

GAMING MACHINE ACT

No. 7 of 1991

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Queensland



ANNO QUADRAGESIMO

ELIZABETHAE SECUNDAE REGINAE

No. 7 of 1991

**An Act to provide for the regulation and control of gaming
machines and for purposes connected therewith**

[ASSENTED TO 27TH MARCH, 1991]

BE IT ENACTED by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Assembly of Queensland in Parliament assembled, and by the authority of the same, as follows:—

PART 1—PRELIMINARY

1.1 Short title. This Act may be cited as the *Gaming Machine Act 1991*.

1.2 Commencement. (1) This section and section 1.1 commence on the day on which this Act is assented to for and on behalf of Her Majesty.

(2) Except as provided in subsection (1) and section 6.14 (3), this Act commences on a day appointed by Proclamation.

1.3 Interpretation. (1) In this Act, unless the contrary intention appears—

“body corporate” means—

(a) a corporation as defined in the Corporations Law;

(b) an incorporated association as defined in the *Associations Incorporation Act 1981-1990*;

or

(c) any other body incorporated under any other Act or law;

“centralised credit system” means any electronic or computer system or device that is so designed that it may be used for, or adapted to enable, the transfer of credits of gaming tokens to or from a gaming machine;

“chairperson” means a commissioner—

(a) appointed under section 2.4 (2) and holding office;

or

(b) appointed under section 2.10 (1) and at that time acting, as the chairperson of the Commission;

“club” means a body corporate that holds a club license granted under Part VI of the *Liquor Act 1912-1990*;

“Commission” means the Queensland Machine Gaming Commission established under section 2.1;

“commissioner” means a person—

(a) appointed under section 2.4 (1) or 2.5 (2) and holding office;

or

(b) appointed under section 2.10 (2) and at that time acting, as a commissioner of the Commission;

“computer cabinet” means the sealable metal cabinet in a gaming machine which cabinet contains the game program storage medium and the Random Access Memory;

- “Deputy Director” means the Deputy Director, Machine Gaming Division, Treasury Department;
- “Director” means the Director, Machine Gaming Division, Treasury Department;
- “Division” means the Machine Gaming Division, Treasury Department;
- “electronic monitoring system” means any electronic or computer system or device that is so designed that it may be used, or adapted, to receive data from gaming equipment in relation to the security, accounting or operation of gaming equipment;
- “employ” means to employ for fee or reward, to engage in an honorary capacity or to engage without fee or reward;
- “executive officer” in relation to a body corporate, means each of the chair director, managing director or other principal executive officer of the body corporate and every member of any executive, governing or management body thereof (by whatever name called);
- “financial institution” means—
- (a) the Reserve Bank of Australia;
 - (b) a bank within the meaning of the *Banking Act 1959* of the Commonwealth (as amended and in force for the time being);
 - (c) a building society as defined in the *Building Societies Act 1985-1990*;
 - (d) a credit society as defined in the *Credit Societies Act 1986-1990*;
 - (e) a person who carries on State banking within the meaning of section 51 (xiii) of the Commonwealth Constitution;
 - (f) a body corporate that is, or that, if it had been incorporated in Australia, would be, a financial corporation within the meaning of section 51 (xx) of the Commonwealth Constitution;
- or
- (g) any other person or body that permits persons to deposit moneys with that other person or body for use by, or at the direction of, those persons for gaming or betting;
- “financial year” means the period of 12 months ending on 30 June in any year or, where the Director, under subsection (3), approves some other date as the terminating date of a financial year in a particular case, the period so approved;
- “game” means a game designed to be played on a gaming machine and identifiable from all other games by differences in rules or programming;
- “gaming” means the playing of a gaming machine;

“gaming equipment” means any—

- (a) gaming machine;
- (b) linked jackpot equipment;
- (c) electronic monitoring system;
- (d) centralised credit system;

or

- (e) part of, or replacement part for, any such machine, equipment or system;

“gaming machine” means any device that is so designed that—

- (a) it may be used for the purpose of playing a game of chance or a game of mixed chance and skill;
- (b) it may be operated, wholly or in part—
 - (i) by the insertion of a gaming token into the device;
 - (ii) by the use of gaming machine credits;
 - (iii) by the electronic transfer of credits of gaming tokens to the device;

or

- (iv) by the use of gaming tokens held, stored or accredited by the device or elsewhere;

and

- (c) as a result of making a bet on the device, winnings may become payable.

The term does not include any device declared under section 10.5 not to be a gaming machine;

“gaming machine area” means any location on licensed premises where a licensee is permitted to install a gaming machine;

“gaming machine credit” means a credit of a gaming token registered by a gaming machine;

“gaming machine licence” means a gaming machine licence issued under section 3.4, that is in force;

“gaming machine type” means a type of gaming machine on which a range of games may be played without any alteration to the gaming machine other than the substitution of a new game program or an alteration to the information or artwork displayed on the gaming machine;

“gaming token” means Australian currency and any token, credit or any other thing that enables a bet to be made on a gaming machine, but does not include a gaming machine credit;

“gross monthly turnover”, in respect of licensed premises, means the monetary amount of all bets made on gaming machines on the premises during the period covered by an assessment made under section 8.1;

“inspector” means—

- (a) an inspector (whether by use of that term or by use of another name containing that term) appointed under section 2.17;
- (b) an officer who is appointed to be an inspector under section 2.17;
- (c) a person who is appointed as an inspector (whether by use of that term or by use of another name containing that term) under section 2.18;

or

- (d) a person who is, ex officio, an inspector under this Act;

“jackpot” means the combination of letters, numbers, symbols or representations required to be displayed on the reels or video screen of a gaming machine so that the maximum winnings in accordance with the prize payout scale displayed on the machine are payable;

“licensed machine manager” means the holder of a machine manager’s licence, that is in force, issued under section 4.9;

“licensed premises” means premises on which a licensee is licensed to conduct gaming;

“licensed repairer” means the holder of a repairer’s licence, that is in force, issued under section 4.9;

“licensed service contractor” means the holder of a service contractor’s licence, that is in force, issued under section 4.9;

“licensee” means the holder of a gaming machine licence;

“Licensing Commission” means the Licensing Commission appointed and constituted under the *Liquor Act 1912-1990*;

“linked jackpot arrangement” means an arrangement whereby 2 or more gaming machines are linked to a device, being a device—

- (a) that records, from time to time, an amount which, in the event of a jackpot or other result being obtained on one of those machines, may be, or part thereof may be, payable as winnings;
- (b) that, for the purpose of recording the amount referred to in paragraph (a), receives data from each gaming machine to which the device is linked;

and

- (c) that is not capable of affecting the outcome of a game on a gaming machine to which the device is linked;

“linked jackpot equipment” means any jackpot meter, payout display, linking equipment, computer equipment, programming or other device (other than a gaming machine) forming, or capable of forming, part of a linked jackpot arrangement;

-
- “liquor” has the same meaning as is given to that term by the *Liquor Act 1912-1990*;
- “listed person” means a person for the time being listed on—
- (a) the Roll of Recognized Manufacturers and Suppliers of Gaming Machines maintained under section 6.1;
 - or
 - (b) the Roll of Recognized Suppliers of Restricted Components maintained under section 6.2;
- “machine manager” means—
- (a) a licensed machine manager authorized under section 4.3 (3);
 - (b) an applicant for a machine manager’s licence authorized under section 4.3 (4);
 - or
 - (c) a person authorized under section 4.3 (6) (a);
- “Magistrates Court” means a Magistrates Court constituted under the *Justices Act 1886-1990*;
- “Minister” means the Treasurer or other Minister of the Crown for the time being charged with the administration of this Act. The term includes any Minister of the Crown who is temporarily performing the duties of the Minister;
- “money clearance” means the removal of gaming tokens from the drop box of a gaming machine;
- “multiple site linked jackpot arrangement” means a linked jackpot arrangement linking gaming machines with other gaming machines on 2 or more licensed premises;
- “non-proprietary club” means a club the memorandum and articles of association, rules, constitution or other incorporating documents of which—
- (a) provide for the profits, if any, and other income of the club, to be applied in the promotion of its objectives;
 - (b) prohibit the payment of any dividends to, or distribution of profits or income or property of the club amongst, the members of the club;
- and
- (c) provide that no member is to be entitled to any benefit or advantage from the club that is not shared by every member of the club;
- “officer of the Division” means an appointee under section 2.17 or 2.18 and a person made available under section 2.19 (during the time that person renders assistance in accordance with section 2.19);
- “place” includes any house, wharf or premises;
- “police officer” means a police officer within the meaning of the *Police Service Administration Act 1990*;

- “premises” includes messuages, buildings, lands, easements, tenements of any tenure, vehicles or vessels;
- “prescribed” means prescribed by the regulations;
- “principal executive officer”, in relation to a body corporate, means each of the chair director, managing director or other principal executive, governing or management officer (by whatever name called) of the body corporate;
- “public interest” means public interest having regard to the creation and maintenance of public confidence and trust in the credibility or integrity of—
- (a) gaming;
 - (b) the conduct of gaming;
 - (c) the manufacture, assembly, sale, supply, installation, alteration, obtaining, possession, operation, use, adjustment, maintenance or repair of gaming equipment;
 - or
 - (d) the administration of licensed premises;
- “recognized manufacturer or supplier of gaming machines” means a person for the time being listed on the Roll of Recognized Manufacturers and Suppliers of Gaming Machines;
- “recognized supplier of restricted components” means a person for the time being listed on the Roll of Recognized Suppliers of Restricted Components;
- “restricted component” means any component that is prescribed as a restricted component when it does not form part of any gaming machine, linked jackpot equipment, electronic monitoring system or centralised credit system. The term does not include any thing declared under section 10.5 not to be a restricted component;
- “Schedule of Gaming Machines” means the Schedule of Gaming Machines issued under section 3.5 that, for the time being, is in existence in respect of the licensed premises specified in the Schedule;
- “service contract” means any agreement to install, alter, adjust, maintain or repair gaming equipment provided to a licensee or that is on licensed premises. The term does not include an agreement to carry out any installation, alteration, adjustment, maintenance or repair prescribed for the purposes of section 4.1 (3);
- “single site linked jackpot arrangement” means a linked jackpot arrangement linking gaming machines with gaming machines on the same licensed premises;
- “Under Treasurer” means the Under Treasurer, Treasury Department;
- “vehicle” includes any motor vehicle, omnibus, coach, cart, sulky, bicycle, velocipede, train, railway carriage, aeroplane, airship, balloon, hovercraft or other means of conveyance or transit;

“vessel” includes any ship, boat, punt, ferry, hovercraft and every other kind of vessel used or apparently designed for use in navigation.

(2) A reference in this Act to “conduct of gaming” is a reference to—

- (a) the management, use, supervision, operation and conduct of gaming equipment;
- (b) the sale, redemption or use of gaming tokens;
- (c) the carrying out of centralised credit transactions;
- (d) the installation, alteration, adjustment, maintenance or repair of gaming equipment;
- (e) the use or distribution of proceeds from the conduct of gaming;
- and
- (f) accounting, banking, storage and other acts in connexion with or related or incidental to gaming and the conduct of gaming.

(3) The Director may approve some date other than 30 June as the termination date of a financial year which may be for a period longer or shorter than 12 months, but not exceeding 18 months, ending on the date so approved.

(4) For the purposes of this Act—

- (a) the following persons are associates of a person:—
 - (i) the person’s spouse;
 - (ii) a parent or remoter lineal ancestor, son, daughter or remoter issue, brother or sister of the person;
 - (iii) any partner of the person;
 - (iv) any body corporate of which the person is an executive officer;
 - (v) where the person is a body corporate—an executive officer of the body corporate;
 - (vi) any employee or employer of the person;
 - (vii) any officer or employee of any body corporate of which the person is an officer or employee;
 - (viii) any employee of a natural person of whom the person is an employee;
 - (ix) any body corporate whose executive officers are accustomed or under an obligation, whether formal or informal, to act in accordance with the directions, instructions or wishes of the person, or where the person is a body corporate, of the executive officers of that body corporate;
 - (x) any body corporate in accordance with the directions, instructions or wishes of which, or of the executive officers

of which, the person is accustomed or under an obligation, whether formal or informal, to act;

- (xi) any body corporate in which the person holds a controlling interest;
 - (xii) where the person is a body corporate—a person who holds a controlling interest in the body corporate;
 - (xiii) any person who is named in an affidavit forwarded or lodged by the person under section 3.19 or 4.17;
 - (xiv) any person who is, by virtue of this paragraph (a), an associate of any other person who is an associate of the person (including a person who is an associate of the person by another application or other applications of this paragraph (a));
- (b) a person is to be taken to hold a controlling interest in a body corporate if the person, alone or together with any associate or associates of the person, is in a position to control not less than 15 per cent of the voting power in the body corporate or holds interests in not less than 15 per cent of the issued shares in the body corporate.
- (5) For the purposes of this Act, a person is to be taken to play a gaming machine if the person, directly or indirectly—
- (a) inserts a gaming token into;
 - (b) causes gaming machine credits to be registered by;
 - (c) makes a bet on;
 - (d) causes the activation of any process relating to the game of; or
 - (e) makes or participates in the making of the decisions involved in playing,
- the gaming machine.

1.4 Act binds the Crown. This Act binds the Crown.

PART 2—ADMINISTRATION

2.1 Establishment of Commission. (1) There is hereby established for the purposes of this Act a commission by the name of Queensland Machine Gaming Commission.

(2) The Commission—

- (a) is a body corporate with perpetual succession;
 - (b) represents the Crown;
- and
- (c) is to have an official seal.

(3) The official seal of the Commission is to be kept in such custody as the Commission directs and must not be used except as authorized by the Commission.

(4) All courts, judges and persons acting judicially must take judicial notice of the imprint of the official seal of the Commission appearing on a document and are to presume that it was duly affixed.

2.2 Functions of Commission. The functions of the Commission are such—

- (a) as are conferred or imposed upon the Commission under this Act;
and
- (b) as are otherwise conferred or imposed upon the Commission by the Minister.

2.3 Powers of Commission. (1) The Commission may do all things necessary or convenient to be done for or in connexion with the performance of its functions or exercise of its powers under this Act.

(2) Each commissioner is, *ex officio*, an inspector for the purposes of this Act.

2.4 Commissioners. (1) The Commission is to consist of 5 commissioners who are to be appointed by the Governor in Council on the recommendation of the Minister.

(2) The Governor in Council is to appoint a commissioner to be the chairperson.

(3) In relation to the commissioners appointed under subsection (1)—

- (a) 1 commissioner is to have extensive experience or knowledge of the gaming industry;
- (b) 1 commissioner is to be a person who has an educational qualification relating to accountancy or extensive experience in accountancy;
- (c) 1 commissioner is to be a person who has extensive experience or knowledge of public administration or of law enforcement;
and
- (d) 1 commissioner is to be a minister of religion or a person with experience in the provision of social welfare to the community.

(4) All commissioners hold office on a part-time basis.

(5) Commissioners are to be of good repute, having regard to character, honesty and integrity.

(6) The Minister is to cause due inquiry to be made before a person is appointed under this section to be, or appointed under section 2.10 to act as, a commissioner in order to be satisfied that the person is of good repute.

(7) Any thing done by or in relation to a person purporting to be a commissioner appointed under this section is not invalid merely because—

- (a) there was a defect or irregularity in connexion with the person's appointment as a commissioner;
or
- (b) the appointment had ceased to have effect.

2.5 Tenure of office. (1) A commissioner—

- (a) is appointed with effect from the day specified for the purpose by the Governor in Council;
and
- (b) holds office, subject to this Act, for such term (not exceeding 3 years) as is specified by the Governor in Council, but is eligible for re-appointment.

(2) If a commissioner ceases to hold office before the end of the term of appointment, another person may, in accordance with this Act, be appointed in the commissioner's place until the end of the term.

2.6 Leave of absence. (1) The Minister may grant leave of absence to the chairperson on such terms and conditions as the Minister considers appropriate.

(2) The chairperson may grant leave of absence to another commissioner on such terms and conditions as the chairperson considers appropriate.

2.7 Register and disclosure of interests. (1) The Minister is to maintain—

- (a) a register of the pecuniary interests of each commissioner had by him or her at the time of his or her appointment as a commissioner or acquired by him or her during his or her term of appointment as a commissioner;
 - (b) a record of personal or political associations had by each commissioner that might influence him or her in the performance of his or her functions or duties as a commissioner.
- (2) Each commissioner must furnish to the Minister—
- (a) a summary in writing of pecuniary interests had by him or her at the time of his or her appointment as a commissioner;
 - (b) advice in writing of associations referred to in subsection (1) (b) had by him or her at the time of his or her appointment as a commissioner;
 - (c) within 30 days following any substantial change in the interests referred to in paragraph (a), or a change in the associations referred to in paragraph (b), information in writing of the change.

(3) The register and record maintained under subsection (1) is to be updated at least once in every period of 12 months of a commissioner's term of office.

(4) A commissioner who has a direct or indirect pecuniary interest in a matter being considered, or about to be considered, by the Commission (whether at a meeting or otherwise) must, as soon as possible after the relevant facts have come to the commissioner's knowledge, disclose the nature of the interest at a meeting of the Commission.

(5) A disclosure under subsection (4) is to be recorded in the minutes of the Commission and, unless the Minister or the Commission otherwise determines, the commissioner must not—

(a) be present during any deliberation of the Commission in relation to the matter;

or

(b) take part in any decision of the Commission in relation to the matter.

(6) For the purpose of the making of a determination by the Commission under subsection (5) in relation to a commissioner who has made a disclosure under subsection (4), a commissioner who has a direct or indirect pecuniary interest in the matter to which the disclosure relates must not—

(a) be present during any deliberation of the Commission for the purpose of making the determination;

or

(b) take part in the making of the determination by the Commission.

2.8 Termination of appointment of commissioners. (1) A commissioner ceases to hold office as a commissioner if he or she—

(a) dies;

(b) resigns the commissioner's office by instrument in writing signed by the commissioner and given to the Minister;

(c) becomes a patient within the meaning of the *Mental Health Services Act 1974-1990*;

(d) being the chairperson, is absent, except with the leave of the Minister, from 3 consecutive meetings of the Commission;

(e) being a commissioner other than the chairperson, is absent, except with the leave of the chairperson, from 3 consecutive meetings of the Commission;

(f) is convicted of an offence against this Act;

(g) is convicted of an indictable offence, whether on indictment or summarily, punishable in the particular case by imprisonment for 12 months or more (irrespective of whether the offence is also punishable by a fine in addition, or as an alternative, to imprisonment);

or

(h) is removed from office by the Governor in Council under subsection (2).

(2) The Governor in Council—

(a) may remove a commissioner from office if the commissioner—

(i) without reasonable excuse contravenes section 2.7;

or

(ii) fails to discharge the commissioner's financial commitments, becomes bankrupt or compounds with creditors or otherwise takes advantage of the laws in force for the time being relating to bankruptcy;

and

(b) must remove a commissioner from office if the Governor in Council determines the commissioner is not a fit and proper person to be a commissioner.

(3) The office of the chairperson becomes vacant if the chairperson ceases to hold office as a commissioner.

2.9 Terms and conditions of appointment of commissioners. (1) Each commissioner is entitled to such remuneration as is approved by the Governor in Council—

(a) for the time being, for the performance of the ordinary functions or duties under this Act of a commissioner, or where the commissioner is the chairperson, the performance of the ordinary functions or duties under this Act of the chairperson;

and

(b) in each case, for services of a commissioner in addition to the ordinary functions or duties under this Act of the commissioner, or where the commissioner is the chairperson, for services of the chairperson in addition to the ordinary functions or duties under this Act of the chairperson.

(2) Each commissioner is entitled to such allowances for reasonable travelling expenses as are approved for the time being by the Governor in Council.

(3) A commissioner holds office on such terms and conditions (if any) in relation to matters not provided for by this Act as are determined, in writing, by the Minister.

2.10 Acting appointments. (1) The Minister may, by instrument in writing, appoint a commissioner to act as the chairperson—

(a) during a vacancy in the office of the chairperson (whether or not an appointment has previously been made to the office);

or

(b) during any period, or during all periods, when the chairperson—

(i) has been granted leave of absence by the Minister;

or

(ii) is, for any reason, unable to attend meetings of the Commission, or otherwise perform the functions or duties under this Act of the office.

(2) The Minister may, by instrument in writing, appoint a person to act as a commissioner other than the chairperson—

(a) during a vacancy in the office of such a commissioner (whether or not an appointment has previously been made to the office);

or

(b) during any period, or during all periods, when such a commissioner—

(i) is acting as the chairperson;

(ii) has been granted leave of absence by the chairperson;

or

(iii) is, for any reason, unable to attend meetings of the Commission, or otherwise perform the functions or duties under this Act of the office.

(3) Any thing done by or in relation to a person purporting to act under this section is not invalid merely because—

(a) the occasion for the appointment had not arisen;

(b) there was a defect or irregularity in connexion with the appointment;

(c) the appointment had ceased to have effect;

or

(d) the occasion to act had not arisen or had ceased.

2.11 Meetings. (1) The Commission is to hold such meetings as are necessary for the efficient performance of its functions.

(2) Subject to subsection (3), meetings of the Commission are to be held—

(a) at such times, places and intervals as are prescribed;

and

(b) at such other times and places as the Commission from time to time determines.

(3) The chairperson may at any time convene a meeting of the Commission.

(4) The chairperson is to preside at all meetings of the Commission.

(5) At a meeting of the Commission—

- (a) the chairperson and 2 other commissioners constitute a quorum;
- (b) a question is to be decided by a majority of the votes of the commissioners present and voting;
- and
- (c) the chairperson has a deliberative vote and, in the event of an equality of votes, also has a casting vote.

(6) The Commission is to keep minutes of its proceedings.

(7) The proceedings of the Commission are not to be open to the public and any person other than a commissioner may be excluded therefrom by order of the chairperson.

2.12 Resources. (1) The Director is to—

- (a) remunerate each commissioner as provided in section 2.9; and
- (b) make available to the Commission (to the satisfaction of the Minister) sufficient—
 - (i) administrative services; and
 - (ii) funds, for expenses incurred in the normal conduct of meetings of the Commission, as are necessary for the Commission to perform its functions under section 2.2 and exercise its powers under section 2.3.

(2) The Director is to maintain accounts of the remuneration and expenditure referred to in subsection (1).

2.13 Annual report. (1) As soon as may be convenient after 30 June in each year, the Commission must furnish to the Minister a report on the Commission and its operations under this Act during the year ended on that day.

(2) The Minister must lay the report before the Legislative Assembly within 14 sitting days of receipt of the report.

2.14 Decisions or determinations of Commission. (1) Subject to subsection (2) and sections 2.15 and 2.16, any decision or determination of the Commission is final.

(2) (a) The Governor in Council may, by Order in Council—

- (i) rescind any decision or determination of the Commission; and
- (ii) give such directions to the Commission in relation to such a rescission as the Governor in Council considers appropriate.

(b) Every decision or determination of the Commission rescinded by the Governor in Council is void, as from such time as is specified for the purpose in the rescission.

No right of action arises against the Crown or any person by reason of the rescission.

(3) Subject to section 2.15 (5) a decision or determination of the Commission has effect from the making of the decision or determination or from such other time as is specified by the Commission for the purpose.

