



Victoria Government Gazette

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Gambling Regulation Act 2003

DETERMINATION OF STANDARD ENTITLEMENT-RELATED CONDITIONS

I, Melissa Horne MP, Minister for Consumer Affairs, Gaming and Liquor Regulation, acting under section 3.4A.4A of the **Gambling Regulation Act 2003** (Act) determine as follows –

- A. The following Conditions constitute standard entitlement-related conditions that apply to each Venue Operator that holds Entitlements that take effect on or after 16 August 2022 whether those Entitlements were acquired by the Venue Operator before or after the date these Conditions take effect.
- B. These Conditions take effect on 16 August 2022.

1. Definitions and Interpretation

1.1 Definitions

In these Conditions, unless the context requires otherwise:

Allocation and Transfer Rules means the rules for the allocation and transfer of Entitlements made by the Minister under section 3.4A.3 of the Act and containing determinations made by the Minister under section 3.4A.5 of the Act.

Available Machines means those Gaming Machines of a Venue Operator:

- (a) that have been approved by the Commission;
- (b) in relation to which the Venue Operator has entered into a Venue Monitoring Services Agreement with the Monitoring Licensee (if required under Condition 7); and
- (c) that are in fact ready to be connected to the Monitoring System.

Claim means any claim, notice, demand, action, proceeding, litigation, liability, indebtedness, monetary liability or penalty, damages, obligation, investigation or judgment, costs charges or expenses however it arises and whether it is present or future, fixed or unascertained, actual or contingent (including by way of contribution or indemnity).

Conditions means these conditions made under section 3.4A.4A of the Act.

Data means all data and expressions of data contained in, processed or generated by, the Monitoring System, in whatever form, including without limitation, all data and expressions of data comprising reports generated by the Monitoring System, in relation to the operation and use of Gaming Machines at a Venue, but excluding any data that is Pre-commitment Information as defined in section 3.8A.24 of the Act.

Encumber means to impose any mortgage, lien, hypothecation, charge (whether fixed or floating), bill of sale, caveat, pledge, claim, trust arrangement, preferential right, right of set-off, title retention or other form of encumbrance.

Entitlement means a gaming machine entitlement as defined in the Act, which comes into effect on or after 16 August 2022.

Incoming Monitoring Licensee means a person:

- (a) to whom the Minister issues the Monitoring Licence; or
- (b) appointed to conduct the monitoring activities under section 3.4.59I, section 3.4.59LF or section 3.4.59LG of the Act,

any time after 16 August 2022.

Intellectual Property Rights means all intellectual and industrial property rights of whatever nature (whether or not registered or registrable) including, but not limited to:

- (a) inventions, discoveries and novel designs, whether or not registered or registrable as patents or designs, including developments or improvements of equipment, products, technology, processes, methods or techniques;

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- (b) literary works, artistic works, published editions of works and any other subject matter in which copyright (including future copyright and rights in the nature of or analogous to copyright) may, or may upon creation of the subject matter, subsist anywhere in the world;
- (c) registered and unregistered trade marks and service marks; and
- (d) proprietary rights under the **Circuit Layouts Act 1989** (Cth).

Minister means the Minister responsible for administering the Act.

Monitoring Fee means the fee that may be charged by the Monitoring Licensee for the provision of Monitoring Services in accordance with the Monitoring Licence and the Related Agreement for Monitoring.

Monitoring Licensee means:

- (a) the monitoring licensee (as that term is defined in section 1.3(1) of the Act); and
- (b) any person appointed to conduct the monitoring activities under section 3.4.59I, section 3.4.59LF or section 3.4.59LG of the Act.

Monitoring System has the meaning given to that term in the Monitoring Licence.

Regulations means any regulations made under the Act.

Related Agreement for Monitoring means a related agreement between the Minister and the Monitoring Licensee (or Incoming Monitoring Licensee) pursuant to section 3.4.48 or 3.4.48A of the Act, other than a Related Agreement for Pre-Commitment.

Standard Venue Conditions for Pre-Commitment means the standard pre-commitment conditions determined by the Minister under section 3.8A.19A of the Act.

State means the Crown, in right of the State of Victoria.

