



Policy

Community poker policy

Purpose

This policy provides guidance on the manner in which poker may be lawfully played and conducted in Western Australia:

- Under a gaming function permit issued by the Gaming and Wagering Commission (Commission).
- At a licensed casino.
- In the form of 'social gambling'.

It also provides guidance to clubs, charities and other organisations on how to apply for a gaming function permit and the responsibilities of the permit holder.

Poker - Gaming

In Western Australia, certain types of gaming can only be conducted lawfully if they are authorised under a gaming function permit.

Poker played for "winnings in money or money's worth" meets the definition of gaming under the *Gaming and Wagering Act 1987* (GWC Act)¹ and requires a gaming function permit to be issued to do so lawfully.

Poker played for winnings in money or money's worth must be conducted for the purposes of raising money for the active promotion, support or conduct of any sporting, social, political, literary, artistic, scientific, benevolent, charitable or other like activity.

Where the applicant comprises a body of persons, a nominee 'permit holder' must be appointed to hold the gaming function permit on behalf of that body.

Profits raised from these events cannot be used for commercial or private gain. It is the responsibility of the permit holder to ensure all profits from the gaming activity remain with the organisation and are only used for the benefit of that organisation.

Poker - Social gambling

Section 64 of the GWC Act defines social gambling. Poker when played socially, does not require a gaming function permit provided the activity is conducted as follows:

- the gambling must be spontaneous;
- the gambling must not be conducted for private gain. Conduct includes promote, organise, manage or operate;

¹ GWC Act s. 3.

- no person may be defrauded or cheated;
- there can be no levy or charge (apart from the stakes or wagers placed) in respect of the gambling;
- all stakes and wagers must be distributed in winnings to participating players;
- the chances in the game must be equally favourable to all players; and
- the gambling cannot be in the form of two-up or any other game played at the casino, other than poker.²

Gaming function permit holder

A [gaming function permit](#) authorises a charitable group, community-based organisation or sporting body to raise funds for the benefit of the community by hosting and collecting profits from gaming functions. The permit cannot be approved for any personal or commercial gain, and each permit is subject to conditions that regulate the operation of the gaming function.

Personal or commercial gain includes, but is not limited to the following examples:

- payment of community organisation member or staff wages (including non-commercial canteen staff, other than umpire/referee fees)
- payments to players (e.g. for sporting clubs)
- payment of player registration or membership fees (e.g. for sporting clubs)

Personal or commercial gain does not include the following common examples:

- building works (e.g. club rooms, change rooms, other facility infrastructure)
- Infrastructure running costs (e.g. utilities)
- club equipment (furniture, fittings)
- sport team uniforms
- sporting equipment (e.g. balls, bats, nets, line markers, goal posts etc.)
- payments of ground fees/rents
- payment of umpire/referee fees

Funds raised through the permitted gaming activity must only be used for their approved purpose and may be subject to audit by authorised officers of the Commission.

The person lodging the application on behalf of the organisation must be concerned in the administration of the organisation³, and make the application on behalf of a club, society, institution, organisation, association or other body of persons. Where the applicant comprises a body of persons, a nominee 'permit holder' must be appointed to hold the permit on behalf of that body.

When submitting the application, the applicant must designate a permit holder who will be present at each gaming event. If the applicant is requesting approval for multiple dates and the designated permit holder cannot attend all of them, the applicant must provide a list of office holders or committee members, including their names and positions, who can serve as the permit holder in their absence.

All permit holders, including 'stand in' permit holders, must undertake a Department of Local Government, Sports and Cultural Industries permit holder education session before they can be approved to act as a permit holder.

The permit holder is responsible for the conduct of the gaming function including any breaches of the permit conditions.³

² GWC Act s. 64(2).

³ GWC Act s. 51.

Licensed suppliers of gaming equipment and gaming operators engaged by organisations are prohibited from applying for and being granted gaming function permits and are not permitted to be permit holders.