2.15 Appeals from Commission. (1) A person who—

(a) may be adversely affected by a decision under section 2.26 (5);

or

(b) is or was an applicant for or a holder of a licence under this Act or a listed person and is aggrieved by a decision or determination referred to in subsection (7),

may appeal against the decision or determination to the Minister.

(2) The appeal must—

(a) be made in or to the effect of the form determined by the Director;

(b) state the nature and grounds of the appeal;

(c) be accompanied by the fee prescribed;
and

(d) be lodged with the Director within 14 days of the date when the appellant was given written advice of the decision or determination in respect of which the appeal is made.

(3) Where the provisions of subsection (2) are not complied with the appeal is void.

(4) Within 7 days of the lodgement of an appeal the Director is to give notice in writing of receipt of the appeal to—

(a) the appellant;

(b) the Minister;

(c) the Commission;
and

(d) any other person who the Director considers has an interest in the appeal.

(5) The Minister may direct that the operation of a decision or determination appealed against be stayed until the appeal is determined under section 2.16 if the Minister is satisfied that the integrity of gaming and the conduct of gaming will not be jeopardized and that the public interest will not be adversely affected.

(6) An appellant may, by written notice lodged with the Director, withdraw an appeal before it is determined under section 2.16.

One half of the fee lodged under section 2.15 (2) is to be returned to the appellant upon the withdrawal of the appeal.

(7) An appeal under subsection (1) (b) may be made in respect of a decision or determination, as the case may be, of the Commission—

- (a) under section 3.1, refusing to grant a gaming machine licence;
- (b) under section 3.3 (7);
- (c) under section 3.9 (1) (b);
- (d) under section 3.10 (1);
- (e) under section 3.16 (5), refusing an application to increase the number of gaming machines provided to a licensee;
- (f) under section 3.16 (5), in respect of the increased number of gaming machines to be provided to a licensee;
- (g) under section 3.17 (1);
- (h) under section 3.24 (12) (d);
- (i) under section 3.25 (1);
- (j) under section 4.8 (1), refusing to grant a licence under Part 4;
- (k) under section 4.12;
- (l) under section 4.13 (1);
- (m) under section 4.22 (12) (d);
- (n) under section 4.23 (1);
- (o) under section 6.5 (1);
or
- (p) under section 6.5 (3), refusing to approve that a person again be listed on the Roll of Recognized Manufacturers and Suppliers of Gaming Machines or the Roll of Recognized Suppliers of Restricted Components.

2.16 Determination of appeals. (1) The Minister is to consider—

- (a) the contents of the appeal and information or material lodged with the appeal;
- (b) information or material that is—
 - (i) given to the Minister by the appellant;
 - (ii) given to the Minister by any person referred to in section 2.15 (4) (d);
 - (iii) given to the Minister by the Commission in respect of the appeal;and
- (iv) given to the Minister by the Director in respect of the appeal;
within 14 days of the lodging of the appeal;
and
- (c) such other information or material as the Minister considers relevant,

and, if the Minister is satisfied that the integrity of gaming and the conduct of gaming will not be jeopardized and that the public interest will not be adversely affected, the Minister may direct—

(d) that the appeal be disallowed;

or

(e) that the decision or determination appealed against be set aside or varied.

(2) If the Minister is not so satisfied, the Minister must direct that the appeal be disallowed.

(3) The determination of the Minister upon an appeal instituted pursuant to section 2.15 is final.

(4) A direction by the Minister to set aside or vary the decision or determination appealed against has effect from the giving of the direction or from such other time as is specified for the purpose in the direction.

(5) No right of action arises against any person by reason of a determination by the Minister under this section.

2.17 Officers. (1) The Governor in Council may appoint—

(a) a Director and Deputy Director, Machine Gaming Division, Treasury Department;

and

(b) such inspectors and other officers as are necessary, for the effectual administration of this Act.

(2) Appointments referred to in subsection (1) are to be under and subject to the *Public Service Management and Employment Act 1988-1990*.

(3) The Director and Deputy Director are, ex officio, inspectors for the purposes of this Act.

(4) Appointments under the *Public Service Management and Employment Act 1988-1990* made before the commencement of this Act of the Director, any inspectors or other officers for the purpose of or in connexion with the administration of matters relating to gaming machines in the State which appointments, immediately before the commencement of this section, are current, are to be taken, on that commencement, to be appointments made under subsection (1) for the effectual administration of this Act.

(5) The Governor in Council may appoint an officer of the Public Service of the State to be an inspector for the purposes of this Act.

An officer so appointed may hold an appointment as an inspector in conjunction with any other office held in the Public Service.

2.18 Appointment of other persons. (1) In addition to appointments under section 2.17, the Governor in Council, on the recommendation of the Minister, may appoint such other persons as are necessary for the effectual administration of this Act.

(2) Appointments referred to in subsection (1) are not required to be under and subject to the *Public Service Management and Employment Act 1988-1990*.

(3) Subject to this Act, appointments referred to in subsection (1) may be to such position and to perform such functions and duties as the Governor in Council from time to time determines.

(4) Subject to subsection (5) and to any applicable industrial award or industrial agreement, appointments referred to in subsection (1) are to be for such periods and subject to such conditions as to remuneration and otherwise as the Governor in Council, on the recommendation of the Minister, thinks fit.

(5) (a) An appointment referred to in subsection (1) is not to exceed 5 years.

(b) Appointments may be renewed for a second or subsequent period not exceeding 5 years in any case.

2.19 Assistance within Treasury Department. In addition to appointments under sections 2.17 and 2.18, the Under Treasurer is to make available such clerical and other staff assistance that may be necessary for the effectual administration of this Act.

2.20 Officers of Division to be of good repute. (1) Officers of the Division are to be of good repute, having regard to character, honesty and integrity.

(2) The Governor in Council is to cause due inquiry to be made before a person is appointed to be the Director, Deputy Director, an inspector or any other appointed officer of the Division in order to be satisfied that the person is of good repute.

(3) The Under Treasurer is to cause due inquiry to be made before a person is made available under section 2.19 in order to be satisfied that the person is of good repute.

(4) At any time the Director may cause to be undertaken such investigations as the Director considers are necessary in order to be satisfied that an officer of the Division, having regard to the matters specified in subsection (1), is suitable to be an officer of the Division.

(5) The Director may, either verbally or by notice in writing, require any officer, to whom investigations under subsection (4) relate, to submit such information or material as the Director considers is necessary.

The officer must comply with the requirement.

2.21 Machine Gaming Division. (1) Officers of the Division are responsible for performing all functions and duties that are necessary in connexion with the administration of this Act.

(2) Any act or thing done before the commencement of this Act by an officer of the Division or the Casino Control Division, Treasury Department, for the purpose of or in connexion with the administration of matters relating to the conduct and operation of gaming machines in the State is to be taken—

(a) to have been done for the effectual administration of this Act;

and

(b) notwithstanding any other Act or law, to have been lawful.

2.22 Director to administer Division. (a) The Director is the senior administrative officer of the Division.

(b) The Director, subject to the Under Treasurer, is responsible for the administration of the Division.

2.23 Illness, etc., of Director. If the Director is ill or absent or there is a vacancy in the office of Director, the Deputy Director is authorized to exercise the powers and authorities and perform the functions and duties under this Act of the Director during the period of the illness or absence or until a new appointee takes up duty as Director.

2.24 Power of delegation. (1) The Director with the approval of the Minister may, either generally or otherwise as provided by the instrument of delegation, by instrument in writing delegate—

(a) to a particular person;

or

(b) to the holder of an office specifying the office but without naming the holder,

all or any of the Director's powers, authorities, functions or duties under this Act (other than this power of delegation).

(2) A power, authority, function or duty so delegated may be exercised or performed by the delegate in accordance with the instrument of delegation.

(3) A delegation may be made subject to such conditions or limitations as to time, place or circumstances as may be specified in the instrument of delegation.

(4) Subject to approval as referred to in subsection (1), the Director may make such and so many delegations under this section and to such number of delegates as the Director considers necessary or desirable.

(5) Any act or thing done or permitted by a delegate while acting in the exercise of a delegation under this section has the same force

and effect as if the act or thing had been done or permitted by the Director.

(6) A delegation under this section does not prevent or prejudice the exercise or performance of any power, authority, function or duty by the Director.

(7) A delegation under this section may at any time be revoked by the Director.

2.25 Police assistance. (1) The Minister and the Minister for the time being in charge of Police may make such arrangements as are agreed between them, and must make such arrangements as are determined by the Governor in Council with respect to—

- (a) the rendering of assistance by police officers;
 - (b) the supplying of information contained in the records of the Queensland Police Service;
 - (c) the taking of finger prints and palm prints of applicants for licences under Part 4;
- and
- (d) the making available of other resources and facilities of the Queensland Police Service,

to the Director and other officers of the Division for the purposes of the effectual administration of this Act.

(2) The Commissioner of Police must ensure that effect is given to any such arrangements so agreed upon or determined.

2.26 Secrecy. (1) A commissioner who wilfully discloses, except for the purposes of the Commission, or of this Act, information that has come into the possession of the Commission, or the commissioner, in the course of exercising powers or authorities or performing functions or duties under this Act, or for the purposes of this Act, commits an offence against this Act.

(2) A person at all times after appointment, or being made available, as an officer of the Division—

- (a) must preserve and assist in preserving secrecy with regard to all information that comes to the person's knowledge in the exercise of his or her functions or duties under this Act;
- and
- (b) must not, except—
 - (i) in the exercise of his or her powers or authorities or the performance of his or her functions or duties under this Act;
 - (ii) with any other lawful excuse (proof of which is upon the person);
- or
- (iii) if so approved under this section, communicate or reveal any such information.

(3) A person referred to in subsection (2), if the Director so approves, may communicate or reveal any information referred to in subsection (2) to such body or authority as is prescribed, or to an officer of the body or authority.

(4) Any body, authority or officer to whom any information is communicated or revealed under subsection (3), and a person or employee under the control of that body, authority or officer, is, in respect of that information, subject to the same rights, privileges, obligations and liabilities under this section as if that body, authority, officer, person or employee were a person referred to in subsection (2).

(5) A person referred to in subsection (2), if the Commission so approves, may communicate or reveal any information referred to in subsection (2) to any department of government of the State, body, holder of an office or person as the Commission specifies in the approval.

(6) Before granting an approval under subsection (5) the Commission must—

- (a) advise any person who the Commission considers is likely to be adversely affected by any communication or revelation as a result of the proposed approval;
and
- (b) give the person the opportunity of making a submission with respect to the proposed approval within such time as is specified in the notice.

2.27 Identification cards. (1) Every inspector is to be furnished with an identification card, signed by the Director, that identifies the inspector as an inspector.

(2) The Director may furnish any other officer of the Division with an identification card, signed by the Director, that identifies the officer as an officer of the Division.

(3) An identification card is to be in the form determined by the Director and is to contain the photograph and signature of the inspector or other officer in question and is to specify such other particulars as are so determined.

(4) A person to whom a card is furnished under this section—

- (a) must produce the card, when so requested, to the person who is the subject of or affected by the exercise of the person's powers or authorities or the performance of the person's functions or duties under this Act;
and
- (b) must return the card to the Director upon ceasing to be an inspector or, as the case may be, other officer of the Division.

2.28 Director is agent of Crown. (1) Any act done by the Director—

- (a) as authorized by;
or

(b) for the purposes of the effectual administration of, this Act is done as agent of the Crown.

(2) Subject to this Act and the *Financial Administration and Audit Act 1977-1990*, the Director is authorized to expend moneys for the Crown in respect of doing any act referred to in subsection (1).

PART 3—GAMING MACHINE LICENCES

3.1 Gaming lawful and does not constitute nuisance. (1) Notwithstanding any other Act or law—

- (a) the Commission may, having regard to the recommendation of the Director and to such other information or material as the Commission considers is relevant, grant or refuse to grant gaming machine licences;
- (b) gaming and the conduct of gaming on licensed premises in accordance with this Act is lawful.

(2) Gaming and the conduct of gaming on licensed premises in accordance with this Act and any other Act, does not in itself constitute a public or private nuisance.

3.2 Application for gaming machine licences. (1) An application for the grant of a gaming machine licence may be made by—

- (a) a club;
- (b) the holder of a licensed victualler's license or tavern license under the *Liquor Act 1912-1990*;
- (c) the holder of—
 - (i) such other license;
 - or
 - (ii) a license of such class of license, under the *Liquor Act 1912-1990* as is prescribed by Order in Council;
- (d) any other person in respect of whom application is made under section 15 (3) of the *Liquor Act 1912-1990* to have the other person's name substituted for that of the person in whose name any licensed victualler's license, tavern license or any license referred to in paragraph (c) was granted or transferred;
- (e) an intending transferee under section 29 or 33 of the *Liquor Act 1912-1990* in respect of a club license, licensed victualler's license, tavern license or any license referred to in paragraph (c);
 - or
- (f) a club that is an applicant under section 35 of the *Liquor Act 1912-1990*.

(2) Application for a gaming machine licence may be made only in respect of—

- (a) in the case of an application referred to in subsection (1) (a), (b) or (c), premises specified in the applicant's license in question under the *Liquor Act 1912-1990*;
 - (b) in the case of an application referred to in subsection (1) (d), premises specified in the license under the *Liquor Act 1912-1990* that is the subject of the application for substitution;
 - (c) in the case of an applicant referred to in subsection (1) (e), premises specified in the application for transfer under section 29 or 33 of the *Liquor Act 1912-1990*;
or
 - (d) in the case of an applicant referred to in subsection (1) (f), other premises specified in the application for removal under section 35 of the *Liquor Act 1912-1990*.
- (3) An application for the grant of a gaming machine licence—
- (a) is to be made in the form determined by the Director;
 - (b) in the case of an application by a natural person, is to be signed by the applicant;
 - (c) in the case of an application by a body corporate, is to be—
 - (i) executed under the common seal of the body corporate and signed by 2 executive officers of the body corporate authorized in that behalf by the body corporate;
or
 - (ii) where the Director considers that the provisions of subparagraph (i) cannot reasonably be complied with, executed or signed in such other manner as the Director allows;
 - (d) is to state the full name, address and date of birth—
 - (i) in the case of an application by a natural person, of the applicant;
 - (ii) in the case of an application by a body corporate, of the secretary and each executive officer of the body corporate;
 - (e) in the case of an application by a body corporate, is to be accompanied by—
 - (i) a copy of the certificate of incorporation of the body corporate;
 - (ii) a copy of the memorandum and articles of association, rules, constitution or other incorporating documents of the body corporate in force at the time of making the application certified as a true copy by the secretary of the body corporate or other person duly authorized in that behalf by the body corporate;
 - (iii) a copy of the resolution or minute of the proceedings of the governing body of the body corporate whereby approval

- was given to the making of the application, certified as a true copy by the person certifying the copy of the matters referred to in subparagraph (ii);
- (iv) a copy of the last audited balance sheet or statement of the financial affairs of the body corporate;
 - (f) in the case of an application by a club, is also to be accompanied by—
 - (i) a statement detailing the number of members in each class of membership of the club;
 - (ii) a statement detailing the hours and days when the club's premises are open for the sale of liquor;
 - (iii) a statutory declaration by the principal executive officer of the club that the matters referred to in paragraph (e) (ii) or any other applicable rules or by-laws of the club—
 - (A) have been complied with in making the application;
 - and
 - (B) do not prohibit the playing of gaming machines on the premises to which the application relates;
 - (g) where the application is made by an applicant referred to—
 - (i) in subsection (1) (a), (b), (c) or (d), is to be accompanied by a copy of the license under the *Liquor Act 1912-1990* in respect of the premises to which the application relates; and
 - (ii) in subsection (1) (d), (e) or (f), is to be accompanied by a copy of the application made under the *Liquor Act 1912-1990* for substitution, transfer or, as the case may be, removal;
 - (h) is to be accompanied by a plan of the premises to which the application relates indicating the proposed locations on the premises where it is intended to install gaming machines;
 - (i) is to specify full particulars of the ownership and any intended ownership of the premises;
 - (j) is to specify the number of gaming machines in respect of which the licence is sought;
 - (k) is to be accompanied by an affidavit under section 3.19;
 - (l) is to contain or be accompanied by such other information, records, reports, documents and writings relating to the application and applicant as are determined by the Director;
 - (m) is to be forwarded to or lodged with the Director; and
 - (n) is to be accompanied by the fee prescribed.

3.3 Consideration of applications. (1) Upon receipt of an application

for a gaming machine licence, and compliance by the applicant with the provisions of this Part in relation thereto, the Director must—

- (a) initiate and have followed through such investigations as the Director considers are necessary in relation to the application;
and
- (b) consider the application and any thing accompanying it together with the results of investigations made under paragraph (a) and make an assessment of—
 - (i) the suitability of the premises to which the application relates having regard to the size, layout and facilities of the premises;
 - (ii) if the applicant is a natural person, the financial stability, general reputation and character of the applicant;
 - (iii) if the applicant is a body corporate, the business reputation and financial stability of the body corporate and the general reputation and character of the secretary and executive officers of the body corporate;
 - (iv) if any person is mentioned in an affidavit under section 3.19, the suitability of that person to be an associate of the applicant;
 - (v) if the Director considers it appropriate, the suitability of any other associate of the applicant to be an associate of the applicant;
 - (vi) the suitability of the applicant to be a licensee.

The Director must make a recommendation to the Commission that a gaming machine licence be granted or refused.

(2) The Director is not to recommend that a gaming machine licence be granted if—

- (a) in the case of an application by a natural person, the applicant has not attained the age of 18 years;
- (b) in the case of an application by a body corporate, the secretary or any executive officer of the body corporate has not attained the age of 18 years;
or
- (c) the Director considers that the installation and use of gaming machines on the premises to which the application relates is likely to affect adversely—
 - (i) the nature or character of the premises;
or
 - (ii) the general use of the premises or the enjoyment of persons using the premises.

(3) Where the Director considers that any proposed location indicated in the plan referred to in section 3.2 (3) (h) is unsuitable for the installation of gaming machines the Director is to—

- (a) advise the applicant, in writing, accordingly;
- (b) return the plan of the premises to the applicant;
- and

(c) request the applicant to amend and re-submit the plan, as often as is necessary to satisfy the Director's requirements.

(4) If an applicant, within the time specified in the last request made under subsection (3), fails to amend and re-submit the plan the Director is not required to take any further action in respect to the application.

(5) Where the Director recommends the grant of a gaming machine licence, the Director must advise the Commission of the number of gaming machines considered appropriate for the premises the subject of the application.

The Director is to have regard to—

- (a) the number of gaming machines requested in the application made under section 3.2;
- (b) the liquor consumption on the premises;
- (c) the hours and days when the premises are open for the sale of liquor;
- (d) in the case of a club, the number of members of the club;
- (e) the size, layout and facilities of the premises to which the application relates;
- (f) the size and layout of the proposed gaming machine areas;
- (g) any advice furnished by the Licensing Commission in regard to matters contained in subparagraphs (b) and (e);
- (h) the anticipated level of gaming on the premises;
- and
- (i) such other matters as the Director considers are relevant.

(6) The Director or Commission may require the applicant, or any associate of the applicant, to submit such additional information or material as the Director or, as the case may be, the Commission considers is necessary in order to make a recommendation, decision or determination, as the case may be.

Any such additional information or material is to be considered in making the recommendation, decision or determination.

(7) The Commission is to determine the number of gaming machines to be provided by the Director to the applicant.

That number is to be not greater than the number applied for or the maximum number prescribed for the category of licensed premises to which the licensed premises the subject of the application belongs.

(8) The applicant is to be notified, in writing by the Director, of the decision of the Commission.

(9) Upon the grant of a gaming machine licence the gaming machine areas are those locations on licensed premises indicated in the plan referred to in section 3.2 (3) (h) or that plan as last amended and re-submitted under subsection (3).

3.4 Issue of gaming machine licences. (1) Where the Commission grants a gaming machine licence, the Director must issue the licence.

(2) The gaming machine licence is to be in the form determined by the Director and is to specify—

- (a) the name of the licensee;
- (b) the expiry date of the licence;
- (c) any conditions imposed under section 3.9 (1) (b);
and
- (d) such other particulars as are so determined.

3.5 Schedule of Gaming Machines. (1) The Director must issue to a licensee in respect of each of the licensee's licensed premises a Schedule of Gaming Machines.

(2) A Schedule of Gaming Machines is to—

- (a) identify the gaming machine licence and licensed premises to which it applies;
- (b) specify the number of gaming machines and the number of gaming machines of each gaming token denomination provided to the licensee in respect of the licensed premises;
- (c) specify the date from which the schedule is to apply.

(3) A Schedule of Gaming Machines, in respect of each gaming machine provided to the licensee in respect of the licensed premises specified in the schedule, is to contain—

- (a) the gaming machine type;
- (b) the game;
- (c) the gaming token denomination;
- (d) the manufacturer's serial number;
- (e) the identification number issued under section 6.21;
and
- (f) where the machine is linked to a linked jackpot arrangement or a system approved under section 6.20, the approval number of the linked jackpot arrangement or system.

(4) Where—

- (a) the accuracy of the Schedule of Gaming Machines is affected by any thing done by the Director under section 3.14, 3.15 or 6.20;

or

- (b) the Director is satisfied that a Schedule of Gaming Machines has been damaged, lost or destroyed,

the Director is to issue a fresh Schedule of Gaming Machines to the licensee.

(5) The issue of a fresh Schedule of Gaming Machines under subsection (4) cancels any previous Schedule of Gaming Machines on and from the date specified for the purpose in the fresh schedule and is to be taken for all purposes to be the Schedule of Gaming Machines for the licensed premises specified in the fresh schedule.

(6) Upon receipt of a fresh Schedule of Gaming Machines the licensee must cause any cancelled Schedule of Gaming Machines in the possession of the licensee to be delivered to the Director within 14 days of that receipt.

3.6 Gaming machine licences and schedules to be displayed.

(1) Subject to subsection (2), a licensee is to display the licensee's gaming machine licence and the Schedule of Gaming Machines in a conspicuous position on the licensed premises in question unless the licence at any material time is in the possession of the Director.

(2) Instead of displaying the Schedule of Gaming Machines a licensee may display that part of the schedule that shows the matters referred to in section 3.5 (2).

3.7 Issue of copy gaming machine licences. (1) Where the Director is satisfied that a gaming machine licence has been damaged, lost or destroyed, the Director, upon payment of the fee prescribed may issue to the licensee a copy of the gaming machine licence.

(2) A copy of a gaming machine licence issued under subsection (1), for all purposes, has the same effect as the original gaming machine licence of which it is a copy.

3.8 Term of gaming machine licences. (1) Subject to this Act, a gaming machine licence remains in force for 2 years from the date of issue of the licence.

(2) A gaming machine licence may be renewed.

3.9 Conditions of gaming machine licences. (1) A gaming machine licence is subject to—

- (a) such conditions as are prescribed;
and

- (b) such other conditions (including any variation thereof made under section 3.10) as the Commission may impose in the public interest or for the proper conduct of gaming at the time of granting the licence or under section 3.10.

(2) A licensee who fails to comply with any condition referred to in subsection (1) commits an offence against this Act.

3.10 Imposition or variation of conditions. (1) Where the Commission in the public interest or for the proper conduct of gaming, at any time after granting a gaming machine licence, considers that—

(a) the imposition of conditions or further conditions on the licence;

or

(b) a variation to the conditions imposed on the licence under section 3.9 (1) (b) or paragraph (a) of this subsection,

is warranted, the Commission may impose the conditions or further conditions or vary the conditions.

