

# Gaming Machine Amendment Regulation 2021

Explanatory notes for SL 2021 No. 172

made under the

*Gaming Machine Act 1991*

## General Outline

### Short title

*Gaming Machine Amendment Regulation 2021*

### Authorising law

Sections 242,242A and 366 of the *Gaming Machine Act 1991*

### Policy objectives and the reasons for them

The *Gaming Machine Act 1991* (Act) and the rules ancillary to gaming (Ancillary Rules) in schedule 3 of the *Gaming Machine Regulation 2002* (Regulation) require most gaming machine payments (i.e. the payment of gaming machine winnings, credits and tokens) to be made by cash or cheque. While allowance is made for certain other payment methods, these do not include electronic funds transfer (EFT).

The primary objective of the *Gaming Machine Amendment Regulation 2021* (Amendment Regulation) is to introduce the ability for gaming machine payments to be made by EFT. The intent is to modernise gaming machine payments, especially as non-cash payment methods have grown in popularity due to health concerns related to handling cash during the COVID-19 pandemic.

The amendments will affect both gaming machine licensees and licensed monitoring operators (LMOs). For licensees, the intent is to preserve all existing payment methods under the Act and the Ancillary Rules, while adding a discretionary EFT payment option. Licensees will be required to pay certain EFT amounts in a way that ensures players cannot access the funds at least until after the end of the gaming period (gaming trading day) for the venue at which the player becomes entitled to the payment. The intent is to reduce the risk of gambling-related harm by creating a cooling off period in which the player may decide whether to use large winnings to continue gambling.

EFT payments will also be made available to LMOs. Given LMOs do not have a physical presence at the venue and the prizes paid by LMOs from multi-site linked jackpots are generally very high, payment is frequently made by cheque. The intent is to clarify this arrangement while also allowing LMOs to make payments by EFT. LMOs will also be required to make payments in a way that delays access to funds until after the end of the gaming period in which the prize was won.

The second objective of the Amendment Regulation is to facilitate EFT remittances of unclaimed winnings by updating the designated departmental account for these payments under the Regulation.

## **Achievement of policy objectives**

### Payments by LMOs

Section 242(2) of the Act requires LMOs to make gaming machine payments (a) by cash, or (b) if a way is prescribed under the Regulation – in the way prescribed. The Amendment Regulation inserts new section 17A into the Regulation to prescribe the way LMOs must make gaming machine payments for section 242(2)(b) of the Act. Under the changes, LMOs must make payments by cheque or EFT. If an LMO makes a jackpot payment by EFT, the transfer must be carried out in a way that ensures the funds are not available to the player until after the end of the gaming period in which the player wins the prize.

### Unclaimed winnings

The Amendment Regulation amends section 22 of the Regulation to prescribe Department of Justice and Attorney-General OLGR No 2 Account as the account for the payment of unclaimed winnings for section 242A of the Act. Funds will be forwarded to the consolidated fund from that account as per prevailing fiscal policy.

### Payments by licensees

The Amendment Regulation replaces item 7 of the Ancillary Rules to provide for how licensees must make gaming machine payments for section 242(2)(b) of the Act. Previously, item 7 dealt only with payments above a venue-defined cash limit of not more than \$5,000.

To provide licensees with the discretionary ability to make payments by EFT in respect of amounts above or below the cash payment, the new item 7 of the Ancillary Rules, as inserted by the Amendment Regulation, deals with all cancelled credit and licensee jackpot payments.

The Amendment Regulation seeks to preserve the existing arrangement under which licensees are only obligated to make payment in Australian currency (for amounts up to the cash payment limit) or cheque (for payments that are above the cash limit). Any amount that the licensee is authorised to pay in Australian currency can, as previously, be paid by certain non-cash means if agreeable to the licensee. These means now include EFT.

The licensee and the player may also agree that an amount above the cash payment limit may be paid by EFT as an alternative to a cheque. If paid by EFT, this amount must be paid in a way that ensures the player does not have access to the payment until after the end of the gaming period in which the player became entitled to receive it.