Permitted poker

When played under a gaming function permit, poker can be played in either tournament form or in the form of commission based poker. Depending on the game's form, poker is subject to the following conditions:

Tournament Poker (including mini tournaments referred to as 'Sit and Go')

- Rules of tournament poker are as shown on the department's website.
- Where a licensed supplier is engaged to assist with the gaming function, the minimum net return (after all expenses) to the organisation/charity holding the permit must be 15% of gross proceeds of each permitted event (gross proceeds comprise the sum of all tournament entry fees and buy back/re-buy fees).
- The maximum number of buy backs/re-buys (re-purchase of chips) is three per player.
- The organisation holding the permit may allow the jackpoting of prizes for distribution at a later event (grand final).
- Jackpotted prizes must be kept in an account held by the organisation holding the permit or the organisation holding the grand final event.
- Where poker is played on a seasonal basis, a submission is required to accompany the first month's permit applications. The submission should outline the season's schedule, including the proposed buy-in amounts, venues and permit applicants. The grand final permit application must also be lodged at this point.
- Where multiple organisations are contributing towards the prize pool for a season final, one organisation must be nominated to hold the funds in trust. This agreement should be in writing, signed by the president and treasurer of each organisation and submitted with each permit application relating to the season. The agreement should also include the details of the bank account where the funds are to be held.
- No novelty/incentive bet types are to be linked to the poker gaming activity (such as jackpots connected to achieving a Straight or Royal Flush).
- Gaming function permits may be advertised provided the advertising is in the manner shown below. Seasonal events can also be advertised in a similar manner provided that an authorisation has been given by the Commission. Advertising of the gaming function shall be in the manner of an advertisement which displays, states or announces the following information only:
 - The words "Gaming Function by permit issued under section 47 of the *Gaming and Wagering Commission Act 1987*";
 - The name of the organisation to whom the permit is issued;
 - Name and location of venue;
 - Date and day of function;
 - The approved hours of the gaming session;
 - The cost of buy-ins; and
 - The kind of games to be played.

Commission Based Poker (also referred to as Cash Poker)

- Rules of poker are as shown on the department's website.
- The commission on each pot may be charged up to a maximum of 10%.

- Where a licensed supplier is engaged to assist with the gaming function, the minimum net return (after all expenses) to the organisation/charity holding the permit must be 15% of gross proceeds (gross proceeds are the sum of all commission collected from the gaming activity).
- The same advertising restrictions that apply to tournament poker are also applicable to commission based poker.

Poker on licensed premises

Where a gaming function is to be conducted at a venue with a liquor licence (other than a club or club restricted licence), the licensee, any person in a position of authority in that licensed premises, or an employee of the licensee shall not be the permit holder or nominee permit holder.

Where a gaming function takes place on a licensed premises, the Commission shall ensure:

- that the gaming function is not high stakes; or
- the gaming function does not induce people to resort to the premises for the primary purpose of taking part in gaming.⁴

High stakes

For the purposes of tournament poker, a gaming function is considered high stakes where the entry fee and any buy backs/re-buys made by the player are over \$2,000 per gaming function.

Inducement

Whether or not the gaming function would be seen as an inducement for persons to resort to the premises primarily for the purpose of playing poker, will depend on the monetary value of the total prize pool available for each permitted event as well as the extent of any other activities/entertainment that will be provided. For the purposes of tournament poker, a gaming function is considered an inducement where a prize pool is valued more than \$50,000. Refer to Lodging an application for further details.

Other information regarding permitted gaming functions - poker events

Winnings

Winnings in 'money or money's' worth includes (but is not limited to) cash, holidays, meal vouchers, alcohol or a share of a 'pot' of cash, even if these prizes haven't been provided by the organisation or the venue hosting the game.

Poker tournaments that provide players with the opportunity to win a seat at a subsequent event where they can play for prizes in money or money's worth, based wholly or partly on their participation in that initial tournament, are legally considered gaming and therefore, would require a permit if conducted in Western Australia.

Frequency of permitted gaming events

Organisations will not be granted more than one gaming function permit for any given day and the duration of any permit is 6 hours. Additionally, one permitted gaming function will be allowed at each approved premises in any seven-day period.

The Commission may consider approving permits to allow gaming to take place for up to 8 hours for season ending grand final events and other exceptional events.

⁴ GWC Act s. 110(2).

Financial returns

Permits will not be issued to any organisation that has outstanding financial returns.

A financial return must be lodged within seven days of the expiry date of the permit and financial records must be maintained for 12 months. It is the responsibility of the permit holder to prepare, finalise, confirm, and lodge all financial returns within the seven-day timeframe.

Licensed Suppliers engaged by permit organisations are not permitted to prepare and lodge any financial returns on behalf of the permit organisation.

Lodging an application

Applications for gaming function permits are to be lodged by the proposed nominated permit holder, through the [online portal](#) and must include the prescribed fee, the correct dates and the number of poker tables to be licensed for the event.