(2) Where the Commission imposes or varies conditions under subsection (1) the Director must give the licensee notice thereof in writing.

(3) Any imposition of or variation to conditions under this section has effect from the date specified for the purpose in the notice given under subsection (2).

(4) Upon being given a notice under subsection (2) the licensee to whom the notice relates must cause the gaming machine licence to be delivered to the Director within 14 days.

After endorsing the gaming machine licence the Director is to return it to the licensee.

3.11 Payment and recovery of moneys. (1) All moneys received by the Director in accordance with conditions referred to in section 3.9 must be paid into the Consolidated Revenue Fund.

(2) The Director, for any reason that the Director considers is sufficient, may forgive or refund any penalty payable under conditions referred to in section 3.9.

(3) All moneys payable by a licensee under conditions referred to in section 3.9 that remain unpaid may be recovered as a debt payable by the licensee to the Crown.

(4) The Director, with the approval of the Under Treasurer, instead of proceeding with or continuing an action under subsection (3), may accept in full payment of any debt payable an amount that is less than the amount payable or remaining unpaid where—

(a) the gaming machine licence in relation to which the debt is payable has been cancelled or surrendered;

and

(b) the person who held the licence is not the holder of any other gaming machine licence.

3.12 Renewal and continuance of gaming machine licences. (1) A licensee may apply to the Director for renewal of the gaming machine licence.

- (2) Application under subsection (1)—
- (a) is to be in the form determined by the Director;
 - (b) is to be accompanied by the fee prescribed;
 - (c) is to be made, unless the Director otherwise allows, at least 1 month before the expiration of the licence;
 - (d) in the case of an application by a body corporate, is to be accompanied by a list of the names, addresses and dates of birth of—
 - (i) the secretary of the body corporate;
 - (ii) the executive officers of the body corporate;
 - and
 - (iii) all other persons who have been the secretary or an executive officer of the body corporate since the licence was granted or, as the case may be, last renewed;
 - and
 - (e) is to be accompanied by an affidavit under section 3.19.

(3) If the Director considers that special circumstances exist, the Director may extend the term of a gaming machine licence, or renewal thereof, for one month from the date of its expiration to allow the licensee to comply with this section.

During the period of extension the gaming machine licence has the same effect as if it had been renewed.

- (4) Upon—
- (a) a licensee complying with this section;
 - and
 - (b) the Director being satisfied that the applicant continues to be a fit and proper person to be a licensee,

the Director must renew the licence for 2 years commencing on the date following the date of its last expiry or from the date it would have last expired but for any extension under subsection (3).

3.13 Gaming machine licences not to be transferred. (1) A gaming machine licence is not to be transferred to another person or to other premises.

(2) Notwithstanding the provisions of the *Liquor Act 1912-1990*, where application under that Act is made for—

- (a) the substitution of a name under section 15 (3) of that Act in respect of;
- (b) the transfer of;
- or
- (c) the removal of,

a club license, licensed victualler's license, tavern license or license referred to in section 3.2 (1) (c), the Licensing Commission must not

amend the license, transfer the license or remove the license unless the Director certifies to the Licensing Commission that the Director has no objections to the amendment, transfer or removal.

(3) The Director is not to give a certificate under subsection (2) unless—

- (a) in respect of an application under section 15 (3) of the *Liquor Act 1912-1990* for the substitution of a name—
 - (i) the premises in respect of which the application under that Act was made are not licensed premises under this Act;
or
 - (ii) if the premises in respect of which the application under that Act was made are licensed premises under this Act, the Commission is prepared to grant a gaming machine licence to the person whose name is to be substituted in the license under the *Liquor Act 1912-1990* and satisfactory arrangements exist for payment of any moneys payable under conditions referred to in section 3.9 or under Part 8 that are owing or may become payable by the current licensee;
 - (b) in respect of the proposed transfer of a license—
 - (i) the premises in respect of which the application under that Act was made are not licensed premises under this Act;
or
 - (ii) if the premises in respect of which the application under that Act was made are licensed premises under this Act, the Commission is prepared to grant a gaming machine licence to the intended transferee for the premises in respect of which the license is granted, and satisfactory arrangements exist for payment of any moneys payable under conditions referred to in section 3.9 or under Part 8 that are owing or may become payable by the intended transferor;
or
 - (c) in respect of the proposed removal of a license to other premises or to another site—
 - (i) the premises from which the license is being removed are not licensed premises under this Act;
or
 - (ii) if the premises from which the license is being removed are licensed premises under this Act, the Commission is prepared to grant a gaming machine licence for the other premises or site.
- (4) Where a person—
- (a) is a person to whom an application under section 15 (3) of the *Liquor Act 1912-1990* relates;

or

(b) makes application under that Act—

(i) for the transfer to that person of a license under that Act;

or

(ii) for the removal of a license under that Act to other premises or to another site,

and, or and also, makes application for a gaming machine licence (in respect of the premises to which the application under that Act relates), the Director and executive officer of the Licensing Commission are to make such administrative arrangements as are necessary to ensure that the substitution, transfer or removal by the Licensing Commission and the issue of a gaming machine licence (if a gaming machine licence is granted) are made simultaneously.

3.14 Director to provide gaming machines, etc. (1) Subject to subsection (3) and section 3.17, the Director must provide to a licensee the number or increased number of gaming machines determined under section 3.3 (7) or, as the case may be, 3.16 (5).

(2) The gaming machine type, game and gaming token denomination of a gaming machine provided under subsection (1) are to be as the Director determines.

(3) (a) If at any time a sufficient number of gaming machines is not available to enable the Director to comply with subsection (1), the Director may provide to a licensee a less number than that determined.

(b) The Director must provide the balance of the gaming machines as soon as possible after a sufficient number of gaming machines becomes available.

3.15 Director may alter or remove gaming machines, etc. (1) The Director may at any time remove from licensed premises any or all of the gaming machines provided to a licensee and provide the licensee with another gaming machine or other gaming machines.

(2) The Director—

(a) on application made by a licensee in the form determined by the Director and on payment of the fee prescribed may approve that a gaming machine;

or

(b) if the Director thinks fit to do so, may cause a gaming machine to,

be altered to effect a change in the game or gaming token denomination of the gaming machine.

(3) Where—

(a) the Commission determines under section 3.17 (1) that the number of gaming machines provided to a licensee be decreased;

or

(b) a gaming machine licence is cancelled,
the Director must remove from the premises in question the number of gaming machines so determined or, as the case may be, all gaming machines on the premises.

(4) Gaming machines removed pursuant to subsection (1) or (3) and gaming machines provided under subsection (1) are to be in accordance with such gaming machine type, game and gaming token denomination as the Director determines.

3.16 Increase in gaming machines. (1) A licensee may make application to the Director that the number of gaming machines provided to the licensee be increased.

(2) An application under subsection (1)—

- (a) is to be made in the form determined by the Director and signed or executed in the same manner as is specified in section 3.2 (3) (b) or, as the case may be, (c);
- (b) is to specify the increased number of gaming machines sought and the total number of gaming machines that would then be on the licensee's licensed premises in question should the application be granted;
- (c) where appropriate, is to be accompanied by an application under section 3.18;
- (d) is to contain or be accompanied by such other information, records, reports, documents and writings relating to the application or the licensee as are determined by the Director; and
- (e) is to be accompanied by the fee prescribed.

(3) The Director, in considering an application under subsection (1), is to have regard to—

- (a) the increased number of gaming machines applied for in the application;
 - (b) the liquor consumption on the premises;
 - (c) the gross monthly turnover of existing gaming machines operated on the premises;
 - (d) the hours and days when the premises are open for the sale of liquor;
 - (e) the size, layout and facilities of the premises together with any proposed modification or relocation of the gaming machine areas thereof;
 - (f) any advice furnished by the Licensing Commission in regard to the application;
- and

(g) such other matters as the Director considers are relevant.

(4) The Director must make a recommendation to the Commission that the application—

(a) be granted or refused;

or

(b) be granted in respect of a less number of gaming machines than the number sought.

(5) The Commission is to determine whether to grant or refuse to grant the application and, if granted, the increased number of gaming machines that may be provided to the licensee.

That increased number is to be not greater than the number applied for and the total number of gaming machines that would then be on the licensed premises is to be not greater than the maximum number prescribed for the category of licensed premises to which the licensed premises the subject of the application belongs.

(6) The Director or Commission may require the licensee to submit such additional information or material as the Director or, as the case may be, the Commission considers is necessary in order to make a recommendation or decision, as the case may be.

Any such additional information or material is to be considered in making the recommendation or decision.

3.17 Decrease in gaming machines. (1) The Commission, having regard to the Director's recommendation under subsection (2), may determine that the number of gaming machines provided to a licensee be decreased by such number as the Commission thinks fit.

(2) The Director must make a recommendation to the Commission as soon as practicable after receipt of—

(a) an application made to the Director by a licensee that the number of gaming machines provided to the licensee be decreased, accompanied, where appropriate by an application under section 3.18;

(b) a written request from the Licensing Commission, The Commissioner of Fire Service or the relevant Local Authority that the number of gaming machines provided to the licensee be decreased;

or

(c) the written report of an inspector with respect to—

(i) any general change in conditions that have occurred in the neighbourhood in which the licensee's licensed premises are located;

(ii) any change in the licensee's circumstances;

or

(iii) any change in any of the matters referred to in section 3.3 (5),

since the licensee was granted a gaming machine licence and recommending that the number of gaming machines provided to the licensee be decreased.

In this subsection—

“Local Authority” means a Local Authority or Joint Local Authority Board constituted under the *Local Government Act 1936-1990* for an Area or the Brisbane City Council constituted under the *City of Brisbane Act 1924-1990*;

“The Commissioner of Fire Service” means The Commissioner of Fire Service within the meaning of the *Fire Service Act 1990*.

(3) Except where a licensee makes an application under subsection (2) the Director, before making a recommendation under that subsection, must—

- (a) advise the licensee by notice in writing of the relevant details of any request or report made under subsection (2);
and
- (b) give the licensee the opportunity of making a submission with respect to the request or report within such time as is specified in the notice.

(4) The licensee must surrender to the Director or to a person authorized in that behalf by the Director the number of gaming machines specified in a determination made under subsection (1).

3.18 Modification or relocation of gaming machine areas. (1) A licensee who proposes to modify or relocate the gaming machine areas of the licensee’s licensed premises must make application for the approval of the Director.

(2) Where—

- (a) the Commission determines that the number of gaming machines provided to a licensee be decreased;
or
- (b) the Director considers that it is necessary for the proper conduct of gaming that the gaming machine areas of licensed premises be modified or relocated,

the Director may, by notice in writing, direct the licensee to modify or relocate the gaming machine areas of the licensee’s licensed premises in accordance with the direction.

The licensee must comply with the direction.

(3) The Director may require the licensee to furnish such information with respect to the proposal under subsection (1) or any proposed direction under subsection (2) as the Director thinks fit.

The licensee must comply with the requirement.

(4) The Director, having regard to—

(a) the size, layout and facilities of the licensee's licensed premises;

and

(b) such other matters as the Director considers are relevant,

may grant or refuse to grant an application under subsection (1).

(5) On and from the date of completion of any modification or relocation approved or directed under this section the gaming machine areas of a licensed premises for all purposes are as so modified or relocated.

3.19 Disclosure of influential or benefiting parties. (1) An affidavit under this section must be forwarded to or lodged with the Director by—

(a) an applicant for a gaming machine licence;

(b) an applicant for a gaming machine licence who undergoes any change in circumstances in respect of information contained in an affidavit forwarded or lodged in accordance with paragraph (a) or the last affidavit forwarded or lodged in accordance with this paragraph;

(c) a licensee at the time the licensee makes application for renewal of the licence;

(d) any licensee who undergoes any change in circumstances in respect of information contained in the last affidavit forwarded or lodged in accordance with this section by the licensee.

(2) An affidavit referred to in subsection (1) (b) or (d) must be forwarded to or lodged with the Director within 7 days of any change in circumstances.

(3) An affidavit under this section is to be made by—

(a) in the case of the applicant or licensee being a natural person, by that person;

or

(b) in the case of the applicant or licensee being a body corporate, by—

(i) the principal executive officer of the body corporate;

or

(ii) if that officer does not have knowledge of the facts, by some other person who has knowledge of the facts and who is authorized by the body corporate to make the affidavit.

(4) An affidavit under this section is to be in the form determined by the Director and disclose—

(a) whether or not there is any person (other than, where the applicant or licensee is a body corporate, the secretary, an

executive officer, a member or shareholder of the body corporate carrying out the duties or exercising the normal rights the person has as such secretary, executive officer, member or shareholder) who will by any lease, agreement or arrangement be able to influence any decision made—

- (i) in the case of the applicant or licensee being a natural person, by that person;
or
- (ii) in the case of the applicant or licensee being a body corporate, by the body corporate or the secretary or an executive officer of the body corporate,
in relation to the conduct of gaming by the applicant or licensee;
- (b) whether or not there is any person other than the applicant or licensee who by any lease, agreement or arrangement may expect any benefit from the applicant or licensee in relation to the conduct of gaming by the applicant or licensee;
- (c) if there are any persons able to influence as referred to in paragraph (a) or expect benefit as referred to in paragraph (b)—
 - (i) where any such person is a natural person, his or her full name, address and date of birth;
 - (ii) where any such person is a body corporate other than a club—the name of the body corporate and the full name, address and date of birth of the secretary and each executive officer of the body corporate;
 - (iii) where any such person is a club or other voluntary association of persons—
 - (A) the name of the club or voluntary association of persons;
 - (B) the full name, address and date of birth of the secretary and each executive officer of the club or voluntary association of persons;
 - (C) particulars of any license under the *Liquor Act 1912-1990* held by the club or voluntary association of persons;
 - (D) details of the objectives (if any) of the club or voluntary association of persons and whether or not the club is a non-proprietary club or the voluntary association of persons conducts its business in the same manner as a non-proprietary club;
- and
- (iv) full and correct particulars of the lease, agreement or arrangement;
and
- (d) in the case of the applicant or licensee being a body corporate other than a club, the names of all persons who are substantial

shareholders of the body corporate under section 708 of the Corporations Law.

(5) Notwithstanding subsection (4), an affidavit under this section need not disclose any thing that is prescribed for the purposes of this subsection.

3.20 Investigation of licensees and associates. (1) At any time while a gaming machine licence is in force the Director may cause to be undertaken such investigations as the Director considers are necessary in order to be satisfied that the licensee or any associate of the licensee is a suitable person to be a licensee or, as the case may be, an associate of the licensee.

(2) The Director may, either verbally or by notice in writing, require any person, to whom investigations under subsection (1) relate, to submit such information or material as the Director considers is necessary.

The person must comply with the requirement.

3.21 Cessation or commencement of executive officer or secretary. If an applicant under section 3.2 or a licensee is a body corporate, the body corporate must notify the Director in the form determined by the Director—

- (a) that a person has ceased to be the secretary or an executive officer of the body corporate;
- (b) that a person has commenced as the secretary or an executive officer of the body corporate;
- and
- (c) the full name, address and date of birth of any person referred to in paragraph (b),

within 7 days of such cessation or commencement, as the case may be.

3.22 Surrender of gaming machine licences. (1) A licensee, at any time, by forwarding to or lodging with the Director notification in the form determined by the Director, and the licensee's gaming machine licence, may surrender the licence.

(2) The notification is to be signed or executed in the same manner as that specified for an application made under section 3.2 (3) (b) or, as the case may be, (c).

(3) The Director may require the licensee to submit such information or material as the Director thinks fit.

The licensee must comply with the requirement.

(4) The Director as soon as possible after receipt of documents referred to in subsection (1) must remove all gaming machines from the licensee's licensed premises.

(5) A surrender of a gaming machine licence takes effect from the time all gaming machines are removed from the licensee's licensed premises.

3.23 Cancellation or suspension of gaming machine licences in certain circumstances. Where the license under the *Liquor Act 1912-1990* in respect of licensed premises under this Act is—

- (a) cancelled or forfeited under that Act, the gaming machine licence in respect of the licensed premises is cancelled;
- (b) amended to substitute the name of any other person, transferred, removed or surrendered under that Act, the gaming machine licence in respect of the licensed premises is cancelled;
- (c) suspended under that Act, the gaming machine licence in respect of the licensed premises is suspended for the same period as the license.

3.24 Cancellation or suspension of gaming machine licences and letters of censure. (1) A ground for cancellation or suspension of a gaming machine licence arises if—

- (a) the licensee—
 - (i) ceases to use the licensed premises for the conduct of gaming;
 - (ii) obtained the licence on false, erroneous or misleading information;
 - (iii) acquires, installs or uses any gaming machine on the licensed premises contrary to this Act;
 - (iv) fails to comply with any provision of Part 8;
 - (v) fails to comply with any condition to which the licence is subject under section 3.9;
 - (vi) fails to forward or lodge an affidavit in accordance with section 3.19 (2);
- (b) the licensee or an associate of the licensee—
 - (i) is convicted of an offence against this Act;
 - (ii) fails to discharge the licensee's or, as the case may be, associate's financial commitments, becomes bankrupt or compounds with creditors or otherwise takes advantage of the laws in force for the time being relating to bankruptcy;
 - (iii) is the subject of a winding up, either voluntarily or pursuant to court order, appointment of a liquidator, appointment of a receiver or receiver and manager or is placed under official management and an official manager appointed pursuant to the provisions of the Corporations Law;
 - (iv) is convicted of an indictable offence, whether on indictment or summarily, punishable in the particular case by imprisonment for 12 months or more (irrespective of whether the offence is also punishable by a fine in addition, or as an alternative, to imprisonment);

- (v) is required to comply with any written direction given to the licensee or associate by the Commission or Director, and refuses or fails to comply with the direction;
- (vi) is required under this Act to supply information or material to the Commission, the Director or an inspector, and fails to supply the information or material or supplies information or material that to the knowledge of the licensee or associate is false, erroneous or misleading in a material particular;

or

(c) the Director—

- (i) considers that the licensee has not made all reasonable efforts to comply with section 5.24;
- (ii) considers that the licensee has not made all reasonable efforts to enforce rules required to be enforced under section 5.8;
- (iii) considers that the licensee or an associate of the licensee is not a fit and proper person in respect of financial stability, general reputation, character or business reputation to be a licensee or to be an associate of the licensee;
- (iv) becomes aware of any information or matter that, had it been known when the application for the licence was being considered, the Director is of the opinion that the recommendation under section 3.3 (1) would have been that the licence be refused;

or

- (v) considers, where the licensee is a club, that the club has ceased to be a non-proprietary club or that the proceeds from the conduct of gaming are being applied in such manner as not to benefit the promotion of the objectives of the club.

(2) Where the Director is of the opinion that any act, omission or other thing that constitutes a ground under subsection (1) is of such a serious nature that the integrity of gaming or the conduct of gaming may be jeopardized or the public interest may be adversely affected, the Director must issue to the licensee a notice in writing to show cause why action should not be taken with respect to the gaming machine licence pursuant to the provisions of this section.

(3) The Director must issue a copy of the notice to any other person whom the Director considers has an interest in the gaming machine licence.

(4) The notice is to set out the grounds giving rise to its issue and is to specify a date, being not earlier than 21 days after such issue, on or before which cause is required to be shown.

(5) The notice is to be in such form and contain such matters as the Director thinks fit, subject to the provisions of this section.

(6) Each person to whom the notice is issued may give answer thereto in writing to the Director at any time not later than the date specified in the notice in that respect.

(7) Any person to whom a copy notice is issued under subsection (3) may make such submissions to the Director as the person thinks fit at any time not later than the date specified under subsection (4).

(8) The Director is to consider any answers given in reply to the notice to show cause and any submissions made pursuant to subsection (7) and if the Director considers that—

- (a) satisfactory answers are given or submissions made in reply to or in respect of the notice, the Director is not to take any action or any further action in relation thereto;
- (b) answers given or submissions made in reply to or in respect of the notice are not satisfactory but action to cancel or suspend the gaming machine licence is not warranted, the Director may issue a letter of censure to the licensee, censuring the licensee in respect of any matter connected with or giving rise to the notice to show cause;
- (c) answers given or submissions made in reply to or in respect of the notice are not satisfactory and further action is warranted or if no answers are given and no submissions are made, the Director may—
 - (i) by notice in writing give such directions to the licensee as the Director considers appropriate to ensure that any matter connected with or giving rise to the issue of the notice is rectified within the time specified in the notice;
or
 - (ii) recommend to the Commission that the gaming machine licence be cancelled or suspended.

(9) If a direction given by the Director pursuant to subsection (8) (c) (i) is not complied with within the time specified in the notice, the Director may recommend to the Commission that the gaming machine licence be cancelled or suspended.

(10) Where the Director is of the opinion that any act, omission or other thing that constitutes a ground under subsection (1) is not of such a serious nature that the integrity of gaming or the conduct of gaming may be jeopardized or the public interest may be adversely affected, the Director may by letter censure the licensee in respect of any matter connected with or giving rise to the ground.

(11) Where the Director makes a recommendation to the Commission, the Director must submit therewith the notice to show cause and answers thereto, any submissions made in connexion therewith and such other information or material in the Director's possession as the Director considers is relevant to the recommendation.

(12) The Commission, having regard to the recommendation of the Director, other matters referred to in subsection (11) and to such

other information or material as the Commission considers is relevant, may—

- (a) take no action with respect to the gaming machine licence if the Commission considers action is not warranted;
- (b) cause a letter of censure to be issued to the licensee in respect to any matter that the Commission considers it proper to do so;
- (c) by notice in writing give to the licensee any direction that the Commission considers appropriate to ensure that any matter connected with or giving rise to the issue of the notice is rectified within the time specified in the notice;
- (d) cancel the gaming machine licence or suspend the gaming machine licence for such period as the Commission thinks fit.

(13) Where the Commission cancels or suspends a licence the Director is to advise the licensee by notice in writing accordingly.

(14) The cancellation or suspension of a licence under this section takes effect from the date of the issue of the notice under subsection (13) or from another date specified in the notice.

(15) Upon receipt of a notice of cancellation under subsection (13) the person to whom the notice is addressed must cause the licence to be delivered to the Director within 14 days.

(16) The Commission, having regard to any recommendation of the Director in that regard, may—

- (a) cancel the suspension in respect of the unexpired period of suspension;
- or

(b) reduce the period of suspension, imposed under subsection (12) (d).

3.25 Suspension of gaming machine licence pending decision under s. 3.24. (1) Where the Commission, having regard to the advice of the Director, is of the opinion that any act, omission or other thing that constitutes a ground under section 3.24 (1) is of such a serious nature that the integrity of gaming or the conduct of gaming is jeopardized or the public interest is adversely affected, the Commission may suspend the gaming machine licence until any action taken, or to be taken, under section 3.24 is finally determined.

(2) Where the Commission suspends a gaming machine licence under subsection (1) the Director—

- (a) must give the licensee notice in writing of the suspension; and
- (b) is not to take any action under section 3.24 (8) (a), (b), (c) (i) or (10), in respect of the licence without the approval of the Commission.

(3) The suspension of a gaming machine licence under this section takes effect from when the notice referred to in subsection (2) is given to the licensee or the suspension of the licence is made known to the licensee (whichever is the first to occur).