Venue means the approved venue (or venues) at which a Venue Operator conducts gaming under an Entitlement held by that Venue Operator from time to time and includes any approved venue that is under the control of that Venue Operator and at which it is proposed that gaming shall be conducted.

Venue Monitoring Services Agreement means an agreement between the Monitoring Licensee and a Venue Operator for the provision of Monitoring Services, as required by the Monitoring Licence.

1.2 Interpretation

In these Conditions, unless the context otherwise requires:

- (a) the singular includes the plural and vice versa;
- (b) where a word or phrase is defined, its other grammatical forms have a corresponding meaning;
- (c) headings are for convenience and do not affect interpretation;
- (d) a reference to any document or agreement includes a reference to that document or agreement as amended, novated, supplemented, varied or replaced from time to time;
- (e) a reference to a party includes its executors, administrators, successors, substitutes (including persons taking by novation) and permitted assigns;
- (f) a reference to writing includes any method of representing words, figures or symbols in a permanent and visible form;
- (g) references to any statute, regulation, by-law or guideline or to any provision of any statute, regulation, by-law or guideline include any modification or re-enactment of, or any provision substituted for, and (in the case of a statute) all statutory and subordinate instruments issued under, such statute, regulation, by-law or guideline or such provision;
- (h) the words ‘including’, ‘include’ or other similar expressions (in any form) are not words of limitation; and
- (i) where a capitalised term is not defined in these Conditions but is defined in the Act, its meaning is the same as in the Act.

2. General obligations

2.1 Cooperation

A Venue Operator must at all times and, at its own cost, cooperate with the State, the Minister, the Commission, the Monitoring Licensee and their respective authorised representatives, and act reasonably and in good faith in all dealings with them:

- (a) relating to, or in connection with, an Entitlement or the conduct of gaming under an Entitlement; and
- (b) to the extent otherwise necessary to facilitate an orderly and efficient conduct of gaming and the continuous and uninterrupted conduct of Monitoring Services at each Venue.

2.2 Access

- (a) A Venue Operator must grant the Commission and its representatives the right to enter and access its Venue at any time without notice when the Venue is open to the public or, with the written consent of the Venue Operator, at any other time for the purpose of inspecting and testing all Gaming Equipment and Monitoring Equipment including as may be appropriate for the purpose of the implementation of and the conduct of the Monitoring Services.
- (b) Where an Incoming Monitoring Licensee is issued a Monitoring Licence, or otherwise appointed by the Minister in accordance with the Act, a Venue Operator must grant, or procure the granting of, to the Incoming Monitoring Licensee, the Monitoring Licensee, the Commission and any other person as directed by the Incoming Monitoring Licensee, Monitoring Licensee or the Commission, access to the Venue and all Gaming Equipment of the Venue Operator as may be necessary to ensure the provision of the Monitoring Services transitions from the Monitoring Licensee to the Incoming Monitoring Licensee in an orderly and efficient manner.
- (c) Nothing in this Condition 2.2 is to be construed or interpreted in such a way so as to require a Venue Operator to do anything or to act in such a way as to be contrary to its rights and obligations under the Entitlements or the Act.

3. Connection to Monitoring System

3.1 Cooperation with Monitoring Licensee

Without limitation, a Venue Operator must:

- (a) grant, or procure the granting of, to the Monitoring Licensee, access to the Venue; and
- (b) use its best endeavours to ensure that the Monitoring Licensee is able to connect Available Machines, and maintain the connection of Gaming Machines, to the Monitoring System.

3.2 Notice for connection of Gaming Machines

The Venue Operator must notify the Commission and the Monitoring Licensee, in writing, of its requirements for the connection of Available Machines to the Monitoring System in accordance with the requirements set out in the Venue Monitoring Services Agreement entered into (or to be entered into) between the Venue Operator and the Monitoring Licensee, including:

- (a) the quantity and location of Available Machines requiring connection to the Monitoring System within the Venue including related jackpot arrangements and displays and any system equipment ancillary to such machines; and
- (b) the details of each Available Machine within the Venue requiring connection to the Monitoring System including:
 - (i) its location
 - (ii) its device description (including manufacturer and serial number);
 - (iii) its configuration (software version installed, denomination and games available); and
 - (iv) any other information necessary to facilitate connection of the Available Machine as may be notified by the Monitoring Licensee.

