act, these Regulations or a condition of the gaming machine licence, must take all reasonable steps to remedy the situation.
4. The licensee must re-pay to the Director the full cost of investigating and correcting errors or omissions in a gaming machine reconciliation report lodged by the licensee under section 144 of the Act.

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5. The licensee must take out insurance against all liability arising out of gaming, or the conduct of gaming, on the licensee's licensed premises that might attach to the licensee as a result of personal injury or damage suffered by a person, being injury or damage caused or contributed to by an act or omission of the licensee or an employee of the licensee.
6. The licensee must keep at the licensee's expense all records, accounts, reports and other documentation required to be kept by the licensee under the Act or these Regulations.
7. The licensee must not interfere with a connection between a gaming machine provided under the gaming machine licence and an electronic monitoring system.
8. The licensee must take all reasonable steps to ensure that all gaming machines authorised for use under the gaming machine licence –
 - (a) are continuously provided with electricity; and
 - (b) are switched on at all times, other than a gaming machine that is switched off because of a fault in the gaming machine.
9. The licensee must take all reasonable steps to minimise the down time of a gaming machine authorised for use under the gaming machine licence that is due to a fault in the gaming machine.
10. The licensee must provide a licensed repairer with access at all reasonable time to gaming equipment (including the equipment's internal components) so that the licensed repairer may carry out work under a service contract on behalf of a licensed service contractor.
11. In the event that a service contract or basic monitoring agreement to which the licensee is a party is terminated for any reason whatsoever, the licensee must make alternative arrangements for the immediate provision of the services that, but for the termination, would have been provided to the licensee under the contract or agreement.
12. The licensee must –
 - (a) remit to the Director by electronic funds transfer from an account held by the licensee for that purpose; or
 - (b) enter into an arrangement with a licensed monitoring provider for the licensed monitoring provider on behalf of the licensee to remit to the Director by electronic funds transfer from an account held by the licensee for that purpose,

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funds for the payment of all taxes, levies, penalties, fees and other amounts payable to the Director under Part 8 of the Act.

SCHEDULE 2

Regulation 6A

APPLICATIONS FOR LICENCES UNDER PART 4 MATTERS TO BE TAKEN INTO ACCOUNT

1. Whether the applicant has, or the applicant's employees have, the appropriate qualifications, knowledge, skills and experience to competently carry out the activities that will be authorised under the licence.
2. Whether the applicant has in place appropriate programs to ensure that the competency of the applicant and the applicant's employees to carry out the activities that will be authorised under the licence is maintained.
3. Whether the applicant has in place an appropriate program to measure the performance of the applicant and the applicant's employees and whether the applicant and the applicant's employees are able to meet the response times and other criteria that measure performance under that program.
4. Whether the applicant has in place an appropriate audit program.
5. Whether the applicant has the equipment necessary to effectively carry out the activities that will be authorised under the licence.
6. Whether the applicant has the current and ongoing financial capacity to carry out the activities that will be authorised under the licence.
7. Whether the applicant has an appropriate level of management expertise.
8. The probity of the applicant, including whether the applicant will be able to carry out the activities that will be authorised under the licence in a manner that ensures the applicant's probity and the probity of the applicant's employees.

SCHEDULE 3

Regulation 6C

**MONITORING PROVIDER'S LICENCE
PRESCRIBED CONDITIONS**

1. The licensed monitoring provider must not hold a gaming machine licence or an approval under section 116 of the Act as a recognised manufacturer or supplier of gaming machines.
2. The licensed monitoring provider must not charge a fee per gaming machine for the provision of a basic monitoring service greater than the maximum fee per gaming machine (if any) prescribed by these Regulations.
3. The licensed monitoring provider must give the Director a copy of every agreement to provide a basic monitoring service entered into with a licensee.
4. The licensed monitoring provider must keep books and other records of account in a form approved by the Director.
5. The licensed monitoring provider must not modify a monitoring system in respect of which the licensed monitoring provider provides a basic monitoring service without the prior approval of the Director.
6. The licensed monitoring provider must conduct its activities in a manner that ensures its probity and the probity of its employees.
7. The licensed monitoring provider must provide a basic monitoring service to a standard that at least meets the requirements of the Australian/New Zealand Gaming Machine National Standards.
8. If the licensed monitoring provider defaults under an agreement to provide a basic monitoring service in respect of gaming equipment on a licensee's licensed premises, the licensed monitoring provider must –
 - (a) make available for use by the Director free-of-charge any equipment on the licensee's licensed premises that is owned by the licensed monitoring provider and is connected with the monitoring system in respect of which the basic monitoring service should have been provided; and
 - (b) must permit the Director access to all data collected by the licensed monitoring provider through the monitoring system.

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23. Schedule 4

Schedule 4 to the Principal Regulations is amended –

- (a) by omitting "Process board circuit diagram" and substituting "Processor board";
- (b) by omitting "Program or software for a game (irrespective of the medium or method of storage)" and substituting "Program or software for a gaming machine (irrespective of the medium or method of storage)"; and
- (c) by inserting before "Gaming machine seal" the following:
"Gaming machine label referred to in section 135 of the Act".

24. Schedule 5

Schedule 5 to the Principal Regulations is amended by omitting from item 6 "or" and substituting ", monitoring provider's or".

25. New schedule

The Principal Regulations is amended by adding at the end the following:

"SCHEDULE 6

Regulation 6B

BASIC MONITORING SERVICE INFORMATION, SERVICES AND SUPPORT

- 1. A monthly report, in a form approved by the Director, to the licensee and the Director of daily gaming machine performance.
- 2. Read-only gaming machine data, and an events log, in respect the licensed premises.
- 3. At the end of each financial year, a hard copy statement to the licensee of gaming machine performance on the licensed premises during that year.
- 4. Meter information to the licensed premises when a gaming machine malfunctions.
- 5. Facilitation of changes to games and gaming machine configurations, e.g. a change in the gaming token denomination of a gaming machine or the return to players from a gaming machine.
- 6. Help desk support to licensed premises and licensed repairers during hours of play at the licensed premises to assist with the following:

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- (a) resolving payment disputes;
 - (b) explaining variances in gaming machines;
 - (c) repairing minor faults with gaming machines, resetting gaming machines and cancelling credit procedures on gaming machines;
 - (d) verifying the integrity of gaming machine software.
7. The automatic shutdown of a gaming machine in the event of the non-compliance of the gaming machine or to enforce the hours of gaming under the gaming machine licence.
8. Dial-in, read-only access of the monitoring service database by the Director.

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26. Savings

Despite its repeal, Schedule 1 to the Principal Regulations continues to apply in relation to a licensee if the gaming machines on the licensee's licensed premises are provided by the Director.