(4) Without prejudice to a suspension under subsection (1), where the Commission suspends a gaming machine licence under that subsection the Director is to take action under section 3.24 as if the Director had formed the opinion referred to in section 3.24 (2) in respect of the act, omission or other thing that constitutes the ground referred to in subsection (1).

3.26 Effect of suspension of licence. The suspension of a gaming machine licence under section 3.23, 3.24 (12) or 3.25 (1) has the same effect as the cancellation of the licence but without prejudice to—

- (a) any penalty or other liability incurred by the licensee;
or
- (b) the exercise of the powers of the Commission or the powers or authorities of the Director or an inspector.

3.27 Gaming machines not to be played. Where a gaming machine licence is issued to a person and the licence is not in force that person must not play, or knowingly permit any other person to play, gaming machines provided to that person.

Penalty: 1 000 penalty units or imprisonment for 5 years, or both.

3.28 Recovery of gaming machines, etc. (1) The cancellation, surrender or non-renewal of a gaming machine licence does not affect—

- (a) the force or effect of the conditions of licence in respect of any moneys that are payable at the time of cancellation, surrender or non-renewal or which become payable thereafter;
or
- (b) the recovery of debts due under this Act to the Crown.

(2) A person who held a gaming machine licence that is cancelled or not renewed must provide all reasonable assistance to the Director, or any person acting on behalf of the Director, to enable the removal of any gaming equipment or ancillary or related property of the Crown from the premises to which the licence related.

3.29 Appointment of administrator instead of suspension. (1) Without derogating from section 3.24 or 3.25, the Commission may, in respect of a club, instead of suspending a gaming machine licence under section 3.24 (12) or 3.25 (1), appoint a person to administer the affairs of the club.

(2) A person appointed under subsection (1) has, to the exclusion of any other person or body of persons, the powers and authorities of the secretary and executive officers of the club until the Commission orders otherwise.

3.30 Expenses of administration. (1) The expenses of and incidental to the administration of the affairs of a club by a person appointed under section 3.29 are payable by the club.

(2) The remuneration of a person so appointed is an expense referred to in subsection (1) and is to be fixed by the Commission.

3.31 Liability for losses incurred during administration. (1) A person appointed by the Commission to administer the affairs of a club is not liable for any loss incurred by the club during the person's term of office unless the loss was attributable to the person's—

- (a) wilful misconduct;
- (b) gross negligence;
- or
- (c) wilful failure to comply with any provision of this Act.

(2) Neither the Crown nor the Commission is liable for any loss incurred by a club during the term of office of a person appointed under section 3.29 to administer the affairs of the club, whether or not the person is liable.

3.32 Continuance of licences in certain circumstances. Where pursuant to section 33 of the *Liquor Act 1912-1990* any authority or permit is granted to a grantee to carry on the business of another person and that other person is a licensee under this Act then, subject to this Act—

- (a) the licensee's gaming machine licence continues in force;
- and
- (b) the grantee may conduct gaming on the licensee's licensed premises and is subject to this Act in the same manner as if the grantee were the licensee.

PART 4—LICENSING OF REPAIRERS, SERVICE CONTRACTORS AND MACHINE MANAGERS

4.1 Unlicensed persons not to install, etc., gaming equipment. (1) Subject to subsection (3), a person who is not an inspector or a licensed repairer must not install, alter, adjust, maintain or repair gaming equipment on licensed premises.

(2) Subject to subsection (3), a person must not—

- (a) employ or allow;
- or
- (b) cause another person to employ or allow,

a person who is not an inspector or a licensed repairer to install, alter, adjust, maintain or repair gaming equipment on licensed premises.

(3) The provisions of this section do not apply to such installation, alteration, adjustment, maintenance or repair that is prescribed for the purposes of this subsection.

4.2 Unlicensed persons not to be service contractors. (1) A person must not enter into a service contract with a licensee, a person on behalf of a licensee or the Director unless the firstmentioned person is—

(a) a licensed service contractor;

or

(b) a licensed repairer carrying on the business of a licensed repairer in his or her own right and not as a partner in a partnership.

(2) A person must not enter into an agreement with—

(a) a licensed service contractor;

or

(b) a licensed repairer referred to in subsection (1) (b),

to sub-contract from the licensed contractor or licensed repairer a service contract unless the person is a licensed service contractor or a licensed repairer referred to in subsection (1) (b).

(3) A licensed service contractor or a licensed repairer referred to in subsection (1) (b) must not enter into an agreement with a person to sub-contract to that person a service contract, unless the person is—

(a) a licensed service contractor;

or

(b) a licensed repairer referred to in subsection (1) (b).

(4) A person who enters into an agreement referred to in subsection (2) or (3) must not sub-contract the service contract the subject of the agreement.

4.3 Unlicensed persons not to be machine managers. (1) Subject to subsections (4) and (6), such duties as are prescribed for the purposes of this subsection must be carried out only by a licensed machine manager who is authorized under subsection (3) to carry out the duties in respect of the licensee's licensed premises.

(2) Subject to subsections (4) and (6), a person must not—

(a) employ or allow;

or

(b) cause another person to employ or allow,

a person who is not a licensed machine manager authorized under subsection (3) in respect of the licensed premises in question to carry out the duties prescribed for the purposes of subsection (1).

(3) Subject to subsection (4), a licensee must ensure at all times in respect of each of the licensee's licensed premises that there are at least 2 licensed machine managers authorized in writing by the licensee to carry out the duties prescribed for the purposes of subsection (1).

(4) If a licensee is unable to comply with subsection (3), the licensee, with the approval of the Director, may authorize in writing a sufficient

number of persons (who are applicants for a machine manager's licence) so that there are at least 2 persons who are licensed machine managers or applicants for a machine manager's licence to carry out the duties prescribed for the purposes of subsection (1) in respect of each of the licensee's licensed premises.

(5) Subject to subsection (6), a licensee must ensure that at all times when gaming is being conducted on the licensee's licensed premises there is present on the premises, or readily available, at least 1 licensed machine manager authorized by the licensee under subsection (3) or an applicant for a machine manager's licence authorized by the licensee under subsection (4) in respect of the premises.

(6) (a) If a licensee is unable to comply with subsection (5) the licensee, with the approval of the Director, may authorize in writing any person to carry out the duties prescribed for the purposes of subsection (1) for a period of 7 days.

(b) Until a licensee obtains the approval of the Director under paragraph (a) or is able to comply with subsection (5) the licensee must cease the conduct of gaming on the licensee's licensed premises.

4.4 Certain persons must apply for machine manager's licence. (1) Where the Commission, having regard to the advice of the Director, considers that any person connected with, or who is an employee of, a licensee—

(a) has the power to exercise a significant influence over the conduct of gaming by the licensee;

or

(b) by reason of—

(i) that person's remuneration or policy making position;

or

(ii) any other criteria determined by the Minister,

exercises or is able to exercise authority of such a nature or to such an extent in respect of the conduct of gaming by the licensee as to make it desirable in the public interest that that person be a licensed machine manager,

the Commission, by notice in writing, must require that person to apply for a machine manager's licence within 7 days after the receipt by that person of the notice.

The Commission must cause a copy of the notice to be served on the licensee.

(2) A person who fails within 7 days to comply with a notice under subsection (1) and continues to be connected or employed as referred to in subsection (1) commits an offence against this Act.

(3) (a) Where a person fails within 7 days to comply with a notice under subsection (1) and continues to be connected or employed as referred to in subsection (1), the Commission must cause a notice in writing of the failure to be served on the licensee.

(b) The licensee forthwith on a notice under paragraph (a) being served, notwithstanding the provisions of any other Act or law or any industrial award or agreement, must terminate the connexion with or employment of the person.

(4) If the Commission refuses to grant an application made by a person referred to in subsection (1)—

(a) that person, on receipt of notification of the refusal, must cease to be connected or employed as referred to in subsection (1);

and

(b) the licensee, on receipt of the notification of the refusal, must terminate the connexion or employment.

(5) A licensee does not incur any liability in respect of the termination pursuant to this section of any connexion or employment referred to in subsection (1).

4.5 Applications for licences under this Part. (1) An application for the grant of a repairer's, service contractor's or machine manager's licence—

(a) is to be made in the form determined by the Director;

(b) in the case of an application by a natural person, is to be signed by the applicant;

(c) in the case of an application by a body corporate, is to be—

(i) executed under the common seal of the body corporate and signed by 2 executive officers of the body corporate authorized in that behalf by the body corporate;

or

(ii) where the Director considers that the provisions of subparagraph (i) cannot reasonably be complied with, executed or signed in such other manner as the Director allows;

(d) is to state the full name, address and date of birth—

(i) in the case of an application by a natural person, of the applicant;

(ii) in the case of an application by a body corporate, of the secretary and each executive officer of the body corporate;

(e) in the case of an application for a repairer's or machine manager's licence, is to be accompanied by photographs of the applicant, of such type and number as are determined by the Director and certified in such manner as is so determined;

(f) in the case of an application by a body corporate, is to be accompanied by—

(i) a copy of the certificate of incorporation of the body corporate;

- (ii) a copy of the memorandum and articles of association, rules, constitution or other incorporating documents in force at the time of making the application certified as a true copy by the secretary of the body corporate or other person duly authorized in that behalf by the body corporate;
- (iii) a copy of the resolution or minute of the proceedings of the governing body of the body corporate whereby approval was given to the making of the application, certified as a true copy by the person certifying the copy of the matters referred to in subparagraph (ii);
- (iv) a copy of the last audited balance sheet or statement of the financial affairs of the body corporate;
- (g) in the case of an application for a repairer's or service contractor's licence, is to be accompanied by an affidavit under section 4.17;
- (h) is to contain or be accompanied by such other information, records, reports, documents and writings relating to the application and applicant as are determined by the Director;
- (i) is to be forwarded to or lodged with the Director;
- and
- (j) is to be accompanied by the fee prescribed.

(2) It is a condition precedent to consideration of an application for a repairer's or machine manager's licence that the applicant is agreeable to the applicant's finger prints and palm prints being taken by or on behalf of the Director.

4.6 Changes in circumstances of applicants for and holders of licences. (1) Where a person makes application for a licence under this Part and before the licence is granted or refused, any change occurs in any thing contained in or accompanying the application or in any advice given under this subsection, the applicant must within 7 days of the change forward to or lodge with the Director advice in writing specifying particulars of the change.

(2) After the grant of a licence under this Part the holder of the licence must forward to or lodge with the Director advice in writing of any change of address of the holder within 7 days of the change.

4.7 Consideration of applications. (1) Upon receipt of an application for a licence under this Part, and compliance by the applicant with the provisions of this Part in relation thereto, the Director must—

- (a) if the application is for a repairer's or machine manager's licence, cause the finger prints and palm prints of the applicant to be taken;
- (b) initiate and have followed through such investigations as the Director considers are necessary in relation to the application;
- and

- (c) consider the application and any thing accompanying it together with the results of investigations made under paragraph (b) and make an assessment of—
 - (i) if the applicant is a natural person, the financial stability, general reputation and character of the applicant;
 - (ii) if the applicant is a body corporate, the business reputation and financial stability of the body corporate and the general reputation, financial stability and character of the secretary and executive officers of the body corporate;
 - (iii) if any person is mentioned in an affidavit under section 4.17, the suitability of that person to be an associate of the applicant;
 - (iv) if the Director considers it appropriate, the suitability of any other associate of the applicant to be an associate of the applicant;
 - (v) the suitability of the applicant to be a holder of the licence for which application is made.

The Director must make a recommendation to the Commission that a licence under this Part be granted or refused.

(2) The Director is not to recommend that a licence be granted if—

- (a) in the case of any application by a natural person, the applicant has not attained the age of 18 years;
or
- (b) in the case of an application by a body corporate, the secretary or any of the executive officers of the body corporate has not attained the age of 18 years.

(3) The Director or Commission may require the applicant, or any associate of the applicant, to submit such additional information or material as the Director or, as the case may be, the Commission considers is necessary in order to make a recommendation or decision, as the case may be.

Any such additional information or material is to be considered in making the recommendation or decision.

(4) Where—

- (a) an application for a repairer's or machine manager's licence is refused;
or
- (b) a person ceases to be a licensed repairer or licensed machine manager,

any finger prints and palm prints of the applicant or person taken under subsection (1) (a) are to be destroyed as soon as practicable.

4.8 Commission may grant or refuse to grant licences. (1) The Commission, having regard to the recommendation of the Director and

to such other information or material as the Commission considers is relevant, may grant or refuse to grant licences under this Part.

(2) An applicant is to be notified, in writing, by the Director of the decision of the Commission.

(3) Where the Director grants an approval under section 4.3 (4), the Director is to give a copy of the notification under subsection (2) to the licensee to whom the approval was granted.

4.9 Issue of licences. (1) Where the Commission grants a licence under this Part, the Director must issue the licence.

(2) The licence is to be in the form determined by the Director for the licence in question and is to—

- (a) specify the name of the holder of the licence;
- (b) in the case of a repairer's licence or machine manager's licence, show thereon the photograph of the holder of the licence;
- (c) specify the expiry date of the licence;
- (d) specify any conditions imposed under section 4.12; and
- (e) specify such other particulars as are so determined.

4.10 Issue of copy licence. (1) Where the Director is satisfied that a licence under this Part that is in force has been damaged, lost or destroyed, the Director, upon payment of the fee prescribed, may issue to the holder of the licence a copy of the licence.

(2) A copy of a licence issued under subsection (1), for all purposes, has the same effect as the original licence of which it is a copy.

4.11 Term of licences. (1) Subject to this Act, a licence under this Part remains in force for 2 years from the date of issue of the licence.

(2) A licence under this Part may be renewed.

4.12 Conditions of licences. A licence under this Part is subject to such conditions (including any variation thereof made under section 4.13) as the Commission may impose in the public interest or for the proper conduct of gaming at the time of granting the licence or under section 4.13.

4.13 Variation of conditions imposed on a licence. (1) Where the Commission in the public interest or for the proper conduct of gaming, at any time after granting a licence under this Part, considers that—

- (a) the imposition of conditions or further conditions on the licence;

or

- (b) a variation to the conditions imposed on the licence under section 4.12 or paragraph (a) of this subsection,

is warranted, the Commission may impose the conditions or further conditions or vary the conditions.

(2) Where the Commission imposes or varies conditions under subsection (1) the Director must give the holder of the licence notice thereof in writing.

(3) Any imposition of or variation to conditions under this section has effect from the date specified for the purpose in the notice given under subsection (2).

(4) Upon being given a notice under subsection (2) the holder of the licence to whom the notice relates must cause the licence to be delivered to the Director within 14 days.

After endorsing the licence the Director is to return it to the holder of the licence.

4.14 Renewal and continuance of licences. (1) A holder of a licence under this Part may apply to the Director for renewal of the licence.

(2) Application under subsection (1)—

- (a) is to be in the form determined by the Director;
- (b) in the case of a repairer's or machine manager's licence, is to be accompanied by photographs of the applicant, of such type and number as are so determined;
- (c) is to be accompanied by the fee prescribed;
- (d) is to be made, unless the Director otherwise allows, at least 1 month before the expiration of the licence;
- (e) in the case of an application by a body corporate, is to be accompanied by a list of the names, addresses and dates of birth of—
 - (i) the secretary of the body corporate;
 - (ii) the executive officers of the body corporate;and
 - (iii) all other persons who have been the secretary or an executive officer of the body corporate since the licence was granted or, as the case may be, last renewed;and
- (f) in the case of a repairer's or service contractor's licence, is to be accompanied by an affidavit under section 4.17.

(3) If the Director considers that special circumstances exist, the Director may extend the term of a licence under this Part, or renewal thereof, for one month from the date of its expiration to allow the holder of the licence to comply with this section.

During the period of extension the licence has the same effect as if it had been renewed.

(4) Upon—

- (a) a holder of a licence under this Part complying with this section;
- and
- (b) the Director being satisfied that the applicant continues to be a fit and proper person to hold a licence under this Part,
- the Director must renew the licence for 2 years commencing on the date following the date of its last expiry or from the date it would have last expired but for any extension under subsection (3).

4.15 Licences not to be transferred. A licence under this Part is not to be transferred.

4.16 Display of repairer's licence. A licensed repairer must at all times whilst installing, altering, adjusting, maintaining or repairing gaming equipment on licensed premises display his or her licence currently in force on his or her person in such manner as to be visible to other persons unless the licence at any material time is in the possession of the Director.

4.17 Disclosure of influential or benefiting parties. (1) An affidavit under this section must be forwarded to or lodged with the Director by—

- (a) an applicant for a repairer's or service contractor's licence;
- (b) an applicant for a repairer's or service contractor's licence who undergoes any change in circumstances in respect of information contained in an affidavit forwarded or lodged in accordance with paragraph (a) or the last affidavit forwarded or lodged in accordance with this paragraph;
- (c) a licensed repairer or licensed service contractor at the time the licensed repairer or licensed service contractor makes application for renewal of the licence;
- (d) a licensed repairer or licensed service contractor who undergoes any change in circumstances in respect of information contained in the last affidavit forwarded or lodged in accordance with this section by the licensed repairer or licensed service contractor.

(2) An affidavit referred to in subsection (1) (b) or (d) must be forwarded to or lodged with the Director within 7 days of any change in circumstances.

(3) An affidavit under this section is to be made by—

- (a) in the case of any applicant for or holder of the licence being a natural person, by that person;
or
- (b) in the case of any applicant for or holder of the licence being a body corporate, by—
 - (i) the principal executive officer of the body corporate;
or
 - (ii) if that officer does not have knowledge of the facts, by some other person who has knowledge of the facts and who is authorized by the body corporate to make the affidavit.

(4) An affidavit under this section is to be in the form determined by the Director and disclose—

- (a) whether or not there is any person (other than, where the applicant or holder of the licence is a body corporate, the

secretary, an executive officer, a member or shareholder of the body corporate carrying out the duties or exercising the normal rights the person has as such secretary, executive officer, member or shareholder) who will by any lease, agreement or arrangement be able to influence any decision made—

- (i) in the case of the applicant or holder of the licence being a natural person, by that person;
or
- (ii) in the case of the applicant or holder of the licence being a body corporate, by the body corporate or the secretary or an executive officer of the body corporate,
in relation to the performance of the general functions that are, or are to be, permitted by the licence;
- (b) whether or not there is any person other than the applicant or holder of the licence who by any lease, agreement or arrangement may expect any benefit from the applicant or holder in relation to the performance of the general functions that are, or are to be, permitted by the licence;
- (c) if there is any person able to influence as referred to in paragraph (a) or expect benefit as referred to in paragraph (b)—
 - (i) where any such person is a natural person, the person's full name, address and date of birth;
 - (ii) where any such person is a body corporate, the name of the body corporate and the full name, address and date of birth of the secretary and each executive officer of the body corporate;
and
 - (iii) full and correct particulars of the lease, agreement or arrangement;
and
- (d) in the case of the applicant or holder of the licence being a body corporate, the names of all persons who are substantial shareholders of the body corporate under section 708 of the Corporations Law.

(5) Notwithstanding subsection (4), an affidavit under this section need not disclose any thing that is prescribed for the purposes of this subsection.

4.18 Investigations of holders of licences and associates. (1) At any time while a licence under this Part is in force the Director may cause to be undertaken such investigations as the Director considers are necessary in order to be satisfied that the holder of the licence or any associate of the holder is a suitable person to be a holder of a licence under this Part or, as the case may be, an associate of the holder.

(2) The Director may, either verbally or by notice in writing, require any person, to whom investigations under subsection (1) relate, to submit such information or material as the Director considers is necessary.

The person must comply with the requirement.

4.19 Cessation or commencement of executive officer or secretary.

A licensed service contractor that is a body corporate must notify the Director in the form determined by the Director—

- (a) that a person has ceased to be the secretary or an executive officer of the body corporate;
- (b) that a person has commenced as the secretary or an executive officer of the body corporate;
- and
- (c) the full name, address and date of birth of any person referred to in paragraph (b),

within 7 days of such cessation or commencement, as the case may be.

4.20 Notifications re employment, authorizations and agreements.

(1) In this section “employer” means a licensee, licensed repairer or licensed service contractor.

(2) An employer—

- (a) within 7 days of being granted the licence;
- and

(b) each time application for renewal of the licence is made, must notify the Director in the form determined by the Director of the names, and licence numbers under this Act, of all persons employed by the employer as licensed repairers at the time of making the notification.

(3) An employer within 7 days—

- (a) of commencing to employ a person as a licensed repairer;
- or

- (b) of such a person ceasing to be employed by the employer as a licensed repairer,

must notify the Director in the form determined by the Director of the name, and licence number under this Act, of that person together with the names, and licence numbers under this Act, of all other persons employed by the employer as licensed repairers at the time of making the notification.

(4) An employer—

- (a) within 7 days of being granted the licence;
- and

(b) each time application for renewal of the licence is made, must notify the Director in the form determined by the Director of the name, and licence number under this Act, of all other persons with

whom the employer has a service contract at the time of making the notification.

(5) An employer within 7 days of the making, or termination, of a service contract must notify the Director in the form determined by the Director of the name, and licence number under this Act, of the other party to the service contract together with the name and licence numbers under this Act, of all other persons with whom the employer has service contracts at the time of making the notification.

(6) A licensee—

(a) within 7 days of being granted the licence;
and

(b) each time application for renewal of the licence is made,
must notify the Director in the form determined by the Director of—

(c) the names and licence numbers under this Act of all licensed machine managers who are authorized under section 4.3 (3) in respect of the licensee's licensed premises in question at the time of making the notification;
and

(d) the names of all persons who are applicants for a machine manager's licence, who are authorized under section 4.3 (4) in respect of the licensee's licensed premises in question at the time of making the notification.

(7) A licensee within 7 days of—

(a) authorizing a licensed machine manager under section 4.3 (3);

or

(b) any person ceasing to be authorized by the licensee under section 4.3 (3) or 4.3 (4),

must notify the Director in the form determined by the Director of—

(c) the name of that licensed machine manager or person and the licence number under this Act of that licensed machine manager;

(d) the name and licence number under this Act, of all other licensed machine managers who are authorized under section 4.3 (3) in respect of the licensee's licensed premises in question at the time of making the notification;
and

(e) the names of all other persons who are applicants for a machine manager's licence who are authorized under section 4.3 (4) in respect of the licensee's licensed premises in question at the time of making the notification.

(8) If it becomes known to an employer that a person employed by the employer as a licensed repairer is not a licensed repairer the employer must immediately terminate the employment of that person as a licensed repairer.

(9) If it becomes known to the Director or a licensee that a person with whom the Director or licensee has made a service contract is not a licensed repairer or licensed service contractor the Director or licensee must immediately terminate the service contract.

(10) If it becomes known to a licensed repairer or licensed service contractor that a person (other than the Director or a licensee) with whom the repairer or service contractor has made a service contract is not a licensed repairer or licensed service contractor the licensed repairer or licensed service contractor must immediately terminate the service contract.

(11) If it becomes known to a licensee that—

(a) a person authorized by the licensee under section 4.3 (3) is not a licensed machine manager;

or

(b) the application of a person authorized by the licensee under section 4.3 (4) has been refused,

the licensee must immediately terminate the authorization.

(12) The provisions of subsection (8), (9), (10) or (11) are sufficient authority to terminate the employment, service contract or authorization referred to in that subsection, notwithstanding any other Act or law or any industrial award or agreement.

