

# Application for a Failure Event Certificate

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This application contains the application and information material for a venue operator to apply for a certificate verifying the occurrence and duration of a failure event.

## How to lodge this application and accompanying documents

Send application via email to:

[contact@vgccc.vic.gov.au](mailto:contact@vgccc.vic.gov.au)

### Privacy Policy

The VGCCC is committed to responsible and fair handling of personal information consistent with the *Privacy and Data Protection Act 2014* and its obligations under the *Gambling Regulation Act 2003 (the Act)*.

### Confidentiality Provisions

Information provided in your application must not be disclosed by the VGCCC or its staff to someone else, except for the purposes stated in Part 1, Division 6 of Chapter 10 of the Act. Go to [vgccc.vic.gov.au](http://vgccc.vic.gov.au) to access this Act.

## Definitions

**Act** means *Gambling Regulation Act 2003*.

**Approved**, in relation to an Available Machine, means a gaming machine of a Participating Venue Operator that is a gaming machine approved under s 3.5.4 or 3.5.5 of the Act.

**Available Machines** means those gaming machines of a Participating Venue Operator:

- a. that are located in the Participating Venue Operator's approved gaming machine area;
- b. that are approved by the Commission;
- c. that are capable of connecting to the Monitoring Equipment in the Participating Venue Operator's Venue;
- d. (d). in relation to which the Participating Venue Operator has provided written notice to the Monitoring Licensee, that such gaming machines are ready to be connected to the Monitoring System in accordance with clause 9.1 (b) of the Monitoring Licence; and
- e. which are in fact *ready* to be *connected* to the Monitoring System (see clause 1.1 of the Monitoring Licence).

**Connected**, in relation to an Available Machine, means an Available Machine that is connected to the relevant cables and plugged in.

**Connected Machine** means an Available Machine that has been connected to the Monitoring System by or on behalf of the Monitoring Licensee but excludes any Available Machine that is not connected to the Monitoring System due to scheduled downtime (see clause 1.1 of the Related Agreement).

**Gaming Machine** means an Available Machine or Connected Machine.

**Related Agreement** means Schedule 1 to the Monitoring Licence, a copy of which is available in Schedule 4 of the Venue Monitoring Service Agreement.

**Monitoring Licence** means the licence issued by the Minister for Casino, Gaming and Liquor Regulation for and on behalf of the Crown in right of the State of Victoria (Minister) to the Monitoring Licensee on 14 November 2011 for the provision of Monitoring Services in the Victoria.

**Monitoring Licensee** means the current licensee Intralot Gaming Services Pty Ltd ACN 136 875 673 of Level 1, 283 Normanby Road, Port Melbourne 3207.

**Participating Venue Operator** means a Venue Operator, as defined by the Act, who has entered into a Venue Monitoring Services Agreement with the Monitoring Licensee.

## Background

The Monitoring Licence incorporates the Related Agreement at Schedule 1, in accordance with clause 3.4.48A of the Act.

Schedule 6 of the Related Agreement provides for the Monitoring Licensee to pay damages to a Participating Venue Operator if, due to an act or omission of the Monitoring Licensee in the provision of Monitoring Services to a Participating Venue Operator, the Participating Venue Operator is unable to continuously operate an *Available Machine* or *Connected Machine* **Failure Event**.

The Monitoring Licensee is not required to pay damages for the failure of a gaming machine to continuously operate:

- a. to the extent that the damages are caused or contributed to by an act or omission of the Participating Venue Operator;
- b. to a gaming machine that does not operate due to a Force Majeure Event, as defined by the Related Agreement; and
- c. to a gaming machine during any period of Scheduled Downtime, as defined by the Related Agreement.

For the purpose of determining damages under clause 2.1(b) of Schedule 6 of the Related Agreement, the Commission will issue a certificate verifying a Failure Event occurred and, if so, the duration of the Failure Event (**Verification Certificate**) following receipt of an *Application for Failure Event Certificate*.

## Background (cont'd)

If the Commission issues a Verification Certificate, it shall be conclusive evidence of the occurrence and duration of each **Failure Event**.

The determination of damages is a matter between the Participating Venue Operator and the Monitoring Licensee. The Commission's role is to issue Verification Certificates, not to determine the quantum of damages. Participating Venue Operators should seek their own independent legal advice.

## Commission decision

### *Verification Certificate*

To issue a Verification Certificate, the Commission must be satisfied that:

- the Participating Venue Operator was unable to continuously operate the gaming machine;
- the failure of the gaming machine to operate resulted from an act or omission of the Monitoring Licensee; and
- the affected gaming machine/s was a Connected Machine or Available Machine;

If the Commission verifies that a Failure Event occurred, the Commission will determine the duration of the Failure Event. The Commission will only consider the hours (rounded down) when the affected venue was legally open for gaming and the affected gaming machines did not continuously operate.

If the Commission finds that a Failure Event occurred, the Commission will issue a Verification Certificate to the Participating Venue Operator and the Monitoring Licensee.

The Participating Venue Operator and Monitoring Licensee are required to provide to the Commission, such information as the Commission may require.

For the purposes of certification under clause 5.1, the Commission may invite all necessary parties to make submissions relevant to the matters that are to be certified.

# Application for a Failure Event Certificate

## Participating Venue Operator details

Participating Venue Operator name (as shown on the Venue Operator's licence):

Licence number:

Name of Authorised Officer:

Address:

Contact details:

Premise name:

Premises address:

Premises approval number:

## Alleged Failure Event details

Date of event (dd/mm/yyyy):

Description of event, including why you believe the Monitoring Licensee caused the event, and the suspected cause(s):

Please provide the following information in relation to each gaming machine impacted by the event:

Position number:

VGCCC Identification number:

Time the gaming machine ceased operation due to the event:

Time the gaming machine resumed operation after the event:

Or, were all gaming machines affected by the event?

YES  NO

Please provide information in support of your application below and attach any evidence e.g photographs, witness statements or statutory declarations.

## Information disclosure

I, the Authorised Officer for the above applicant, consent to the release of the information in this application and any information relating to this application to the Monitoring Licensee for the purposes of assisting the Commission determining this application and whether to issue a Verification Certificate.

Signature:

Date (day/month/year):

**Please Note:** The Commission may request further information at any stage of the decision-making process, as required.

## Declaration

I, the Authorised Officer for the above applicant, declare that I have read and understood the questions in this application form and the directions for answering them and I have answered the questions truthfully and completely to the best of my knowledge. I acknowledge that it is an offence to give information that is false or misleading in a material particular in accordance with section 10.5.16 of the Act.

Signature:

Date (day/month/year):

Signature of witness:

Print name of witness:

Date (day/month/year):