



Victorian Commission for Gambling and Liquor Regulation

Gambling Information Sheet

Forfeiture of gaming machine entitlements

As a venue operator who holds gaming machine entitlements, it is important to be aware of the circumstances that can lead to forfeiture of an entitlement to the State.

What is forfeiture?

Forfeiture of an entitlement means that your entitlement will be automatically returned to the State. You will no longer have the ability to conduct gaming in your venue with that entitlement.

Forfeiture of your entitlement(s) will occur if:

- you have not commenced gaming in your venue within the necessary timeframe (see the 'use it or lose it' rule)
- your venue operator's licence (i.e. your licence to conduct gaming) is cancelled, expires or is surrendered
- you have not made a prescribed payment for your entitlement, or
- you do not reduce the number of your entitlements or you fail to transfer your excess entitlements in order to meet the limit in your regional or municipal district.

"Use it or lose it"

Failure to commence gaming in your venue within the necessary timeframe will see you lose your entitlement.

As a venue operator holding an entitlement, you must commence gaming under that entitlement in your venue within the relevant holding period.

For instance, if you acquired your entitlement prior to 16 August 2012, including the pre auction club offer or the gaming auction, the relevant holding period is between 16 August 2012 and 16 February 2013.

Should you acquire your entitlement after 16 August 2012, the holding period relevant to you is six months after the date you acquired the entitlement. For example, if you have an entitlement transferred to you on 1 February 2013 then the holding period expires on 1 August 2013.

If you do not commence using that entitlement before the expiration of your relevant holding period, your entitlement will be forfeited to the State.

Applying for an extension to the relevant holding period

If you do not intend to commence gaming before your relevant holding period expires, you can apply to the Victorian Commission for Gambling and Liquor Regulation (VCGLR) for an extension to the relevant holding period.

An application for an extension will need to be in writing and include the reason why you require an extension. The VCGLR will review applications and determine whether an extension is reasonable in the circumstances. You may need to provide the VCGLR with further information in order for your application to be considered. You will then be notified of the acceptance or rejection of your application in writing.

An application for an extension to your relevant holding period must be made before the relevant holding period expires. After expiry of this period, your entitlements will be forfeited and you will not be able to apply for an extension.

If the VCGLR approves your initial request for an extension, you will be able to apply for further extensions of the holding period for the same entitlement(s). You will need to apply for a further extension before your original extension expires, otherwise, your entitlements will be automatically forfeited when the existing extension lapses and you will be unable to apply for any further extensions.

Cancellation, expiry, or surrender of your licence

Your entitlements will be forfeited to the State if you still hold an entitlement when:

- your venue operator's licence expires – forfeiture will occur automatically on the day after your licence expires
- the VCGLR has taken disciplinary action against you and has cancelled your venue operator's licence – forfeiture will occur automatically as soon as your licence is cancelled, or
- you surrender your venue operator's licence – forfeiture will occur automatically on the day after you surrender your licence.

There is no exemption in any of these cases. If you are aware that your venue operator's licence is going to expire, or you plan to surrender your licence, you must transfer your entitlements before either of these events occurs should you wish to avoid them being forfeited to the State.

Failure to pay an entitlement instalment

Venue operators who acquired entitlements on deferred payment terms also entered into an entitlement related agreement with the State. For further information on deferred payment terms please refer to the 'Gaming machine arrangements 2012' information sheet available at www.vcglr.vic.gov.au.

If you miss a scheduled payment for an entitlement and do not pay it when your next instalment is due, along with the interest owing and the next instalment, then that entitlement will automatically be forfeited to the State.

Ministerial Order

Under the *Gambling Regulation Act 2003*, the Minister for Gaming can make an order that the number of entitlements in the State, region or municipal district be reduced. If such an order is made, the Minister will determine, or will direct the VCGLR to determine, which venue operators need to reduce their entitlements and by how many.

Venue operators subject to such an order will be notified by the VCGLR and will need to reduce their entitlements to the amount required by the Minister within the timeframe specified. If you have not reduced your entitlements to the required number by the date notified to you by the VCGLR, your excess entitlements will be forfeited to the State.

Consequences of forfeiting entitlements

If an entitlement is forfeited to the State, any instalment amounts still outstanding on that entitlement become immediately due and payable. For example, if you have paid the first two instalments on your entitlement and you forfeit that entitlement, then you are required to immediately pay all the remaining instalments to the State.

Should the State place the forfeited entitlements on the transfer market and they are allocated to another venue operator, the proceeds of the allocation will be applied to meet:

- the State's costs incurred in allocating the entitlement
- any unpaid fines that have been imposed on you by the VCGLR, and
- any amount you still owe to the State (for example, any interest owing, along with any amount you still owe under the deferred payment terms).

If, after this process, there is still an outstanding amount owed to the State, you will need to pay this amount. Alternatively, if there is an amount remaining after the above costs are met, it will be returned to you.

Further information will be made available in the coming months.

The purpose of this update is to provide general information and guidance only. The information provided is not in substitution of the *Gambling Regulation Act 2003*, the Monitoring Licence and Related Agreements issued under that Act, the Entitlement Related Agreements for Venues, the Venue Services Agreement or any other regulatory requirements. Venue Operators should seek appropriate professional advice as to their obligations.