No right of action arises against any person by reason of that termination.

4.21 Surrender of licences. (1) The holder of a licence under this Part, at any time, by forwarding to or lodging with the Director notification in the form determined by the Director, and the licence under this Part, may surrender the licence.

(2) The notification is to be signed or executed in the same manner as that specified for an application made under section 4.5 (1) (b) or, as the case may be, (c).

4.22 Cancellation or suspension of licences under this Part. (1) A ground for cancellation or suspension of a licence under this Part arises if—

(a) the holder of the licence—

(i) obtained the licence on false, erroneous or misleading information;

(ii) fails to comply with any condition to which the licence is subject under section 4.12;

(iii) fails to forward or lodge an affidavit in accordance with section 4.17 (2);

(b) the holder of the licence or an associate of the holder—

(i) is convicted of an offence against this Act;

(ii) fails to discharge the holder's or, as the case may be,

associate's financial commitments, becomes bankrupt or compounds with creditors or otherwise takes advantage of the laws in force for the time being relating to bankruptcy;

- (iii) is the subject of a winding up, either voluntarily or pursuant to court order, appointment of a liquidator, appointment of a receiver or receiver and manager or is placed under official management and an official manager appointed pursuant to the provisions of the Corporations Law;
- (iv) is convicted of an indictable offence, whether on indictment or summarily, punishable in the particular case by imprisonment for 12 months or more (irrespective of whether the offence is also punishable by a fine in addition, or as an alternative, to imprisonment);
- (v) is required to comply with any written direction given to the holder or associate by the Commission or Director, and refuses or fails to comply with the direction;
- (vi) is required under this Act to supply information or material to the Commission, the Director or an inspector, and fails to supply the information or material or supplies information or material that to the knowledge of the holder or associate is false, erroneous or misleading in a material particular;

or

(c) the Director—

- (i) considers that the holder of the licence or an associate of the holder is not a fit and proper person in respect of financial stability, general reputation, character or business reputation to be a holder of a licence or to be an associate of the holder of a licence;

or

- (ii) becomes aware of any information or matter that, had it been known when the application for the licence was being considered, the Director is of the opinion that the recommendation under section 4.7 (1) would have been that the licence be refused.

(2) Where the Director is of the opinion that any act, omission or other thing that constitutes a ground under subsection (1) is of such a serious nature that the integrity of gaming or the conduct of gaming may be jeopardized or the public interest may be adversely affected, the Director must issue to the holder of the licence a notice in writing to show cause why action should not be taken with respect to the licence pursuant to the provisions of this section.

(3) The Director must issue a copy of the notice to any other person whom the Director considers has an interest in the licence.

(4) The notice is to set out the grounds giving rise to its issue and is to specify a date, being not earlier than 21 days after such issue, on or before which cause is required to be shown.

(5) The notice is to be in such form and contain such matters as the Director thinks fit, subject to the provisions of this section.

(6) Each person to whom the notice is issued may give answer thereto in writing to the Director at any time not later than the date specified in the notice in that respect.

(7) Any person to whom a copy notice is issued under subsection (3) may make such submissions to the Director as the person thinks fit at any time not later than the date specified under subsection (4).

(8) The Director is to consider any answers given in reply to the notice to show cause and any submissions made pursuant to subsection (7) and if the Director considers that—

(a) satisfactory answers are given or submissions made in reply to or in respect of the notice, the Director is not to take any action or any further action in relation thereto;

(b) answers given or submissions made in reply to or in respect of the notice are not satisfactory but action to cancel or suspend the licence is not warranted, the Director may issue a letter of censure to the holder of the licence, censuring the holder of the licence in respect of any matter connected with or giving rise to the notice to show cause;

(c) answers given or submissions made in reply to or in respect of the notice are not satisfactory and further action is warranted or if no answers are given and no submissions are made, the Director may—

(i) by notice in writing give such directions to the holder of the licence as the Director considers appropriate to ensure that any matter connected with or giving rise to the issue of the notice is rectified within the time specified in the notice;

or

(ii) recommend to the Commission that the licence be cancelled or suspended.

(9) If a direction given by the Director pursuant to subsection (8) (c) (i) is not complied with within the time specified in the notice, the Director may recommend to the Commission that the licence be cancelled or suspended.

(10) Where the Director is of the opinion that any act, omission or other thing that constitutes a ground under subsection (1) is not of such a serious nature that the integrity of gaming or the conduct of gaming may be jeopardized or the public interest may be adversely affected, the Director may by letter censure the holder of the licence in respect of any matter connected with or giving rise to the ground.

(11) Where the Director makes a recommendation to the Commission, the Director must submit therewith the notice to show cause and answers thereto, any submissions made in connexion therewith and such other information or material in the Director's possession as the Director considers is relevant to the recommendation.

(12) The Commission, having regard to the recommendation of the Director, other matters referred to in subsection (11) and to such other information or material as the Commission considers is relevant, may—

- (a) take no action with respect to the licence if the Commission considers action is not warranted;
 - (b) cause a letter of censure to be issued to the holder of the licence in respect to any matter that the Commission considers it proper to do so;
 - (c) by notice in writing give to the holder of the licence any direction that the Commission considers appropriate to ensure that any matter connected with or giving rise to the issue of the notice is rectified within the time specified in the notice;
- or
- (d) cancel the licence or suspend the licence for such period as the Commission thinks fit.

(13) Where the Commission cancels or suspends a licence the Director is to advise the holder of the licence by notice in writing accordingly.

(14) The cancellation or suspension of a licence under this section takes effect from the date of the issue of the notice under subsection (13) or from another date specified in the notice.

(15) Upon receipt of a notice of cancellation under subsection (13) the person to whom the notice is addressed must cause the licence to be delivered to the Director within 14 days.

(16) The Commission, at any time, having regard to any recommendation of the Director in that regard, may—

- (a) cancel the suspension in respect of the unexpired period of suspension;
- or
- (b) reduce the period of suspension,
- imposed under subsection (12) (d).

4.23 Suspension of licences pending decision under s. 4.22. (1)
Where the Commission, having regard to the advice of the Director, is of the opinion that any act, omission or other thing that constitutes a ground under section 4.22 (1) is of such a serious nature that the integrity of gaming or the conduct of gaming is jeopardized or the public interest is adversely affected, the Commission may suspend a licence

under this Part until any action taken, or to be taken, under section 4.22 is finally determined.

(2) Where the Commission suspends a licence under subsection (1), the Director—

- (a) must give the holder of the licence notice in writing of the suspension;
- and
- (b) is not to take any action under section 4.22 (8) (a), (b) or (c) (i) or (10) in respect of the licence without the approval of the Commission.

(3) The suspension of a licence under this section takes effect from when the notice referred to in subsection (2) is given to the holder of the licence or the suspension of the licence is made known to the holder of the licence (whichever is the first to occur).

(4) Without prejudice to a suspension under subsection (1), where the Commission suspends a licence under that subsection the Director is to take action under section 4.22 as if the Director had formed the opinion referred to in section 4.22 (2) in respect of the act, omission or other thing that constitutes the ground referred to in subsection (1).

4.24 Effect of suspension of licence. The suspension under section 4.22 (12) or 4.23 (1) of a licence under this Part has the same effect as the cancellation of the licence but without prejudice to—

- (a) any penal or other liability incurred by the holder of the licence;
- or
- (b) the exercise of the powers of the Commission or the powers or authorities of the Director or an inspector.

4.25 Provisional licences. (1) The Commission may grant to an applicant for a licence under this Part a provisional licence if the Commission considers that—

- (a) a decision in respect of the application may not be made for some time;
- (b) the conduct of gaming may be prejudiced or disadvantaged if the applicant is not granted a provisional licence;
- and
- (c) the issue of the provisional licence will not prejudice or disadvantage gaming or the conduct of gaming.

(2) The Commission may impose on a provisional licence such conditions as the Commission considers are necessary in the public interest.

(3) Where the Commission grants a provisional licence, the Director must issue the licence in the form determined by the Director and endorse thereon any conditions imposed under subsection (2).

(4) A provisional licence remains in force until—

(a) a repairer's licence, service contractor's licence or, as the case may be, machine manager's licence is granted and issued or the Commission refuses to grant the licence;

(b) it is surrendered by the holder thereof;

or

(c) it is cancelled by the Commission.

(5) The Commission, at any time, may cancel a provisional licence granted under subsection (1).

(6) No right of action arises against the Commission or any other person by reason of a decision under subsection (5) in respect of the termination of employment or otherwise.

(7) A provisional licence while it remains in force and subject to conditions imposed under subsection (2) has the same effect as if it were a repairer's licence, service contractor's licence or, as the case may be, machine manager's licence.

PART 5—SUPERVISION AND MANAGEMENT OF GAMING

5.1 Installation and storage of gaming machines. (1) Subject to subsection (2), a licensee must install a gaming machine provided to the licensee under section 3.14 or 3.15 in a gaming machine area on the licensee's licensed premises.

(2) A licensee must cause any gaming machine that is provided to the licensee that is not installed in a gaming machine area to be stored in a room approved by the Director and secured in such manner as is so approved.

5.2 Gaming machines not to be played if not installed in gaming machine area. (1) Subject to subsection (2), a person who plays or allows another person to play a gaming machine—

(a) that is provided by the Director to a licensee;

and

(b) that is not installed in a gaming machine area,
commits an offence against this Act.

Penalty: 1 000 penalty units or imprisonment for 5 years, or both.

(2) Subsection (1) does not apply to a licensed repairer who plays a gaming machine—

(a) that is provided to a licensee;

and

(b) that is not installed in a gaming machine area,
in the course of altering, adjusting, maintaining, repairing or testing the gaming machine.

(3) Where winnings become payable as a result of playing a gaming machine as authorized by subsection (2), those winnings remain the property of the licensee in question and are not payable to any person.

5.3 Gaming equipment not to be an annoyance, etc. (1) A licensee must not locate, or allow to be located, gaming equipment on the licensee's licensed premises in such a manner as to be an annoyance due to the location of the gaming equipment, the noise generated by the operation of the equipment or for any other reason.

(2) A listed person or licensee must not allow any gaming equipment to convey or exhibit—

- (a) any false, misleading, rude or offensive message;
or
- (b) excessive or unnecessary advertising by—
 - (i) any words, whether written or spoken;
 - (ii) a pictorial representation or design;
or
 - (iii) any other manner.

(3) Other than as may be provided by the game of a gaming machine or any arrangement or system approved under section 6.20, a person must not—

- (a) do or omit to do any thing on licensed premises that unfairly or unreasonably entices players to play a particular gaming machine in preference to others;
or
- (b) conduct or allow to be conducted any promotional activity that entices a person to play or rewards a person for playing gaming machines unless the rewards or prizes provided by the activity are not related to a particular gaming machine a person must play in order to be entitled to the rewards or prizes.

(4) Where, in the opinion of an inspector, a contravention of this section is being or has been committed, the Director may, instead of instituting or authorizing the institution of proceedings for an offence against subsection (1), (2) or (3), by notice in writing, direct the listed person, licensee or person—

- (a) to do or cease doing any thing that constitutes the contravention;
or
- (b) not to again do or omit to do any thing that constituted the contravention.

(5) A listed person, licensee or person who fails to comply with a direction given under subsection (4) commits an offence against this Act.

5.4 Installation of electronic monitoring systems. (1) Subject to subsection (2), a licensee must not on the licensee's licensed premises, without the approval of the Director, install or operate or cause or allow to be installed or operated, any electronic monitoring system or centralised credit system.

(2) The Director may—

- (a) install on licensed premises an electronic monitoring system; and
- (b) modify or cause the modification of the system.

(3) A licensee must permit such works and actions, by the Director or any person acting on behalf of the Director, on any place under the control of the licensee as are necessary to facilitate the installation, alteration, adjustment, maintenance, repair or continued effective operation of an electronic monitoring system installed on the licensee's licensed premises under subsection (2).

(4) A licensee must, at the licensee's expense, provide—

- (a) locations, to the satisfaction of the Director, for the installation of equipment connected with; and
- (b) any electricity or other operating requirements of, an electronic monitoring system installed on the licensee's licensed premises under subsection (2).

(5) A licensee must, at the licensee's expense, provide the Director, continuous, free and unfettered access to—

- (a) any data held in or available from; and
- (b) the operation of, an electronic monitoring system approved under subsection (1) or installed under subsection (2).

5.5 Maintenance of facilities, etc. (1) A licensee must—

- (a) ensure that the operation of gaming machines on the licensee's licensed premises is conducted in such manner as, in the opinion of the Director, is proper and competent;
- (b) ensure that any thing forming part of a gaming machine that is visible without opening the machine is maintained in good order and is not defaced or altered in any manner;
- (c) maintain all facilities and amenities on the licensee's licensed premises that are related to gaming in such condition as will provide maximum safety and comfort for persons on the premises;
- (d) ensure that all installations, equipment and procedures for security and safety purposes are used, operated and applied for the preservation and maintenance of those purposes.

(2) A licensee must not—

(a) employ or allow;

or

(b) cause or allow any other person to employ or allow,

any barker or shill to entice any person to play gaming machines on the licensee's licensed premises.

5.6 Hours of gaming. A licensee must not conduct gaming or allow gaming to be conducted in any part of the licensee's licensed premises except at a time when—

(a) in accordance with the *Liquor Act 1912-1990*, liquor is permitted to be consumed in the part;

and

(b) the licensee or an employee of the licensee is in the part to supervise gaming or attend to gaming machines installed in the part.

5.7 Rules ancillary to gaming. (1) Activities ancillary to gaming are subject to rules known as "rules ancillary to gaming".

(2) The rules ancillary to gaming for licensed premises are—

(a) such rules ancillary to gaming as are prescribed;

or

(b) those rules as amended, added to, repealed or substituted in accordance with subsection (3).

(3) The Director may and a licensee, with the approval of the Director, in respect of the licensee's licensed premises, may—

(a) amend, add to or repeal;

or

(b) substitute a rule or other rules for,

a rule or the rules prescribed under subsection (2) or such rules as amended or added to, or any rule or rules substituted therefor, under this subsection.

Where the Director takes action under this subsection (other than by way of approval) the Director by notice in writing must advise the licensee accordingly.

(4) Any amendment, addition, repeal or substitution made in accordance with subsection (3) takes effect from the date specified for the purpose in the Director's notice in writing or approval.

(5) If the Governor in Council repeals all the rules ancillary to gaming and substitutes fresh rules therefor any notice or approval given under subsection (3) that is in force is thereby revoked.

5.8 Rules ancillary to gaming to be displayed and enforced. A licensee, when gaming is being conducted on the licensee's licensed

premises, must cause the rules ancillary to gaming that are, at that time, the rules for the licensed premises—

- (a) to be prominently displayed at each place on the licensed premises where the sale or redemption of gaming tokens or any centralised credit transaction is carried out;
and
- (b) to be enforced.

5.9 Licensees not to extend credit. A licensee must not make a loan or extend credit in any form, to any person to enable that person or any other person to play a gaming machine on the licensee's licensed premises.

5.10 Gaming tokens. (1) A licensee in conducting gaming on the licensee's licensed premises must only use gaming tokens.

(2) A licensee must cause all transactions, in respect of the sale or redemption of gaming tokens on the licensee's licensed premises, to be carried out in such manner as ensures the integrity of the transactions.

5.11 Gaming tokens that are not Australian currency. (1) This section does not apply to a gaming token that—

- (a) has no value marked on the gaming token;
and
- (b) forms part of a centralised credit system approved under section 5.4 (1).

(2) Where a person is a licensee who conducts gaming by the use of gaming tokens that are not Australian currency that person, at all reasonable times, must—

- (a) during the time the person is a licensee;
and

(b) for 1 year after the person ceases to be a licensee, redeem the gaming token for the value that is marked on the gaming token.

(3) A licensee must not sell for the purpose of gaming any gaming token that is not Australian currency unless—

- (a) the gaming token is approved by the Director for use on the licensee's licensed premises;
- (b) the value (in Australian currency) that the gaming token represents for the purpose of gaming on the licensee's licensed premises is approved by the Director;
- (c) the gaming token is of the physical characteristics approved by the Director;
- (d) there is marked on the gaming token, in such a manner as is approved by the Director—
 - (i) the value approved under paragraph (b);
 - (ii) the name of the licensee or a symbol, approved by the

Director, that clearly identifies the licensee from all other licensees;

and

- (iii) the name of the licensed premises or a symbol, approved by the Director, that clearly identifies the licensed premises from all other licensed premises;

and

- (e) the gaming token is in good condition.

(4) Before placing an order to purchase gaming tokens that are not Australian currency with a manufacturer of gaming tokens a licensee must obtain from the Director approval for the purchase of the gaming tokens.

(5) A manufacturer of gaming tokens must not accept an order to manufacture, or manufacture, gaming tokens that are not Australian currency unless there is produced to the manufacturer an approval given under subsection (4) in respect of the gaming tokens.

(6) A licensee, except in the bona fide redemption of gaming tokens, must not purchase gaming tokens that are not Australian currency from any person who is not a manufacturer of gaming tokens approved by the Director.

(7) A licensee must keep, and at all times accurately maintain, a written inventory of gaming tokens that are not Australian currency purchased from a manufacturer of gaming tokens.

5.12 Payments in connexion with gaming. (1) A licensee must make a payment in connexion with—

- (a) the payment of winnings or gaming machine credits (other than payments made by a gaming machine);

or

- (b) the redemption of gaming tokens,

with Australian currency unless payment thereof—

- (c) is required to be made in another manner—

- (i) that is prescribed;

or

- (ii) in accordance with the rules for the licensee's licensed premises required to be displayed and enforced under section 5.8;

or

- (d) is to be made under subsection (2).

(2) A licensee, if requested by a person entitled to a payment referred to in subsection (1) (other than a payment to which subsection

(1) (c) applies) and if the licensee thinks fit to do so, may make the payment by—

- (a) gaming tokens (other than Australian currency);
- (b) a cheque;
- or
- (c) a combination of Australian currency, gaming tokens (other than Australian currency) and a cheque.

(3) (a) A cheque used for the purpose of making a payment referred to in subsection (1) or (2) must be made payable to the person entitled to the payment referred to in subsection (1).

(b) Such a cheque is to be drawn on an account held with a financial institution by the licensee for the purpose of making payments in accordance with subsection (1) or (2).

5.13 Entitlement of players. A licensee must ensure that a person who plays a gaming machine installed on the licensee's licensed premises is paid (whether by way of gaming tokens (other than Australian currency), Australian currency or cheque) the amount to which the person is entitled calculated in the manner prescribed.

5.14 Malfunction of gaming machines. (1) A machine manager may refuse—

- (a) to make payment;
- or
- (b) to allow payment to be made,

to a person in respect of a bet made, or gaming machine credits accumulated, on a gaming machine installed on licensed premises in respect of which he or she is machine manager, where he or she is satisfied that the gaming machine failed to function in the manner in which it was designed and programmed to function.

(2) The provisions of subsection (1) apply irrespective of the reason for the failure of the gaming machine to function in the manner in which it was designed and programmed to function.

(3) A machine manager who refuses to make or allow payment under subsection (1) must—

- (a) not allow, other than for testing purposes, the gaming machine to be played until it is functioning in the manner in which it was designed and programmed to function;
- (b) as soon as practicable forward to the Director a report in the form determined by the Director in respect of the refusal; and
- (c) give the licensee a copy of the report referred to in paragraph (b).

(4) A licensee—

(a) may, on review of the copy of the report referred to in subsection (3);

or

(b) must, if so directed by the Director,

overrule a refusal referred to in subsection (1) and make the payment that has been refused.

(5) Nothing in this section operates so as to prejudice or affect any other right or remedy of any person.

5.15 Defective gaming machines not allowed. (1) In this section “licensee” includes—

(a) a machine manager in respect of the licensed premises in question;

(b) if the licensee is a body corporate, the secretary or any executive officer of the body corporate;

and

(c) any person employed by the licensee who may be required by the licensee to—

(i) supervise gaming;

(ii) attend to gaming machines;

(iii) sell or redeem gaming tokens;

or

(iv) carry out centralised credit transactions,
on the licensee’s licensed premises in question.

(2) A licensee must not allow, other than for testing purposes, a gaming machine—

(a) that is installed on the licensee’s licensed premises;

and

(b) that does not function in the manner in which it was designed and programmed to function,

to be played until it is functioning in the manner in which it was designed and programmed to function.

(3) It is a defence to a prosecution for an offence against subsection (2) for the defendant to prove that he or she—

(a) had taken all reasonable precautions to ensure that the gaming machine was functioning in the manner in which it was designed and programmed to function;

and

(b) at the time of the alleged offence did not know, and ought not to have known, that the gaming machine was not functioning in the manner in which it was designed and programmed to function.

5.16 Security of keys, etc. (1) A licensee must ensure that all keys and other devices related to the security of gaming equipment on the licensee's licensed premises are kept, stored, secured, possessed and used in accordance with requirements prescribed in relation to the keys or other devices.

(2) A person must not possess or use any key or other device referred to in subsection (1) unless the possession or use is—

- (a) permitted by;
- and
- (b) in accordance with,

requirements prescribed in relation to the key or other device.

5.17 Certain persons only to have access, etc., to gaming machines. A person must not, in relation to a gaming machine on licensed premises—

- (a) open the gaming machine;
- (b) check gaming tokens contained inside the gaming machine;
- (c) remove gaming tokens from the cabinet or drop box of the gaming machine;
- or
- (d) place gaming tokens into the gaming machine (other than for the purpose of playing a game upon the gaming machine),

unless the person is—

- (e) the licensee of the licensed premises;
- (f) where the licensee is a body corporate, the secretary or executive officer of the body corporate in the bona fide execution of the duties of such secretary or executive officer;
- (g) a machine manager in respect of the licensed premises;
- (h) an employee of the licensee who is employed wholly or in part to attend to gaming machines;
- (i) an employee of the licensee who is assisting in carrying out money clearances;
- (j) a licensed repairer in the performance of duties as a licensed repairer;
- or
- (k) an inspector in the performance of his or her functions or duties under this Act.

5.18 Gaming machine entry log. (1) A licensee must keep and maintain a gaming machine entry log in the form determined by the Director inside the cabinet of each gaming machine provided to the licensee.

(2) A licensee must cause any gaming machine entry log kept pursuant to subsection (1) to clearly identify the gaming machine to which it relates.

(3) (a) Any person who opens the cabinet door of a gaming machine installed on licensed premises must legibly enter in the gaming machine entry log of the gaming machine the date and time of the opening, the person's name (and licence number, if applicable) and the reason for the opening.

(b) If the person is a licensed repairer the repairer must legibly enter in the log details of any alteration, adjustment, maintenance, repair or test carried out on the gaming machine.

(4) If a gaming machine installed on a licensee's licensed premises is taken out of operation and is not removed from the licensed premises the licensee must cause details of the reason therefor to be legibly recorded in the gaming machine entry log.

(5) If a gaming machine that is taken out of operation in accordance with subsection (4) is returned to operation the licensee must cause details thereof to be legibly recorded in the gaming machine entry log.

(6) A person who makes any entry or recording in a gaming machine entry log must sign his or her signature to the entry or recording.

(7) Subject to section 9.3, any gaming machine entry log must be retained by the licensee for 2 years from the date of the latest entry in the log.