4. Ceasing to hold Entitlements

- (a) A Venue Operator that ceases to hold Entitlements must grant, or procure the granting of, to the Monitoring Licensee, the Commission and any other person as directed by the Monitoring Licensee or the Commission, access to the Venue and all Gaming Equipment, of the Venue Operator as may be necessary to ensure:
- (i) an orderly and efficient transition of the conduct of gaming to a person who has been or is to be granted rights to conduct gaming under the Act; and
 - (ii) the provision of Monitoring Services by the Monitoring Licensee including the connection or disconnection of Monitoring Equipment.
- (b) Nothing in this Condition 4 is to be construed or interpreted in such a way so as to require a Venue Operator to do anything or to act in such a way as to be contrary to its rights and obligations under the Entitlements or the Act.

5. Compliance

The Venue Operator must at all times comply with the Venue Monitoring Services Agreement and the Act, the Regulations, the Standard Venue Conditions for Pre-Commitment and any directions, standards, determinations or guidelines issued under the Act by or on behalf of the Minister or the Commission.

6. Liability

- (a) The State, the Minister, the Commission and their respective officers, employees, contractors and agents have no liability whatsoever for any Claim arising from any gaming activity conducted by a Venue Operator, any inability to conduct gaming under an Entitlement or the provision or use of the Data.
- (b) The liability of the Monitoring Licensee to a Venue Operator for a failure to provide Monitoring Services will be limited and determined in accordance with the Act and otherwise the terms of any Related Agreement for Monitoring.

7. Venue Monitoring Services Agreement and Standard Conditions

- (a) In order for Gaming Machines at the Venue to be connected to the Monitoring System, a Venue Operator must continue to be a party to, or become a party to, a Venue Monitoring Services Agreement with the Monitoring Licensee.
- (b) On expiry or termination of a Venue Monitoring Services Agreement, the Venue Operator must:
- (i) if the Minister has determined standard monitoring-related conditions in accordance with section 3.4A.4B of the Act, comply with such standard conditions; or
 - (ii) if the Minister has not determined such standard conditions, enter into another Venue Monitoring Services Agreement.

8. Monitoring Licence fees

A Venue Operator must pay the Monitoring Fee payable to the Monitoring Licensee for the provision of Monitoring Services as and when provided for by, and as may be varied from time to time in accordance with, the Monitoring Licence and the Related Agreement for Monitoring.

9. Data

- (a) The State owns the Data including all Intellectual Property Rights in the Data. These ownership rights vest in the State upon creation of the Data.
- (b) Each Venue Operator is permitted to use the Data for their Venue as reasonably required for the purpose of operating the Venue in accordance with the Act and any Regulations, the Allocation and Transfer Rules, the Venue Monitoring Services Agreement, and these Conditions.

- (c) A Venue Operator must not in any way Encumber or assign the rights granted to the Venue Operator under this Condition 9 to any other person other than as provided for under these Conditions and any attempt to do so will be void.
- (d) A Venue Operator may only permit use of the Data by a third party where the use is solely related to the purpose of operating the Venue in accordance with the Act and any Regulations, the Allocation and Transfer Rules, the Venue Monitoring Services Agreement, and these Conditions.
- (e) Each Venue Operator must keep and maintain an accurate register of all third parties granted permission to use the Data in accordance with Condition 9(d).
- (f) Anything a third party who is granted use of the Data by a Venue Operator does or fails to do in respect of the Data that would be a breach of these Conditions if done or failed to be done by the Venue Operator, constitutes a breach of these Conditions by the Venue Operator.
- (g) The third party must maintain confidentiality with respect to Data obtained, and must not directly or indirectly divulge, communicate or disclose to any person any Data, unless expressly permitted by the Venue Operator, in writing, and only as reasonably required for the purpose of operating the Venue in accordance with the Act and any Regulations, the Allocation and Transfer Rules, the Venue Monitoring Services Agreement, and these Conditions.

Dated 11 August 2022

THE HON. MELISSA HORNE MP
Minister for Consumer Affairs, Gaming and Liquor Regulation

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