

South Australia

# Gaming Offences Regulations 2021

under the *Gaming Offences Act 1936*

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### 1—Short title

These regulations may be cited as the *Gaming Offences Regulations 2021*.

### 2—Commencement

These regulations come into operation on the day on which the *Lotteries Act 2019* comes into operation.

### 3—Interpretation

In these regulations, unless the contrary intention appears—  
*Act* means the *Gaming Offences Act 1936*.

### 4—Circumstances in which poker is not unlawful gaming

- (1) In accordance with paragraph (ab) of the definition of *unlawful gaming* in section 4 of the Act, the following are prescribed as circumstances in which playing at or engaging in a game of poker will not constitute unlawful gaming for the purposes of that paragraph:
  - (a) playing at or engaging in a game of poker as part of a tournament conducted in accordance with the general poker tournament requirements set out in subregulation (2);
  - (b) playing at or engaging in a game of poker as part of a tournament conducted in accordance with the trade promotion poker tournament requirements set out in subregulation (3);
  - (c) playing at or engaging in a game of poker where no participant in the game could, as a result of so playing or engaging, win any money or other prize.

- (2) The general poker tournament requirements are as follows:
- (a) if the entitlement of any person to participate in the tournament is contingent on the payment of a fee, each person participating in the tournament must pay the same fee;
  - (b) all participants must be given an equal number and value of poker chips on commencing participation in the tournament and no participant may purchase or otherwise be supplied with additional poker chips (except by winning them in the course of playing games as part of the tournament);
  - (c) a copy of the rules applicable to participants in the tournament must be available for inspection by any person at the premises at which the tournament is held at any time during the tournament;
  - (d) subject to paragraph (f), the prizes that may be won in the tournament must—
    - (i) be determined prior to commencement of the tournament; and
    - (ii) be specified in the rules referred to in paragraph (c);
  - (e) subject to paragraph (f), prizes may only be awarded to participants in the tournament based on—
    - (i) the poker chips won by a participant as a result of playing games in the tournament, such that the first prize is awarded to the participant who has the highest value of poker chips, the second prize (if any) is awarded to the participant who has the second highest value of poker chips and so forth until all prizes have been distributed; or
    - (ii) a process of elimination as provided for in the rules referred to in paragraph (c), such that the first prize is awarded to the participant who has not been eliminated at the end of playing all games in the tournament, the second prize (if any) is awarded to the participant who was eliminated from the tournament immediately before the participant who won the first prize and so forth until all prizes have been distributed;
  - (f) the rules referred to in paragraph (c) may provide for prizes to be divided amongst participants in the tournament in specified circumstances.
- (3) The trade promotion poker tournament requirements are as follows:
- (a) if the entitlement of any person to participate in the tournament is contingent on the payment of a fee—
    - (i) the amount of the fee may not exceed \$50; and
    - (ii) each person participating in the tournament must pay the same fee;
  - (b) all fees collected in accordance with paragraph (a) must be used in the payment of prizes to participants in the tournament;
  - (c) subject to paragraphs (d) and (e), all participants must be given an equal number and value of poker chips on commencing participation in the tournament and no participant may purchase or otherwise be supplied with additional poker chips (except by winning them in the course of playing games as part of the tournament);
  - (d) a participant may be supplied with an additional number of poker chips—

- (i) as an early entry bonus if a participant indicates their intention to participate in the tournament at a date earlier than that specified in advertising material for the tournament; or
- (ii) in exchange for purchasing food and beverage at the premises at which the tournament is held,

provided that the total value of any such poker chips does not exceed 20% of the value of poker chips the participant was given on commencing participation in the tournament;

- (e) the rules referred to in paragraph (f) may allow eliminated participants to re-enter the tournament provided that—
  - (i) no additional fee is payable for re-entry; and
  - (ii) re-entering participants are not provided with a number and value of poker chips exceeding the number and value given to participants on commencing participation in the tournament;
- (f) a copy of the rules applicable to participants in the tournament must be available for inspection by any person at the premises at which the tournament is held at any time during the tournament;
- (g) subject to paragraph (i), the prizes that may be won in the tournament must—
  - (i) be determined prior to commencement of the tournament; and
  - (ii) be specified in the rules referred to in paragraph (f),

provided that, in the case of a monetary prize, the rules may specify the prize as an amount of money or as a percentage of the fees collected in accordance with paragraph (a) (or as an amount of money plus a percentage of such fees);

- (h) subject to paragraph (i), prizes may only be awarded to participants in the tournament based on—
  - (i) the poker chips won by a participant as a result of playing games in the tournament, such that the first prize is awarded to the participant who has the highest value of poker chips, the second prize (if any) is awarded to the participant who has the second highest value of poker chips and so forth until all prizes have been distributed; or
  - (ii) a process of elimination as provided for in the rules referred to in paragraph (f), such that the first prize is awarded to the participant who has not been eliminated at the end of playing all games in the tournament, the second prize (if any) is awarded to the participant who was eliminated from the tournament immediately before the participant who won the first prize and so forth until all prizes have been distributed;
- (i) the rules referred to in paragraph (f) may provide for prizes to be divided amongst participants in the tournament in specified circumstances.

## 5—Instruments of unlawful gaming

- (1) Pursuant to section 59A of the Act, an amusement machine with the characteristics of a gaming machine (within the meaning of the *Gaming Machines Act 1992*) is declared to be an instrument of unlawful gaming.

- (2) For the purposes of this regulation—
- (a) an amusement machine includes any device designed or adapted for the purpose of enabling a person to participate in a game of amusement; and
  - (b) an amusement machine will be taken to have the characteristics of a gaming machine if—
    - (i) it is a gaming machine, but not an approved gaming machine, within the meaning of the *Gaming Machines Act 1992*; or
    - (ii) it is capable of being operated by the insertion of a coin, note or other token (whether in the machine or another device to which it is linked) and—
      - (A) it simulates the operation of a gaming machine by the use or depiction of a spinning reel; or
      - (B) it is marked as a gaming machine or pokie or is described in any advertising, instructions or packaging as a gaming machine or pokie; or
      - (C) in the instructions for its operation, or in its operation, it uses or displays a word associated with gambling such as gambling, bet or jackpot or a derivative of such a word.

## **Schedule 1—Revocation of *Lottery and Gaming Regulations 2008***

The *Lottery and Gaming Regulations 2008* are revoked.

## Legislative history

### Notes

- For further information relating to the Act and subordinate legislation made under the Act see the Index of South Australian Statutes or [www.legislation.sa.gov.au](http://www.legislation.sa.gov.au).

### Principal regulations

Year	No	Reference	Commencement
2021	163	<i>Gazette 28.10.2021 p3900</i>	10.12.2021: r 2