5.19 Contracts for certain services to be approved. (1) Subject to subsection (2), a licensee, any person acting on behalf of a licensee or any other person must not, without the approval of the Commission, enter into any agreement for the provision of any service in relation to—

- (a) the sale and redemption of gaming tokens on the licensee's licensed premises;
- (b) the supervision of gaming on the licensee's licensed premises;
- (c) attending to gaming machines or carrying out centralised credit transactions on the licensee's licensed premises;
- (d) carrying out on the licensee's licensed premises—
 - (i) money clearances;
 - (ii) any function resulting from money clearances;
 - or
 - (iii) any function, required to be carried out under section 7.1 (2) or 7.2 (2);
- (e) keeping and maintaining accounts under section 7.3;
- (f) making Monthly Gaming Machine Reconciliation Reports under section 7.4;
- or
- (g) any other function prescribed to be a function to which this section applies.

(2) The provisions of subsection (1) do not apply to the employment of a natural person by a licensee to carry out on the licensee's licensed premises any act referred to in subsection (1).

5.20 Licensees to keep records of certain employees. (1) A licensee in respect of each of the licensee's licensed premises must keep, and at all times accurately maintain, records in respect of the full name, address and date of birth of all persons (other than machine managers authorized in respect of the licensed premises in question) employed by the licensee to—

- (a) supervise gaming;
- (b) attend to gaming machines or carry out centralised credit transactions;
- (c) carry out—
 - (i) money clearances;
 - (ii) any function resulting from money clearances;
 - or
 - (iii) any function required by this Act to be carried out in conjunction with a money clearance;
- and
- (d) carry out any other function that is prescribed as being a function to which this section applies,

on the licensed premises in question.

(2) A licensee in respect of each of the licensee's licensed premises must lodge with the Director on or before the day prescribed of each month a report in the form determined by the Director details of the full name, address and date of birth of all persons who performed any act referred to in subsection (1) at any time during the preceding month on the licensed premises.

5.21 Minors not to be employed. A licensee must not employ in any capacity in relation to the operation of gaming machines a person who has not attained the age of 18 years.

5.22 Minors not to play gaming machines. (1) In this section, "licensee" has the same meaning as is given to that term under section 5.15 (1).

(2) A person who has not attained the age of 18 years must not play a gaming machine on licensed premises.

Penalty: 20 penalty units.

(3) A licensee who knows that a person has not attained the age of 18 years must not allow the person to play a gaming machine on the licensee's licensed premises.

Penalty: 40 penalty units.

(4) The provisions of this section do not derogate from the operation of section 60 of the *Liquor Act. 1912-1990*.

5.23 Certain persons to prove age. (1) In this section, “licensee” has the same meaning as is given to that term under section 5.15 (1).

(2) Where there are grounds for suspecting that a person who is gaming on the licensee’s licensed premises has not attained the age of 18 years the licensee must request the person to furnish proof that the person has attained the age of 18 years.

Penalty: 40 penalty units.

(3) Where there are grounds for suspecting that a person who is on licensed premises has not attained the age of 18 years the licensee must request the person to furnish proof that the person has attained the age of 18 years before allowing the person to play a gaming machine on the licensee’s licensed premises.

Penalty: 40 penalty units.

(4) Proof referred to in subsections (2) and (3) must be furnished by the person—

(a) producing for inspection—

(i) a card of identification issued to the person under the *Elections Act 1983-1990*;

or

(ii) a driver’s licence issued to the person under the *Traffic Act 1949-1990*;

or

(b) furnishing a statement, signed by the person, that he or she has attained the age of 18 years and disclosing therein his or her name and place and date of birth.

(5) A person who, on being requested under—

(a) subsection (2), fails to produce a card or licence or to furnish a statement referred to in subsection (4);

or

(b) under subsection (2) or (3)—

(i) produces a card or licence that has been issued to another person or altered or otherwise tampered with so as to be false or misleading in a material particular;

or

(ii) furnishes a statement that is false or misleading in a material particular,

commits an offence against this Act.

Penalty: 40 penalty units.

(6) If a licensee after considering a card or licence produced or a statement furnished under subsection (4) is not satisfied that the person in question has attained the age of 18 years, or a person referred to in subsection (3) fails to furnish proof under subsection (4), the licensee

must prohibit the person from playing gaming machines on the licensee's licensed premises.

Penalty: 40 penalty units.

5.24 Licensees to prohibit certain persons from gaming. Where there are reasonable grounds for a licensee to believe that the peace and happiness of a person's family are endangered due to excessive playing of gaming machines by the person the licensee must prohibit the person from playing gaming machines on the licensee's licensed premises for 1 month from the date of prohibition.

5.25 Removal of certain persons. (1) A licensee may remove from or refuse to allow to enter the licensee's licensed premises any person who—

- (a) breaches the rules for the licensed premises required to be displayed and enforced under section 5.8;
- (b) damages or physically abuses a gaming machine;
- (c) behaves in a manner likely to cause offence to other persons;
- or
- (d) is suspected on reasonable grounds of being on the premises for the purpose of committing an offence or aiding another person to commit an offence against this Act.

(2) A licensee must remove from the licensee's licensed premises any person who is prohibited by the licensee under section 5.23 (6) or 5.24 from playing gaming machines on the premises if that person plays or induces any other person to play a gaming machine on behalf of the firstmentioned person.

(3) It is lawful for a licensee, when necessary, to use such force as is reasonable in the circumstances to remove any person in accordance with subsection (1) or (2) from the licensee's licensed premises.

PART 6—CONTROL OF GAMING MACHINES

6.1 Recognized manufacturers and suppliers of gaming machines.

(1) The Director must cause to be maintained in the Division a Roll of Recognized Manufacturers and Suppliers of Gaming Machines.

(2) Subject to section 6.5, the Director must cause to be listed on the Roll of Recognized Manufacturers and Suppliers of Gaming Machines the name of any tenderer under section 6.15 who the Director considers complies with this Act.

6.2 Recognized suppliers of restricted components. (1) The Director must cause to be maintained in the Division a Roll of Recognized Suppliers of Restricted Components.

(2) A recognized manufacturer or supplier of gaming machines, prior to the purchase of restricted components from a person who is not a listed person, must notify the Director in writing of the full and correct name and business address of the person.

(3) A person who intends to operate a bona fide business as a supplier of restricted components must notify the Director in writing.

(4) Subject to section 6.5, the Director must cause the name of a person who is the subject of a notification pursuant to subsection (2) or (3) to be listed on the Roll of Recognized Suppliers of Restricted Components.

6.3 Application for removal from a roll under this Part. (1) A listed person may make application in writing to the Director for removal of the person's name from the Roll of Recognized Manufacturers and Suppliers of Gaming Machines or the Roll of Recognized Suppliers of Restricted Components, as the case may be.

(2) The Director may grant or refuse to grant an application made under subsection (1).

(3) The Director, if an application under subsection (1) is granted, must cause the name of the applicant to be removed from the Roll of Recognized Manufacturers and Suppliers of Gaming Machines or the Roll of Recognized Suppliers of Restricted Components, as the case may be.

6.4 Investigations of suitability of listed persons. (1) At any time the Director may cause to be undertaken such investigations as the Director considers are necessary in order to satisfy the Commission that a listed person or any associate of the listed person is a suitable person to be a listed person or, as the case may be, an associate of the listed person.

(2) The Director, either verbally or by notice in writing, may require any person, to whom investigations under subsection (1) relate, to submit such information or material as the Director considers is necessary.

The person must comply with the requirement.

6.5 Commission may order removal of names of persons from a roll under this Part. (1) The Commission may order the Director to remove the name of a listed person from the Roll of Recognized Manufacturers and Suppliers of Gaming Machines or the Roll of Recognized Suppliers of Restricted Components, as the case may be—

- (a) if the listed person or an associate of the listed person—
 - (i) is convicted of an offence against this Act;
 - (ii) fails to discharge the listed person's or associate's financial commitments, becomes bankrupt or compounds with creditors or otherwise takes advantage of the laws in force for the time being relating to bankruptcy;
 - (iii) is the subject of a winding up, either voluntarily or pursuant to court order, appointment of a liquidator, appointment of a receiver or receiver and manager or is placed under official management and an official manager appointed pursuant to the provisions of the Corporations Law;

- (iv) is convicted of an indictable offence, whether on indictment or summarily, punishable in the particular case by imprisonment for 12 months or more (irrespective of whether the offence is also punishable by a fine in addition, or as an alternative, to imprisonment);
- (v) is required to comply with any written direction given to the listed person or associate by the Commission or the Director, and refuses or fails to comply with the direction and the Commission is of the opinion that the refusal or failure jeopardizes the integrity of gaming or the conduct of gaming or adversely affects the public interest;
or
- (vi) is required under this Act to supply information or material to the Commission, the Director or an inspector, and fails to supply the information or material, or supplies information or material that to the knowledge of the listed person or associate is false, erroneous or misleading in a material particular;
or
- (b) if at any time the Commission considers that the listed person or an associate of the listed person is not a fit and proper person to continue to be a listed person or an associate of the listed person.

(2) Where the Commission orders the Director to remove the name of a person from a roll under this Part, the Director must remove the name of the person from the Roll of Recognized Manufacturers and Suppliers of Gaming Machines or the Roll of Recognized Suppliers of Restricted Components, as the case may be, and advise the person so removed by notice in writing.

(3) A person whose name has been removed from a roll under this Part pursuant to section 6.3 or this section must not again be listed on a roll under this Part without the approval of the Commission.

6.6 Manufacture, sale, supply, obtaining or possession of gaming machines. (1) A person must not manufacture, sell, supply, obtain or be in possession of—

- (a) a gaming machine;
- (b) a linked jackpot arrangement;
or
- (c) a device capable of being represented as being a gaming machine or linked jackpot arrangement,

except under and in accordance with the authority of a licence or any other authorization under this Act.

Penalty: 1 000 penalty units or imprisonment for 5 years, or both.

(2) A person must not manufacture, sell, supply, obtain or be in possession of a restricted component except under and in accordance

with the authority of a licence or any other authorization under this Act.

Penalty: 400 penalty units or imprisonment for 2 years, or both.

(3) It is a defence to a prosecution for an offence against subsection (2), for the defendant to prove that—

(a) the manufacturing, selling, supplying, obtaining or possession of a restricted component was not related to the manufacture, assembly, installation, alteration, operation, use, adjustment, maintenance or repair of gaming equipment;

and

(b) the restricted component was not intended to be used to interfere with the normal operation of gaming equipment.

(4) Notwithstanding the provisions of any other Act or law the possession of any thing referred to in subsection (1) or (2) in accordance with the authority of a licence or any other authorization under this Act is lawful.

(5) The provisions of this Act do not apply so as to affect the lawful obtaining, possession or use of any thing referred to in subsection (1) or (2) by a licensed casino operator in accordance with the provisions of the *Casino Control Act 1982-1990*.

(6) The authority of a licence or any other authorization under this Act is—

(a) subject to the provisions of this Act;

and

(b) deemed to extend to a person in the bona fide employ of the holder of such licence or authorization to such extent as is necessary for the employee to carry out the duties of the employee on behalf of the holder.

(7) For the purposes of this section and sections 6.7 to 6.13, the term “gaming machine” includes any incomplete device that was a gaming machine or that is, or was, intended to be made into a gaming machine and which has affixed thereto an identification plate with the manufacturer’s serial number displayed thereon.

6.7 Possession, etc., of gaming machines and restricted components by recognized manufacturers or suppliers of gaming machines. (1) A recognized manufacturer or supplier of gaming machines is authorized to—

(a) manufacture, obtain and be in possession of gaming machines, linked jackpot arrangements and restricted components;

(b) sell or supply, on written order—

(i) gaming machines and linked jackpot arrangements to the Director or a recognized manufacturer or supplier of gaming machines;

- (ii) restricted components to a person authorized under this Act to obtain and be in possession of the restricted components;
- (c) sell or supply, on written order, gaming machines, linked jackpot arrangements or restricted components to a person in another State or a Territory of the Commonwealth or a country where possession of such gaming machines, linked jackpot arrangements or restricted components by that person is lawful;
- and
- (d) sell or supply gaming machines, linked jackpot arrangements or restricted components pursuant to a lawful order from a holder of a casino licence under the *Casino Control Act 1982-1990*.

(2) A recognized manufacturer or supplier of gaming machines must not use any premises for the manufacture, assembly, storage or handling of gaming machines, linked jackpot arrangements or restricted components unless the premises are approved by the Director for the purpose.

(3) A recognized manufacturer or supplier of gaming machines must not manufacture, obtain or be in possession of gaming machines or restricted components unless such manufacturing, obtaining or possession is for the purpose of—

- (a) the submission for evaluation by the Director of a particular device;
- (b) an action authorized under subsection (1) (b), (c) or (d);
- (c) conducting bona fide testing or development work;
- or
- (d) conducting, at premises approved by the Director for the purpose, a bona fide training course for licensed repairers or applicants for a repairer's licence on the installation, alteration, adjustment, maintenance or repair of gaming equipment.

(4) A recognized manufacturer or supplier of gaming machines must, within 1 day of the—

- (a) manufacture or assembly;
- or
- (b) disassembly or destruction,

of a gaming machine, advise the Director in the form determined by the Director of the manufacturer's serial number of the gaming machine.

6.8 Possession, etc., of restricted components by recognized suppliers of restricted components. (1) A recognized supplier of restricted components is authorized to—

- (a) manufacture, obtain and be in possession of restricted components;

- (b) sell or supply, on written order, restricted components to a person authorized under this Act to obtain and be in possession of such restricted components;
- (c) sell or supply, on written order, restricted components to a person in another State or a Territory of the Commonwealth or a country where possession of such restricted components by that person is lawful;
and
- (d) sell or supply restricted components pursuant to a lawful order from a holder of a casino licence under the *Casino Control Act 1982-1990*.

(2) A recognized supplier of restricted components must not manufacture, obtain or be in possession of a restricted component unless such manufacturing, obtaining or possession is for the purpose of—

- (a) the submission for evaluation by the Director of a particular device;
- (b) an action authorized under subsection (1) (b), (c) or (d);
- (c) conducting bona fide testing or development work;
or
- (d) conducting, at premises approved by the Director for the purpose, a bona fide training course for licensed repairers or applicants for repairer's licences on the use of restricted components.

6.9 Possession, etc., of gaming machines and restricted components by licensed repairers. A licensed repairer is authorized to—

- (a) obtain and be in possession of restricted components to such extent as is necessary to do so as a licensed repairer;
- (b) supply restricted components to a licensed repairer employed by him or her as a licensed repairer;
- (c) sell or supply, on written order, restricted components to another person authorized under this Act to obtain and be in possession of such restricted components;
and
- (d) be in possession of a gaming machine or linked jackpot arrangement only to such extent as is necessary to—
 - (i) remove, repair and reinstate a gaming machine or linked jackpot arrangement provided to a licensee, subject to an approval of the Director for such removal, repair and reinstatement;
and
 - (ii) install, remove and consign the gaming machine or linked jackpot arrangement in order to fulfill a written order of the Director.

6.10 Possession, etc., of restricted components by licensed service contractors. A licensed service contractor is authorized to—

- (a) obtain and be in possession of restricted components to such extent as is necessary to do so as a licensed service contractor;
- (b) supply restricted components to a licensed repairer employed by the licensed service contractor as a licensed repairer; and
- (c) sell or supply, on written order, restricted components to another person authorized under this Act to obtain and be in possession of such restricted components.

6.11 Possession, etc., of gaming machines and restricted components by licensees. (1) A licensee is authorized to—

- (a) be in possession of gaming machines and linked jackpot arrangements, on the licensee's licensed premises, that are provided by the Director to the licensee;
- (b) obtain and be in possession of restricted components, on the licensee's licensed premises, to such extent as is necessary for the efficient conduct of gaming on the licensed premises; and
- (c) supply restricted components to—
 - (i) a licensed repairer employed by the licensee as a licensed repairer;
 - (ii) a person authorized under section 6.12 (1) to have the restricted components;or
 - (iii) another licensee.

(2) Subject to subsection (3), a licensee, on the licensee's licensed premises, must not be in possession of or allow a person to play—

- (a) a gaming machine that has not been provided by the Director to the licensee or that is not listed in the Schedule of Gaming Machines for the licensed premises; or
- (b) a gaming machine that is not in accordance with the—
 - (i) game;or
 - (ii) gaming token denomination,
listed for that gaming machine in the Schedule of Gaming Machines.

Penalty: 1 000 penalty units or imprisonment for 5 years, or both.

(3) Where the accuracy of a Schedule of Gaming Machines is affected by any thing done by the Director under section 3.14, 3.15 or 6.20, the provisions of this section, during the period from the

commencement of the doing of the thing until the commencement of a fresh Schedule of Gaming Machines under section 3.5 (4), do not prohibit a licensee from being in possession of or operating a gaming machine that is not listed in, or in accordance with, the schedule due to the doing of the thing.

The possession or operation during the period must be on the licensee's licensed premises specified in the schedule.

(4) A person whose gaming machine licence is suspended under section 3.23, 3.24 (12) or 3.25 is authorized to be in possession of gaming machines provided by the Director to the person and restricted components during the period of suspension.

6.12 Possession, etc., of gaming machines, etc., by other persons.

(1) A person who carries out any installation, alteration, adjustment, maintenance or repair that is prescribed for the purposes of section 4.1 (3), is authorized to obtain and be in possession of restricted components to such extent as is necessary to carry out such installation, alteration, adjustment, maintenance or repair.

(2) A carrier who is hired, by a person authorized to manufacture, sell, supply, obtain or be in possession of gaming machines, linked jackpot arrangements or restricted components, for the purpose of transporting the gaming machines, linked jackpot arrangements or restricted components is authorized to have possession of the gaming machines, linked jackpot arrangements or restricted components to such extent as is necessary for the purpose of that transportation.

(3) A person conducting a bona fide training course relating to the conduct of gaming who is not a listed person is authorized to be in possession of gaming machines, linked jackpot arrangements and restricted components subject to—

- (a) such gaming machines, linked jackpot arrangements and restricted components being provided by the Director; and
- (b) compliance with all conditions (including the payment of fees) as may be imposed by the Director when providing such gaming machines, linked jackpot arrangements and restricted components.

(4) The Director, Deputy Director, an inspector or other officer of the Division and a police officer are authorized to obtain and be in possession of gaming machines, linked jackpot arrangements, restricted components and devices capable of being represented as being gaming machines or linked jackpot arrangements obtained by them in the course of their duties and to do such acts with those things as may be necessary for the performance of their functions or duties under this Act.

(5) A person if so authorized by the Director may manufacture, obtain, be in possession of or use (other than for gaming or the conduct of gaming) a gaming machine, linked jackpot arrangement, restricted component or device capable of being represented as being a gaming machine or linked jackpot arrangement.

6.13 Consignment or movement of gaming machines. A recognized manufacturer or supplier of gaming machines must, at least 3 clear days in advance of any consignment or movement of gaming machines, by or on behalf of the recognized manufacturer or supplier of gaming machines—

- (a) to or from any premises approved under section 6.7 (2);
or
- (b) to any place within Queensland from outside Queensland,
advise the Director, in writing, of—
- (c) the number of the gaming machines;
- (d) the number of gaming machines of each gaming machine type;
- (e) the manufacturer's serial number of each of the gaming machines;
- (f) the origin and destination of the gaming machines;
- (g) the intended dates of transportation;
- and
- (h) the method of transport and name of the carrier.

6.14 Purchase of gaming machines, etc. (1) Subject to the provisions of this Act and the *Financial Administration and Audit Act 1977-1990*, the Director is authorized to—

- (a) cause expressions of interest to be called from persons interested in supplying gaming machines through subsequent invitations of tender;
- (b) cause tenders to be called for the supply of gaming machines;
- (c) purchase gaming machines pursuant to a determination by the Governor in Council under section 6.16 (8);
- (d) purchase, lease, rent or otherwise obtain restricted components, gaming equipment (other than gaming machines) and ancillary or related items;
- (e) provide—
 - (i) gaming machines, linked jackpot arrangements and linked jackpot equipment to a licensee;
and
 - (ii) gaming machines, linked jackpot arrangements and restricted components to a person conducting a bona fide training course relating to the conduct of gaming;
- (f) sell restricted components to a person authorized under this Act to obtain and be in possession of the restricted components;
- (g) sell gaming equipment (other than gaming machines or linked jackpot arrangements) and ancillary or related items;
- (h) contract for the service and maintenance of gaming machines;
and

- (i) for the purpose of disposing of obsolete devices, sell gaming machines and linked jackpot arrangements to a person authorized to obtain and be in possession of gaming machines and linked jackpot arrangements.

(2) Where the Director causes expressions of interest to be called under subsection (1) (a) any expressions of interest submitted in response thereto are to be taken for the purposes of section 6.15 (2) and (3) and section 6.16 (1), (2), (3), (4) and (5) to be tenders submitted in response to a call under section 6.15 (1) and the provisions of those sections apply to the expressions of interest accordingly.

(3) (a) The Director is hereby authorized, before the commencement of this section, to cause expressions of interest to be called under subsection (1) (a) and tenders to be called under subsection (1) (b).

(b) Where the Director in accordance with paragraph (a) causes tenders to be called, then any tenders submitted in response thereto are to be taken for the purposes of section 6.15 (2) and (3) and section 6.16 to be tenders submitted in response to a call under section 6.15 (1) and the provisions of those sections apply to the tenders accordingly.

For the purpose of that application those sections are to be taken to have commenced on the date of the calling of the tenders in accordance with paragraph (a).

6.15 Submission of tenders for supply of gaming machines. (1) At any time the Director may cause tenders to be called for the supply of gaming machines.

(2) A tender submitted for evaluation, in response to a call referred to in subsection (1), must—

- (a) be in accordance with any specifications and conditions contained in the tender documents as issued by the Director; and
- (b) contain or be accompanied by such information, records, reports, documents and writings relating to the tender and tenderer as are specified in the tender documents released by the Director when making the call.

(3) The Director may limit a tender to gaming machine types and games approved by the Director.

6.16 Procedure for determination of tenders. (1) Subject to subsection (2), as soon as practicable after the close of tenders called under section 6.15 (1), the Director must in relation to each tender submitted in response thereto—

- (a) initiate and have followed through such investigations as the Director considers are necessary in relation to the tender;
- (b) evaluate each gaming machine type submitted and either approve the gaming machine type or reject it;

- (c) evaluate each game submitted, in relation to a gaming machine type approved under paragraph (b) and either approve the game or reject it;
- and
- (d) consider the tender and matters accompanying it together with the results of investigations made in relation thereto and make an assessment of—
 - (i) if the tenderer is a natural person, the financial stability, general reputation and character of the tenderer;
 - (ii) if the tenderer is a body corporate, the business reputation and financial stability of the body corporate and the general reputation, financial stability and character of the secretary and executive officers of the body corporate;
 - (iii) if the Director considers it appropriate, the suitability of any associate of the tenderer to be an associate of the tenderer;
 - (iv) the ability of the tenderer to fulfill an order that may result from the tender;
 - and
 - (v) the ability of the tenderer to provide ongoing technical support and replacement parts.

(2) Where the Director has previously evaluated a gaming machine type or game and has either approved the gaming machine type or game or rejected it, the Director may determine that a further evaluation of the gaming machine type or game is not required under this section.

(3) The Director may by notice in writing require a tenderer, or an associate of the tenderer, to submit to the Director any additional information or material the Director considers is necessary in order to make an evaluation or assessment under subsection (1).