Licensed suppliers of gaming equipment are prohibited from:

- preparing and lodging applications for gaming function permits; and
- preparing and lodging financial returns for gaming functions.

Details of the application can only be discussed with the applicant.

Once approved, a gaming function permit may only be amended where exceptional circumstances apply. Any request to amend the permit should clearly outline the matter and why the amendment is required, and must be made at least seven days before the function..

Where gaming functions are proposed for a defined season, concluding with a grand final, lodgement of applications should be as follows:

1. The first month's permit applications must be lodged no later than the seventh day of the month preceding the first permit date. The grand final permit application should be lodged at this point as well, as a written submission outlining:
 - i. the season's schedule;
 - ii. the proposed buy-in amounts; and
 - iii. the venues at which all events will take place and the names of the charities/clubs that intend to participate by way of permit applications.

All other applications should be lodged on a month-by-month basis and no later than the seventh day of the month preceding the first permit date.

2. Where poker is not proposed to be conducted on a seasonal basis, permit applications must be lodged by the 7th day of the month preceding the first permit date.

Where a proposed event at a licensed premises is considered an inducement, the permit application must include a submission addressing the reasons why the event would not be considered an inducement for persons to resort to the premises solely for the purpose of playing poker. However, the Commission will only grant a permit where a prize pool is valued more than \$50,000 in extraordinary circumstances.

If a submission is required to be lodged with a permit application, the submission must be prepared by the applicant, not a licensed supplier of gaming equipment on their behalf.

If the applicant/organisation fails to submit submissions where they were required to do so, the Commission will reject the application.

Licensed suppliers of gaming equipment and gaming operators Certifications

In relation to gaming functions, a person who carries on a business which includes the sale, supply or repair of gaming tables and equipment used in table games is required to hold a valid Supplier of Gaming Equipment Certificate.

A person engaged to assist in the conduct of gaming for hire or reward is required to hold a Gaming Operator's Certificate ie Dealer. Further, where a person is engaged through a service agreement between the organisation conducting the gaming and another party for the supply of equipment and/or personnel to assist in the conduct of gaming, that person is required to hold a Gaming Operator's Certificate regardless of whether they receive any payment or reward for services.

A person who provides their services without receiving any fee or reward and is not engaged through a service agreement as stipulated above, is not required to hold such a certificate.

A Licensed Supplier of gaming equipment may charge a fee for supplying gaming equipment, but that fee should not be dependent on the gaming activity turnover nor the manner the gaming equipment is used.

A Licensed Supplier of gaming equipment or Gaming Operator is not permitted to hold any cash that has been raised from any gaming function permit on behalf of the permit organisation. In cases where the Licensed Supplier or Gaming Operator allows the collection of monies electronically from the gaming function, via EFTPOS or bank transfer, all the funds must be transferred to the permit organisation within three business days.

The holder of a Gaming Operator's Certificate or Gaming Equipment Supplier's Certificate shall not be permitted to be the permit holder or nominee permit holder.

Any person engaged in the conduct of gaming functions is not permitted to accept tips/gratuities.

Scope of licensed supplier of gaming equipment's duties

It is the role of the licensed supplier of gaming equipment and organisers to enter into a formal arrangement with the relevant permit organisation, supply the necessary tables and equipment requested, and issue the permit organisation with an invoice for the hiring of their resources.

Licensed Suppliers of gaming equipment are to have no involvement in any other activities related to poker event's operation including, but not limited to:

- preparing and lodging financial returns for the organisation's gaming function;
- preparing and submitting gaming function permit applications to the Commission;
- acting as representatives of the organisations.

DLGSC portal account access for the permit organisation should be limited to the permit holder only. Licensed Suppliers of gaming equipment must not be provided with account details and/or log on and access these accounts on any permit organisation's behalf.

These responsibilities, and any others relating to setting-up and operating a community gaming function rest with the nominated permit holder.

Contact

For further information or assistance in lodging a gaming function permit, the Department of Local Government, Sport and Cultural Industries can be contacted by calling 61 8 6551 4888 or by emailing rgl@dlgsc.wa.gov.au. Assistance on how to lodge a permit application in the portal can be located [here](#).

Disclaimer

The policy on this subject is general information and is not professional advice or a legal opinion. The information is provided on the understanding that any person reading it must take responsibility for assessing its relevance and accuracy.

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