Licensees are only obligated to pay in Australian currency (to the cash payment limit) and cheque (for amounts above the cash payment limit). Licensee agreement is required in respect of all other payment methods, including EFT, because licensees may not always have or desire the optional facility to make payment by other means, including EFT. Nothing in the Regulation is intended to require a licensee to make a payment by means other than Australian currency or, for amounts above the cash payment limit, cheque.

The Amendment Regulation restates the existing requirement for licensees to declare a cash limit of not more than \$5,000 for the licensed premises. The amendments ensure that licensees must still state this amount in a document that is displayed with the Ancillary Rules for gaming on the licensed premises.

The Amendment Regulation also outlines the way certain payments must be made. As before, cash payments must be made on the spot and cheques either given to the player immediately or posted within 24 hours. To deal with the introduction of EFT, new subitems provide that, if an amount above the cash limit is paid by EFT, the licensee must carry out the transfer in a way that ensures the funds are not available to the player until after the end of the gaming period in which the player became entitled to the payment.

The Amendment Regulation also defines *agreed alternative way* (of payment) and *non-currency gaming tokens* as needed to support the amendments.

### Dictionary

The Amendment Regulation amends the dictionary in schedule 7 of the Regulation to define *gaming period*, a term used in new section 17A of the Regulation and new item 7 of the Ancillary Rules. A gaming period corresponds to the hours of gaming fixed for the premises by the commissioner.

## **Consistency with policy objectives of authorising law**

The Amendment Regulation is consistent with the main policy objectives of the authorising laws.

## **Inconsistency with policy objectives of other legislation**

The Amendment Regulation is not inconsistent with policy objectives of other legislation.

## **Benefits and costs of implementation**

How licensees and LMOs make gaming machine payments has no cost implications for Government. In addition, specifying the account for unclaimed winnings is a clarifying amendment with no impact on the existing obligation on licensees and LMOs to remit these moneys to the Government.

The amendments will benefit licensed venues and LMOs who will no longer be required to deal with large sums of cash or cheques if making gaming machine payments by EFT suits their business operations. Players may also benefit from the convenience of having winnings paid electronically.

## **Consistency with fundamental legislative principles**

Restricting or delaying a person's access to their winnings potentially breaches the requirement for legislation to have sufficient regard to the rights and liberties of individuals under section 4(2)(a) of the *Legislative Standards Act 1992*. However, this potential breach is considered reasonable and justifiable as it reduces the risk of gambling related harm.

## Consultation

Representatives from Clubs Queensland, the Returned and Services League of Australia and Services Clubs Association Queensland Incorporated, Broncos Leagues Clubs, and The Lion Richlands have indicated their broad support for the approach adopted in the Regulation via a reference group established to address regulatory challenges facing the licensed clubs industry. The Queensland Hotels Association has also indicated its support for the introduction of EFT gaming machine payments.

The Responsible Gambling Advisory Committee has also determined that paying winnings by EFT is unlikely to pose a significant risk of gambling-related harm given the current restriction on players having immediate access to winnings above the cash limit is preserved by the amendments.

Consultation was also undertaken with LMOs Maxgaming Qld Pty Ltd, Odyssey Gaming Services Pty Ltd and Utopia Gaming Systems. LMOs advised of their support for introducing the ability to make gaming machine payments by EFT. LMOs also confirmed that due to the off-site nature of their operations and the size of jackpots paid, cheque and EFT are the only required payment methods.

The Office of Best Practice Regulation has granted an exemption from further regulatory impact analysis in accordance with the *Queensland Government Guide to Better Regulation*. The proposals implemented by the Amendment Regulation were assessed as being exempt under exclusion category (k), which applies to *regulatory proposals designed to reduce the burden of regulation, or that clearly do not add to the burden, and it is reasonable clear there are no significant adverse impacts*.