The person must comply with the requirement.

(4) Where a tenderer, or an associate of the tenderer, fails to comply to the satisfaction of the Director with section 6.15 (2) or a requirement under subsection (3), the Director may, without derogating from subsection (5), reject a gaming machine type or game submitted by the tenderer without causing any evaluation or assessment referred to in subsection (1) to be made.

(5) Any person who, in relation to a tender submitted in response to a call under section 6.15 (1) or a requirement under subsection (3), provides or submits information or material knowing it to be false, erroneous or misleading in a material particular commits an offence against this Act.

Penalty: 400 penalty units or imprisonment for 2 years or both.

(6) Upon completion of the procedure in subsection (1) the Director must furnish to the Commission—

- (a) all relevant tender price information;
 - (b) a report on each tender submitted;
- and

(c) a report on the number of gaming machines required to be purchased.

(7) The Commission following consideration of—

- (a) tender price information;
- and

(b) the reports of the Director,

referred to in subsection (6) and to such other information or material as the Commission considers relevant must make a recommendation to the Minister in respect of the tender.

The Minister must submit the recommendation to the Governor in Council.

(8) The Governor in Council may make a determination in regard to gaming machines of each gaming machine type to be purchased and the tenderers with which orders are to be placed.

(9) The Governor in Council is not bound to accept the lowest or any tender submitted in accordance with an invitation to tender under this Act.

(10) The Director must—

- (a) implement;
- and

(b) except where the Director is otherwise ordered by the Commission, determine the game and gaming token denomination of each gaming machine to be purchased pursuant to,

the determination made under subsection (8).

6.17 Acceptance by Director of gaming machines and games for evaluation. (1) Without derogating from sections 6.15 and 6.16, the Director may, subject to payment of the fee prescribed, accept for evaluation gaming machine types and games.

(2) Where the Director accepts a gaming machine type or game for evaluation under subsection (1) the Director must, after evaluation of the gaming machine type or game, either approve the gaming machine type or game or reject it.

(3) Where, pursuant to subsection (1), the Director accepts for evaluation a gaming machine type or game the Director may require the person that submitted the gaming machine type or game to provide such additional information or material as the Director considers is necessary in order to make the evaluation.

Where the requirement is not complied with to the satisfaction of the Director the Director may reject the gaming machine type or game without evaluation.

6.18 Withdrawal of approval of gaming machine types and games.

(1) If the Director, under section 10.6 (2) withdraws the approval of an approved gaming machine type or game, the Director must give written notice of the withdrawal to—

- (a) the person who submitted the gaming machine type or game in accordance with section 6.15 or 6.17;
and
- (b) licensees provided with any gaming machine of that gaming machine type or game.

(2) A licensee who permits gaming on a gaming machine of a gaming machine type or game specified in a notice given to the licensee under subsection (1) commits an offence against this Act.

6.19 Gaming machines supplied to be in accordance with approval.

A recognized manufacturer or supplier of gaming machines must not, without the approval of the Director, supply a gaming machine which is in any material particular different from—

- (a) the gaming machine type or game approved by the Director;
or
- (b) the gaming machine type or game specified in the order placed by the Director.

6.20 Linked jackpots. (1) A licensee on the licensee's licensed premises must not, without the approval of the Director—

- (a) install or operate or cause or allow to be installed or operated a single site linked jackpot arrangement;
- (b) install or operate or cause or allow to be installed or operated or participate in the operation of, a multiple site linked jackpot arrangement;
or
- (c) install or operate or cause or allow to be installed or operated or participate in the operation of any other electronically connected gaming machine system, whereby the return to a player for a result obtained on a gaming machine is different to the return provided for that result by the game as approved by the Director.

(2) An application for any approval under subsection (1) must—

- (a) be made by a licensee in the form determined by the Director;
- (b) contain or be accompanied by such other matters and particulars as are so determined;
- (c) be accompanied by the fee prescribed;
and

(d) be forwarded to or lodged with the Director.

(3) An approval under subsection (1) must be given an identifying approval number.

(4) A licensee must not cease to operate or participate in the operation of, any arrangement or system approved under subsection (1) without the approval of the Director.

(5) A licensee operating, or participating in the operation of, any arrangement or system approved under subsection (1) who fails to comply with—

(a) any condition to which the approval is subject;
or

(b) any requirement prescribed in relation to the conduct or operation of any arrangement, or system approved under subsection (1),

commits an offence against this Act.

Penalty: 400 penalty units or 2 years imprisonment or both.

(6) The Director is hereby authorized to make such agreements with licensees as the Director considers appropriate in order for the Director to—

(a) collect moneys from licensees participating in the operation of multi-site linked jackpot arrangements;
and

(b) make payments to persons entitled to the amount, or part thereof, recorded by the linked jackpot arrangement.

(7) A licensee who fails to comply with any agreements made by the licensee under subsection (6) commits an offence against this Act.

Penalty: 400 penalty units or imprisonment for 2 years, or both.

(8) Where the Director has approved the operation of a linked jackpot arrangement the Director must provide the linked jackpot equipment.

(9) The Director may at any time cause to be removed from licensed premises linked jackpot equipment provided and replace it with other linked jackpot equipment.

(10) Linked jackpot equipment—

(a) provided pursuant to subsection (8);
and

(b) removed or provided pursuant to subsection (9),

is to be in accordance with such type or description as the Director determines.

6.21 Gaming machines to be labelled with Director's identification number. (1) The Director must cause an identification number to be issued for each gaming machine purchased by the Director.

(2) The Director may, at any time after the issue of an identification number for a gaming machine, cause the issue of a new identification number for that gaming machine.

(3) The Director must cause each gaming machine to have securely affixed thereto, by an inspector or other person duly authorized by the Director in that behalf, a label showing—

(a) the identification number issued under subsection (1) or, as the case may be, (2);

and

(b) such other particulars as the Director considers appropriate, on one internal and one external surface of the cabinet of the gaming machine.

(4) A label affixed under this section is to be made of such material, and be affixed, as the Director considers appropriate.

6.22 Gaming prohibited on unprotected devices. (1) A licensee must not without lawful excuse be in possession of or permit gaming on a gaming machine unless the computer cabinet of the gaming machine is securely sealed with a seal affixed by—

(a) an inspector;

(b) a licensed repairer acting in accordance with the provisions of this Act;

or

(c) a person duly authorized in that behalf under section 6.24 (4).

Penalty: 1 000 penalty units or imprisonment for 5 years, or both.

(2) Subject to subsection (3), at any time when a seal on a computer cabinet has been removed, broken or damaged, the licensee must not permit gaming on the gaming machine until the gaming machine has been examined by an inspector or other person duly authorized by the Director in that behalf and the computer cabinet has been sealed.

Penalty: 1 000 penalty units or imprisonment for 5 years, or both.

(3) The provisions of subsection (2) do not apply to a gaming machine that is not available for gaming due to the gaming machine undergoing—

(a) repairs by a licensed repairer acting in accordance with the provisions of this Act;

or

(b) an alteration to effect a change of game or gaming token denomination approved, or caused, by the Director under section 3.15 (2).

6.23 Unlawful interference with gaming equipment. (1) Subject to subsection (2), a person must not—

- (a) have possession of any device made or adapted, or intended by the person to be used, for interfering with the normal operation of gaming equipment on licensed premises;
- (b) do any act or thing calculated, or likely, to interfere with the normal operation of gaming equipment on licensed premises;
- (c) except as provided in section 6.20, do any act or thing calculated to interfere with gaming equipment whereby the return to a player for a result obtained on a gaming machine on licensed premises is different to the return provided for that result by the game as approved by the Director;
- (d) do any act or thing calculated to render a gaming machine on licensed premises, either temporarily or otherwise, incapable of producing a winning combination;
or
- (e) insert, or cause to be inserted, in a gaming machine on licensed premises any thing other than a gaming token of the denomination or type displayed on the gaming machine as a gaming token to be used in order to operate or gain credit on the gaming machine.

Penalty: 1 000 penalty units or imprisonment for 5 years, or both.

(2) Subsection (1) does not apply to any act or thing done in good faith in connexion with—

- (a) the installation, alteration, adjustment, maintenance or repair of gaming equipment by a licensed repairer;
- (b) the carrying out of any installation, alteration, adjustment, maintenance or repair prescribed for the purposes of section 4.1 (3);
- (c) an alteration to a gaming machine to effect a change of game or gaming token denomination approved, or caused, by the Director under section 3.15 (2);
or
- (d) the performance by an inspector of his or her functions or duties under this Act.

(3) A person must not knowingly, as the result of fraudulent computer programming, gain for that person or another person any advantage in the operation of gaming equipment.

Penalty: 1 000 penalty units or imprisonment for 5 years, or both.

(4) A person who dishonestly, or as a result of gross negligence, during the design, manufacture or assembly of gaming equipment, makes provision to subsequently gain for that person or another person any advantage in the operation of the gaming equipment commits an offence against this Act.

Penalty: 1 000 penalty units or imprisonment for 5 years, or both.

6.24 Protection of sensitive areas of gaming equipment. (1) Subject to subsections (2), (4) and (6), a person who is not an inspector must not—

- (a) break a seal securing a computer cabinet or gain access to any thing within the computer cabinet;
- (b) affix a seal to a computer cabinet;
- (c) break any seal protecting the integrity of the game program of a gaming machine;
- (d) remove, replace or in any way affect or interfere with the operation of a computer cabinet or any thing within the computer cabinet;
- (e) remove or interfere with any security device of a gaming machine;
- (f) interfere with the normal operation of the reel assemblies of a gaming machine;
- (g) remove or interfere with the housing protecting the mechanical meters of a gaming machine;
- (h) interfere with the normal operation of the mechanical meters of a gaming machine;
- (i) disconnect or interfere with a connexion between a mechanical meter and a computer cabinet;
- (j) interfere with information stored or transmitted electronically by any gaming machine, linked jackpot arrangement or electronic monitoring system;
- (k) remove or interfere with any mark or seal affixed to gaming equipment to preserve the integrity of operation of the gaming equipment;
- (l) remove, alter or otherwise interfere with the manufacturer's identification plate or the manufacturer's serial number of a gaming machine;
- (m) remove, alter or otherwise interfere with an identification label affixed to a gaming machine under section 6.21;
or
- (n) affix any thing capable of being represented as being a label referred to in section 6.21 to a gaming machine or a device capable of being represented as being a gaming machine.

Penalty: 1 000 penalty units or imprisonment for 5 years, or both.

(2) A licensed repairer is authorized, to such extent as is necessary, in the performance of duties as a licensed repairer to do such things as are specified in paragraphs (a) to (k) of subsection (1), provided that—

- (a) in each instance where a conversion report is not submitted under subsection (5), the licensed repairer completes and submits forthwith a repairer's report to the Director in the form determined by the Director;

and

- (b) the licensed repairer does not break a seal affixed by the licensed repairer or another licensed repairer without the approval of the Director.

(3) Where, pursuant to subsection (2), a licensed repairer breaks a seal securing a computer cabinet the licensed repairer must, except for the purpose of testing, ensure that the gaming machine is not played until the computer cabinet is again secured with a seal provided by the Director for the purpose.

(4) The Director may authorize a person to do any thing specified in subsection (1).

(5) A person must not do any thing to a gaming machine that is the property of the Crown to effect a change in the game or gaming token denomination of the gaming machine unless—

- (a) the alteration is approved, or caused, by the Director under section 3.15 (2);

and

- (b) where the gaming machine is provided to a licensee, the person performing the alteration to effect the change completes and submits forthwith a conversion report to the Director in the form determined by the Director.

Penalty: 1 000 penalty units or imprisonment for 5 years, or both.

(6) The provisions of paragraphs (a) to (l) of subsection (1) do not apply to—

- (a) gaming equipment that is not the property of the Crown;
- and
- (b) if the gaming equipment is an electronic monitoring system, the system is not on licensed premises.

6.25 Wilful damage of gaming equipment. A person must not wilfully damage or deface gaming equipment on licensed premises.

6.26 Use of gaming machines not provided to licensees. (1) A person who is not an officer of the Division or any person referred to in subsection (2) must not play or allow another person to play a gaming machine that is not provided by the Director to a licensee.

Penalty: 1 000 penalty units or imprisonment for 5 years, or both.

(2) A person who has possession of a gaming machine—

- (a) for the purpose of conducting—
 - (i) a training course referred to in section 6.7 (3) (d) or 6.12 (3);
 - or
 - (ii) bona fide testing or development work referred to in section 6.7 (3) (c);

or

- (b) under an authority under section 6.12 (5), and such authority so permits,

may play or allow another person to play the gaming machine only for the purpose of simulating gaming.

(3) A person who—

- (a) plays, or allows another person to play, a gaming machine referred to in subsection (2) by the use of a gaming token which is—

- (i) Australian currency;
- (ii) approved under section 5.11 (3);

or

- (iii) in any way negotiable;

or

- (b) allows any winnings to become payable as a result of playing a gaming machine referred to in subsection (2),

commits an offence against this Act.

Penalty: 1 000 penalty units or imprisonment for 5 years, or both.

PART 7—ACCOUNTING PROCEDURES

7.1 Monthly money clearances. (1) A licensee, within the first 7 days of each month, must carry out on the same day a money clearance of all gaming machines installed on the licensee's licensed premises.

The money clearance is to be carried out—

- (a) on a day and at such times as directed by the Director either verbally or by notice in writing;

or

- (b) if no direction is made under paragraph (a), on a day and at such times as the licensee chooses.

(2) A licensee, in conjunction with a money clearance carried out pursuant to subsection (1), must carry out such functions as are prescribed to be carried out in conjunction with such a money clearance.

7.2 Weekly money clearances. (1) A licensee, at least once in every 7 days, must carry out a money clearance of each gaming machine installed on the licensee's licensed premises.

(2) A licensee, in conjunction with a money clearance carried out pursuant to subsection (1), must carry out such functions as are prescribed to be carried out in conjunction with such a money clearance.

7.3 Accounts and analyses. (1) A licensee must keep and maintain such accounting records, in the manner prescribed and in the form determined by the Director, as correctly record and explain the licensee's

financial operations in respect of, or connected with, gaming and the conduct of gaming on the licensee's licensed premises.

(2) A licensee must carry out such accounting analysis as is prescribed.

7.4 Monthly Gaming Machine Reconciliation Reports to be submitted. (1) A licensee must lodge with the Director on or before the day prescribed of each month a Monthly Gaming Machine Reconciliation Report in respect of each of the licensee's licensed premises.

(2) Each Monthly Gaming Machine Reconciliation Report is to—

(a) be made in the manner prescribed and in the form determined by the Director;

and

(b) give an accurate account of the matters contained in the report in relation to gaming and the conduct of gaming on the premises to which it relates—

(i) in the case of the first report after the issue of the licence, during the period from the issue of the licence to the end of the period covered by the report;

or

(ii) in the case of any subsequent report, during the period from the end of the period covered by the last report lodged in respect of the licensed premises to the end of the period covered by the report in question.

7.5 Records not to be falsified, etc. A person must not, with intent to defraud—

(a) destroy, alter, mutilate or falsify any accounting record or report;

or

(b) make, or cause to be made, a false, erroneous or misleading entry in, or omit or alter, or cause to be omitted or altered, an entry in any accounting record or report,

required to be kept, maintained or lodged by a licensee under this Part.

Penalty: 400 penalty units or imprisonment for 2 years, or both.

7.6 Audit of accounts. (1) In this section “accountant” means—

(a) a member of The Institute of Chartered Accountants in Australia;

(b) a member of the Australian Society of Certified Practising Accountants;

or

(c) a person registered as an auditor under the Corporations Law.

(2) A licensee, in respect of each of the licensee's licensed premises, at the licensee's own expense and within 3 months of the expiration of each financial year, must—

- (a) prepare, or cause to be prepared, an income and expenditure statement relating to gaming and the conduct of gaming on the licensee's licensed premises in question during that year; and
- (b) cause the accounts relating to such gaming and conduct of gaming to be audited by an accountant.

(3) Immediately upon completion of an audit under subsection (2) the accountant must submit a report thereon to the Director.

(4) (a) A licensee, within 28 days after the preparation of an income and expenditure statement under subsection (2) (a), must lodge with the Director a copy of the statement certified as being correct by the accountant who performed the audit under subsection (2) (b).

(b) If the licensee is a club it must also submit—

- (i) a statement detailing the number of members in each class of membership of the club as at the expiration of the financial year;
- (ii) a copy of the annual report of the club including the audited financial statement for the financial year;
- (iii) a statutory declaration signed by the principal executive officer of the club declaring that the proceeds from the conduct of gaming were expended promoting the objectives of the club; and
- (iv) such other matters as are prescribed.

7.7 Books, records, etc., to be kept for 7 years. Subject to section 9.3, any accounting record required to be kept and maintained by a licensee under this Part must be retained by the licensee for not less than 7 years from the date of the latest entry in the accounting record.

PART 8—TAXES, LEVIES AND FEES

8.1 Gross monthly turnover. Each month the Director is to make, or cause to be made, in respect of the preceding month, an assessment of the gross monthly turnover of each licensed premises and such assessment, subject to section 8.11, is to be taken to be, for the preceding month, the gross monthly turnover of the licensed premises in question.

8.2 Monthly rental fees. (1) A licensee must pay a monthly rental fee to the Director each month for gaming machines and linked jackpot equipment provided by the Director to the licensee.

(2) The monthly rental fee must be paid on or before the day prescribed of the month next following the month in respect of which it is payable.

(3) The amount of monthly rental fee that is to be paid in respect of each licensed premises is to be calculated as prescribed.

8.3 Gaming machine tax. (1) A licensee must pay a gaming machine tax to the Director each month in respect of the licensee's licensed premises.

(2) The gaming machine tax must be paid on or before the day prescribed of the month next following the month in respect of which it is payable.

(3) The amount of gaming machine tax that is to be paid in respect of licensed premises is to be such amount as is represented by the percentage prescribed, applicable to that category of licensed premises to which the licensed premises belongs, of the gross monthly turnover of the licensed premises for the month in respect of which the tax is payable.

8.4 Sport and recreation levy. (1) A licensee must pay a sport and recreation levy to the Director each month in respect of the licensee's licensed premises.

(2) The sport and recreation levy must be paid on or before the day prescribed of the month next following the month in respect of which it is payable.

(3) The amount of sport and recreation levy that is to be paid in respect of licensed premises is to be such amount as is represented by the percentage prescribed, applicable to that category of licensed premises to which the licensed premises belongs, of the gross monthly turnover of the licensed premises for the month in respect of which the levy is payable.

(4) There is to be established and maintained in the Treasury a fund called the "Sport and Recreation Benefit Fund".

8.5 Charities and rehabilitation levy. (1) A licensee must pay a charities and rehabilitation levy to the Director each month in respect of the licensee's licensed premises.

(2) The charities and rehabilitation levy must be paid on or before the day prescribed of the month next following the month in respect of which it is payable.

(3) The amount of charities and rehabilitation levy that is to be paid in respect of licensed premises is to be such amount as is represented by the percentage prescribed, applicable to that category of licensed premises to which the licensed premises belongs, of the gross monthly turnover of the licensed premises for the month in respect of which the levy is payable.

(4) There is to be established and maintained in the Treasury a fund called the "Charities and Rehabilitation Benefit Fund".

8.6 Payment of monthly rental fees, taxes, etc. (1) A licensee, in respect of each of the licensee's licensed premises, must ensure that the

Director receives on or before the day prescribed of each month an amount not less than the total amount of—

- (a) the monthly rental fee, gaming machine tax, sport and recreation levy and charities and rehabilitation levy payable under sections 8.2, 8.3, 8.4 and 8.5;
- (b) any penalty payable under section 8.7 on or before that day; and
- (c) any—
 - (i) monthly rental fee;
 - (ii) gaming machine tax;
 - (iii) sport and recreation levy;
 - (iv) charities and rehabilitation levy;or
 - (v) penalty under section 8.7, payable and remaining unpaid at the end of the day prescribed of the preceding month.

(2) Payments to the Director in respect of monthly rental fee, gaming machine tax, sport and recreation levy, charities and rehabilitation levy or penalty under section 8.7 must be identifiable as being in respect of a single licensed premises and exclusive of payments for any other licensee or purpose.

(3) Where a payment to the Director that does not comply with subsection (2) is made, the Director is to determine the licensed premises or purpose, as the case may be, for which the payment was made and the provisions of this Act are to apply to the payment as if the payment had been made and identified for the licensed premises or purpose so determined.

8.7 Penalty for late payment. (1) Where, in respect of any licensed premises, by the end of the day prescribed of a month (or at the discretion of the Director by a time not more than 7 days later than the end of the day prescribed) the amount received by the Director pursuant to section 8.6 (1) is less than the total amount referred to in section 8.6 (1) in respect of that month—

- (a) the Director must cause to be imposed on the licensee in question a penalty to be calculated by applying the percentage prescribed on the difference between those 2 amounts; and
- (b) the amount received is to be credited as prescribed.

(2) A penalty imposed under subsection (1) (a) is due and payable, by the licensee in question, on or before the day prescribed of the month following the date on which it is imposed.

(3) The Director, for any reason that the Director considers is sufficient, may forgive or refund any penalty payable under this section.

8.8 Forgiven or overpaid money. Where—

- (a) under conditions referred to in section 3.9 (1) (a) the Director determines that part of any monthly rental payable is to be forgiven, the amount so forgiven, if paid prior to the determination;
 - (b) the amount received by the Director in any month pursuant to section 8.6 (1) is greater than the total amount referred to in section 8.6 (1), the difference;
- or
- (c) pursuant to section 8.7 (3), the Director determines all or part of any penalty payable is to be forgiven, the amount so forgiven, if paid prior to the determination,

is to be either—

- (d) taken to be a payment forming part of the payment to be made for the following month under section 8.6 (1) in respect of the licensed premises;
- or
- (e) at the discretion of the Director, forwarded to the licensee, upon written application by the licensee.

8.9 Statement and report by the Director. (1) The Director must forward to a licensee as soon as practicable after the receipt of each Monthly Gaming Machine Reconciliation Report from the licensee or, if a complete report is not received by the expiration of 10 days after the date on which the report is due, as soon as practicable after that expiration—

- (a) a financial statement;
- and

- (b) a gaming machine performance report,

containing such particulars as the Director considers appropriate in respect of the licensee's licensed premises in question.

(2) The Director, by notice in writing, may require a licensee to furnish to the Director an explanation, by a machine manager, in relation to any matter contained in a report referred to in subsection (1) (b).

(3) A licensee must on receipt of a report referred to in subsection (1) (b) cause the report to be reviewed and signed by a machine manager in respect of the licensed premises in question.

8.10 Disposition of fees, etc. (1) All fees and charges payable under this Act, other than a payment referred to in subsection (2), received by the Director must be paid into the Consolidated Revenue Fund.

(2) A payment in respect of a monthly rental fee, gaming machine tax, sport and recreation levy, charities and rehabilitation levy or penalty under section 8.7, must on its receipt be paid into an account established in the Treasury for the purpose of holding such payments until an

assessment is made on the amounts of such payment under subsection (3).

(3) A payment referred to in subsection (2) must, as soon as practicable after the production of the relevant statement under section 8.9 (1) (a), be withdrawn from the account referred to in subsection (2) and such amount thereof as is assessed by the Director as being—

- (a) monthly rental fee, gaming machine tax, or a penalty under section 8.7, must be paid by the Director into the Consolidated Revenue Fund;
- (b) sport and recreation levy, must be paid by the Director into the Sport and Recreation Benefit Fund;
- and
- (c) charities and rehabilitation levy, must be paid by the Director into the Charities and Rehabilitation Benefit Fund.

(4) The Minister of the Crown who is charged with the administration of the Sport and Recreation Benefit Fund may cause moneys to be paid out of the fund for the benefit of sport and recreation.

(5) The Minister of the Crown who is charged with the administration of the Charities and Rehabilitation Benefit Fund may cause moneys to be paid out of the fund for the benefit of charities and rehabilitation programmes.

8.11 Adjustment of rental fees, etc., in certain circumstances. Where the Director forms the opinion, in respect of a licensed premises, that an assessment of the gross monthly turnover or a calculation of monthly rental fee, gaming machine tax, sport and recreation levy, charities and rehabilitation levy or penalty under section 8.7 for a month in respect of which the Director has previously forwarded a statement under section 8.9 (1), is in error, the Director may—

- (a) cause to be made an amended assessment or calculation thereof and if an amount previously calculated as being payable—
 - (i) is less than the amount of the Director's amended calculation the difference is to be added to;
 - or
 - (ii) is more than the amount of the Director's amended calculation the difference is to be deducted from,the applicable amount of monthly rental fee, gaming machine tax, sport and recreation levy, charities and rehabilitation levy or penalty under section 8.7, which becomes due and payable by the day prescribed of the month next following the month in which the amended calculation is made;
- and
- (b) advise the licensee accordingly.

8.12 Recovery of rental fees, taxes and levies. (1) Any monthly

rental fee, gaming machine tax, sport and recreation levy, charities and rehabilitation levy or penalty payable under section 8.7 that remains unpaid may be recovered as a debt payable by the licensee to the Crown.

(2) The Director, with the approval of the Under Treasurer, instead of proceeding with or continuing an action pursuant to subsection (1), may accept in full payment of any debt payable, an amount that is less than the amount payable or remaining unpaid where—

- (a) the gaming machine licence in relation to which the debt is payable has been cancelled or surrendered;
and
- (b) the person who held the licence is not the holder of any other gaming machine licence.

8.13 Offences relating to revenue. (1) A licensee who—

- (a) wilfully evades the payment, in whole or part, of any monthly rental fee, gaming machine tax, sport and recreation levy, charities and rehabilitation levy payable under this Part or any penalty payable under section 8.7;
- (b) makes or furnishes, or authorizes or permits the making or furnishing to the Director of a Monthly Gaming Machine Reconciliation Report knowing the report to be false, erroneous or misleading in a material particular;
or
- (c) knowingly makes or furnishes, or authorizes or permits the making of a Monthly Gaming Machine Reconciliation Report to the Director containing errors in calculation that result in any delay or avoidance of the payment, in whole or part, of any monthly rental fee, gaming machine tax, sport and recreation levy, charities and rehabilitation levy payable under this Part or any penalty payable under section 8.7,

commits an offence against this Act.

Penalty: 400 penalty units or imprisonment for 2 years, or both.

(2) A licensee who—

- (a) makes or furnishes, or authorizes or permits the making or furnishing to the Director of a Monthly Gaming Machine Reconciliation Report that is false, erroneous or misleading in a material particular, without having taken reasonable steps to ensure that the report was not false, erroneous or misleading in a material particular;
or
- (b) knowingly lodges or causes to be lodged with the Director a remittance of an amount less than the amount due and payable in accordance with section 8.6 (1),

commits an offence against this Act.

8.14 Offences relating to explanations. (1) A licensee who, when required under section 8.9 (2) to furnish a written explanation—

(a) fails to furnish a written explanation;

or

(b) knowingly furnishes an explanation that is false, erroneous or misleading in a material particular,

commits an offence against this Act.

Penalty: 400 penalty units or imprisonment for 2 years, or both.

(2) A machine manager who knowingly makes a written explanation, for the purposes of a requirement under section 8.9 (2), that is false, erroneous or misleading in a material particular commits an offence against this Act.

Penalty: 400 penalty units or imprisonment for 2 years, or both.

PART 9—DIRECTIONS, POWERS, ETC.

9.1 Interpretation. In this Part, unless the contrary intention appears—

“article” means—

(a) gaming equipment;

(b) a restricted component;

(c) a device capable of being represented as being a gaming machine or linked jackpot arrangement;

(d) any thing capable of forming gaming equipment;

(e) any thing inserted, or capable of being inserted, into a gaming machine in order to operate or gain credit on the gaming machine (other than a gaming token of the denomination or type displayed on the gaming machine);

(f) any device intended for use, or capable of being used, to interfere with the normal operation of gaming equipment;

(g) any thing that permits or facilitates cheating or stealing;

(h) a gaming token;

(i) any lock or key;

(j) any counter of or apparatus for weighing gaming tokens;

or

(k) any other item related to—

(i) gaming or the conduct of gaming;

or

(ii) the manufacture, assembly, sale, supply, installation, alteration, obtaining, possession,

operation, use, adjustment, maintenance or repair of gaming equipment;

“records” means any books, accounts, records or documents, in any form, which are related to—

- (a) the conduct of gaming;
- (b) the manufacture, assembly, sale, supply, installation, alteration, obtaining, possession, operation, use, adjustment, maintenance or repair of gaming equipment;
- or
- (c) the administration of licensed premises.

9.2 Directions to licensees. (1) The Commission or Director may, by notice in writing, give directions to a licensee in relation to the conduct of gaming or the administration of the licensee’s licensed premises.

The licensee must comply with the directions.

(2) If a licensee who has been convicted of an offence of failing to comply with directions given under subsection (1), continues to fail to so comply, the licensee commits an offence against this Act.

Penalty: 20 penalty units for each day on which the failure continues.

9.3 Powers of inspectors. (1) An inspector, where he or she believes, on reasonable grounds, that it is necessary in the performance of his or her functions or duties under this Act may, subject to subsections (2) and (6) enter, be and remain on licensed premises or any other place in or at which the inspector believes on reasonable grounds any—

- (a) article is manufactured, assembled, sold, supplied, stored, transported, handled, installed, altered, obtained, possessed, operated, used, adjusted, maintained, repaired or kept;
- or
- (b) records are made, maintained, prepared, handled, stored or kept,

and therein may—

- (c) make such investigations and enquiries as are necessary to ascertain whether this Act is being complied with;
- (d) make an inspection of the licensed premises or other place and of—
 - (i) any articles, records, fittings and fixtures;
 - (ii) any other thing of any kind apparently used, or capable of being used, in connexion with—
 - (A) gaming or the conduct of gaming;
 - or
 - (B) the manufacture, assembly, sale, supply, installation, alteration, obtaining, possession, operation, use, adjustment, maintenance or repair of gaming equipment;

- (e) open, or order to be opened—
 - (i) any container or other receptacle of any kind;
or
 - (ii) a door of any container or other receptacle of any kind, used for the storage or conveyance of any article or records or that he or she believes on reasonable grounds contains any article or records;
- (f) search for and seize and retain any article, records or other thing that he or she considers will afford evidence as to the commission of an offence against this Act or any other Act or law suspected by him or her on reasonable grounds to have been committed;
- (g) open or order to be opened any gaming equipment;
- (h) inspect and test any gaming equipment or part thereof and order the withdrawal from use of any gaming equipment or part considered by him or her to be unsatisfactory for use;
- (i) take such photographs, or films or audio or visual recordings that he or she considers may afford evidence as to the commission of an offence against this Act or any other Act or law suspected by him or her on reasonable grounds to have been, or to be likely to be, committed;
- (j) require a person to produce to the inspector any licence, registration, permit, approval, certificate or authorization under this Act granted or issued to that person or alleged by that person to have been granted or issued to that person;
- (k) when so required by the Director—
 - (i) provide gaming machines and linked jackpot equipment to a licensee;
 - (ii) alter a gaming machine to effect a change in the game or gaming token denomination;
or
 - (iii) take possession of and remove any gaming equipment or ancillary or related property of the Crown and do such works and actions as are required in order to do so;
and
- (l) in all other respects, exercise his or her powers or authorities and perform his or her functions or duties under this Act.

(2) Where an act referred to in subsection (1) (a) or (b) is carried out during the night time, an entry and inspection under subsection (1) may be made at all reasonable times during the day time or night time but otherwise such entry and inspection must be made at all reasonable times during the day time.

(3) An inspector, where he or she believes, on reasonable grounds, that it is necessary in the performance of his or her functions or duties under this Act, may—

- (a) require any person who has in the person's possession or under the person's control any article or records to—
 - (i) produce for the inspector's inspection any such article or records;
or
 - (ii) attend before the inspector at a time and place named and then and there to answer any questions or supply any information with respect to any article or records or any entry therein;
- (b) inspect any article or records referred to in paragraph (a) and take such notes or copies of or in relation to such records or take extracts therefrom as the inspector considers are necessary;
- (c) for the purpose of obtaining evidence for production in possible subsequent proceedings against any person for an offence committed against this Act or any other Act or law, seize and retain any article or records inspected by the inspector pursuant to paragraph (b);
- (d) require any person responsible for or connected with—
 - (i) the conduct of gaming;
 - (ii) the manufacture, assembly, sale, supply, installation, alteration, obtaining, possession, operation, use, adjustment, maintenance or repair of gaming equipment;
or
 - (iii) the administration of licensed premises,
to attend before the inspector at a time and place named and then and there to answer any questions or supply any information with respect to the matters referred to in this paragraph;
- (e) require a person to state the person's full name, the address of his or her usual place of residence and his or her date of birth or any of those particulars;
- (f) require a person referred to in paragraph (e) to produce evidence of the correctness of any particular stated pursuant to a requirement made under that paragraph if the inspector suspects that the particular is false;
- (g) receive and investigate complaints from any person with respect to—
 - (i) gaming;
 - (ii) the conduct of gaming;
 - (iii) the manufacture, assembly, sale, supply, installation, alteration, obtaining, possession, operation, use, adjustment, maintenance or repair of gaming equipment;

or

- (iv) the administration of licensed premises,
and advise the person the results of the investigations;
 - (h) stop and search any vehicle or vessel used or that the inspector believes on reasonable grounds has been, is being, or is likely to be, used for the conveyance of any article, records or other thing that the inspector considers will afford evidence as to the commission of an offence against this Act;
 - (i) call to the inspector's aid—
 - (i) another inspector or a police officer;
 - or
 - (ii) a person whom the inspector thinks is competent to assist the inspector in the exercise of the inspector's powers or authorities or the performance of the inspector's functions or duties under this Act;
 - (j) use such force as is reasonably necessary in the circumstances in the exercise of the inspector's powers or authorities or in the performance of the inspector's functions or duties under this Act;
 - (k) in order to identify or protect the integrity of any article, records or other thing, mark, fasten, secure or seal—
 - (i) the article, records or other thing;
 - or
 - (ii) any door, gate or opening that the inspector believes on reasonable grounds affords access to the article, records or other thing;
 - and
 - (l) exercise such other powers and authorities and perform such other functions or duties as are prescribed.
- (4) Any—
- (a) article, records or other thing seized and retained pursuant to subsection (1) (f);
 - or
 - (b) article or records seized and retained pursuant to subsection (3) (c),

may be detained for such period as the inspector, on reasonable grounds, thinks fit and, where any proceedings are commenced for the purpose of which the article or records or other thing was or were retained, must be detained until the final determination of those proceedings including any appeal in respect of those proceedings.

(5) (a) Where pursuant to subsection (1) (f) or (3) (c) records are seized and retained, the person entitled to possession of the records, on application to the inspector who retained the records and within a

reasonable time after the seizure, is to be furnished by the inspector with a correct copy of the records.

(b) A copy of records furnished pursuant to paragraph (a) certified by the inspector as being a correct copy is admissible as evidence in any court and has the same effect as if it were the original of the records.

(6) (a) Before an inspector enters any premises that are used or any part of premises that is used exclusively as a dwelling-house, the inspector must, save where he or she has the permission of the occupier thereof to the entry, obtain from a justice a warrant to enter the premises or part.

(b) For the purposes of this subsection, premises used as a dwelling-house do not include the curtilage of those premises.

(c) A justice who is satisfied upon the complaint of an inspector that there is reasonable cause to suspect that any article, records or other thing relevant to the administration of this Act is or are on premises or a part of premises used exclusively as a dwelling-house and that—

- (i) in respect thereof an offence against this Act or any other Act or law has been, is being or is likely to be, committed;
- or
- (ii) it is or they are likely to be or provide evidence for production in possible subsequent proceedings against any person for an offence committed against this Act or any other Act or law,

may issue a warrant, directed to the inspector, to enter the premises or part of premises specified in the warrant for the purpose of exercising therein his or her powers or authorities and performing therein his or her functions or duties under this Act.

(d) For one month from the date of its issue, a warrant is sufficient authority for the inspector and any person acting in aid of the inspector—

- (i) to enter the premises or part of premises specified in the warrant;
- and
- (ii) therein exercise the inspector's powers or authorities and perform the inspector's functions or duties under this Act.

(7) For the purpose of gaining entry to any place that the inspector is authorized under this Act to enter, an inspector and all persons acting in aid of the inspector may use such force as is reasonable in the circumstances.

(8) A person who is acting in aid of an inspector has and may exercise all or any of the powers or authorities of an inspector and perform the functions or duties of an inspector.

(9) A requirement by an inspector under this section may be made verbally or given in writing directed to the person to or on whom it is made.

(10) A requirement made to a person by an inspector under this section to produce records is, where the records are not written, or are not written in the English language, a requirement to produce (at that person's expense)—

- (a) such records;
and
- (b) a statement, written in the English language, setting forth such information in the records as is not written or is not written in the English language.

(11) A person is not required, in respect of any matter within the application of this Act, to answer any question or give any information tending to incriminate him or her.

9.4 Offences relating to inspectors. A person must not—

- (a) assault, obstruct, hinder, threaten, abuse, insult or intimidate any inspector or person acting in aid of an inspector who is exercising powers or authorities or performing functions or duties under this Act or attempting to do so;
- (b) when required under this Act to produce—
 - (i) for inspection any article or records;
or
 - (ii) any licence, registration, permit, approval, certificate or authorization under this Act granted or issued to the person,
fail without lawful excuse to produce any such thing in accordance with such requirement;
- (c) when required under this Act to attend before an inspector, fail without lawful excuse to so attend in accordance with such requirement;
- (d) when required under section 9.3 (3) (a) or (d) to answer any question or supply any information with respect to—
 - (i) any article, records or any entry in such records;
 - (ii) the conduct of gaming;
 - (iii) the manufacture, assembly, sale, supply, installation, alteration, obtaining, possession, operation, use, adjustment, maintenance or repair of gaming equipment;
or
 - (iv) the administration of licensed premises,
or, knowing or being in a position to know the answer or information required, fail to answer that question or supply that information or supply information that is to the person's knowledge false, erroneous or misleading in a material particular;

- (e) when required under section 9.3 (3) (e) to state the person's full name, the address of his or her usual place of residence and his or her date of birth or any of those particulars—
 - (i) refuse or fail to state forthwith any such particular;
or
 - (ii) state any false particular;
- (f) when required under section 9.3 (3) (f) to produce evidence of the correctness of any particular—
 - (i) refuse or fail to produce that evidence;
or
 - (ii) produce false evidence with respect to that particular;
- (g) retake any article, records or other thing seized and retained under this Act;
- (h) tamper with—
 - (i) any article, records or other thing;
or
 - (ii) any door, gate or opening that the inspector believes on reasonable grounds affords access to any article, records or other thing,
marked, fastened, secured or sealed under this Act;
- (i) refuse or fail to open any container or other receptacle of any kind, a door of a container or other receptacle of any kind or any gaming equipment when ordered to do so by an inspector acting under this Act;
- (j) refuse or fail to withdraw from use any gaming equipment or part thereof considered by an inspector to be unsatisfactory for use when ordered to do so by an inspector acting under this Act;
or
- (k) prevent, directly or indirectly, a person from attending before an inspector, or producing to an inspector any article, or records or answering any question or supplying any information to an inspector when that person is required to do so under this Act.

Penalty: 400 penalty units or imprisonment for 2 years, or both.

9.5 Minister may order inquiry. (1) The Minister may, if the Minister thinks fit, nominate and appoint in writing the Commission, a commissioner, the Director or any other person to hold an inquiry into any or all aspects of—

- (a) gaming;
- (b) the conduct of gaming;
- (c) the manufacture, assembly, sale, supply, installation, alteration, obtaining, possession, operation, use, adjustment, maintenance or repair of gaming equipment;

or

(d) the administration of licensed premises.

(2) In the holding of the inquiry the Commission, commissioner, Director or other person has and may exercise all the powers, authorities, rights, privileges, protection and jurisdiction of a Commission of Inquiry under the *Commissions of Inquiry Act 1950-1989* save such as are provided by the provisions of sections 4, 4A, 5A, 5B, 10 (3), 13, 14 (1A), 19A, 19B, 19C and 26 to 32 of that Act.

(3) Nothing contained in this section affects any other powers or authorities that a commissioner or the Director has as an inspector under this Act or, where the other person is an inspector, that the other person has as an inspector under this Act.

9.6 Review and termination of agreements. (1) A listed person or a holder of a licence under this Act, if directed by the Director to do so, must furnish to the Director within the time stipulated in the direction such information or material as the Director thinks fit with respect to any lease, agreement or arrangement (hereinafter in this section referred to as "the agreement") that the listed person or holder has with any other person relating to the conduct of the business of the listed person or holder.

(2) Without limiting the generality of subsection (1), matters concerning which the Director may direct the furnishing of information or material include—

- (a) names of persons entering into the agreement;
- (b) description of any property, goods or other things or any services provided or to be provided;
- (c) value, type or nature of consideration;
- and
- (d) period of the agreement.

(3) A listed person or a holder of a licence under this Act, if directed by the Director to do so, must furnish to the Director within the time stipulated in the direction a copy of the agreement (if it is in writing).

(4) If the Director, after reviewing information or material furnished under this section, considers (having regard to the terms of the agreement and such other information or material as the Director considers is relevant) that the continuation of the agreement—

- (a) is not in the public interest;
- or
- (b) jeopardizes the integrity of—
 - (i) gaming;
 - (ii) the conduct of gaming;
- or

(iii) the manufacture, assembly, sale, supply, installation, alteration, obtaining, possession, operation, use, adjustment, maintenance or repair of gaming equipment, the Director may issue to a listed person or a holder of a licence under this Act who is the party to the agreement a notice in writing to show cause why the agreement should not be terminated.

(5) Notice under subsection (4) is to set out the grounds for its issue and is to stipulate a date, not less than 21 days after its issue, on or before which cause is to be shown.

(6) Copy of the notice under subsection (4) is to be given to the other party to the agreement.

(7) A listed person or a holder of a licence under this Act to whom notice under subsection (4) is issued may give answer thereto in writing to the Director to show cause at any time not later than the date stipulated in the notice in that respect.

(8) The other party may make such submissions to the Director as the party thinks fit at any time not later than that stipulated date.

(9) The Director is to consider any answers given in reply to the notice to show cause and any submissions made pursuant to subsection (8) and if the Director considers that—

(a) satisfactory answers are given or submissions made in reply to or in respect of the notice, the Director is not to take any action or any further action in relation thereto;

or

(b) answers given or submissions made in reply to or in respect of the notice are not satisfactory or if no answers are given and no submissions are made, the Director may recommend to the Commission that the agreement be terminated.

(10) Where the Director makes a recommendation to the Commission, the Director must submit therewith the notice to show cause and answers thereto, any submissions made in connexion therewith and such other information or material in the Director's possession as the Director considers is relevant to the recommendation.

(11) The Commission, having regard to the recommendation of the Director, other matters referred to in subsection (10) and to such other information or material as the Commission considers is relevant, may—

(a) take no action with respect to the agreement if the Commission considers action is not warranted;

or

(b) direct the termination of the agreement.

(12) The Commission's direction referred to in subsection (11) (b) is to be given in writing to the parties to the agreement and is to specify a date on which the agreement is terminated under this Act if not sooner terminated.

(13) The agreement in question, if not sooner terminated by the parties to the agreement, is terminated by force of this Act on the date specified for the purpose in the direction.

(14) The termination of the agreement by force of this Act does not affect the rights and obligations of the parties thereto up to the time of such termination.

(15) No liability for breach of the agreement attaches to any party thereto by reason of its termination by force of this Act.

9.7 Financial institution may be required to furnish particulars. (1) The manager or other principal officer of a financial institution in which a licensee keeps and maintains an account in relation to the operation of the licensee's licensed premises must, when so required in writing by an inspector, furnish to the inspector a statement of account and any other particulars required by the inspector to be so furnished, including copies of cheques or records relevant to the account.

(2) No liability is incurred by the financial institution or the manager or other principal officer thereof in respect of any breach of trust or otherwise by reason of the furnishing of any statement or particulars or copies pursuant to this section.

(3) An inspector must not, without the approval of the Minister, make a requirement under subsection (1).

PART 10—GENERAL

10.1 Certain persons not to play gaming machines. (1) A licensed repairer must not play gaming machines installed on licensed premises except to such extent as is necessary for the repairer to do so to alter, adjust, maintain, repair or test the gaming machines.

(2) A person who is a licensee or machine manager must not play gaming machines installed on licensed premises of which that person is licensee or machine manager—

(a) during the period that the person is the licensee or machine manager of the licensed premises, except to such extent as is necessary to do so in the course of carrying out duties as such licensee or machine manager;

and

(b) for the period of 30 days after ceasing to be such licensee or machine manager.

(3) Where winnings become payable as a result of playing a machine as authorized by this section those winnings remain the property of the licensee and are not payable to any person.

10.2 Officers of Division may be prohibited from playing gaming machines.(1) An officer of the Division, if so directed in writing by the Director, must not play gaming machines provided to a licensee except to such extent as is necessary for the officer to do so in the course of carrying out duties as an officer of the Division.

(2) A direction given under subsection (1) may be made subject to such conditions as the Director thinks fit.

10.3 Prohibition on control of applications by clubs. A person must not have or gain—

(a) control over, or the ability to control—

(i) whether or not a club makes an application under Part 3;

or

(ii) the content of any application made by a club under Part 3;

or

(b) the ability to interpose between a club and the Director in respect to an application made by the club under Part 3,

unless the person is the secretary, an executive officer or a member of the club carrying out the duties or exercising the normal rights that person has as such secretary, executive officer or member.

10.4 Restriction on certain agreements. (1) A licensee or any other person must not enter into, or be a party to, any lease, agreement or arrangement for a person to lease, let, lend or otherwise provide any property or thing or to furnish any service to the licensee in return for any direct or indirect interest in or percentage or share of—

(a) the amount bet for the purpose of gaming;

or

(b) moneys, revenues, profits or earnings from the conduct of gaming,

on the licensee's licensed premises.

(2) If a licensee or any other person, prior to the issue of the licensee's gaming machine licence has entered into or has in any way become a party to any lease, agreement or arrangement referred to in subsection (1), the lease, agreement or arrangement on and from the issue of the gaming machine licence, to the extent that it contravenes or is inconsistent with subsection (1), is void.

(3) No right of action arises against any person by reason of the operation of subsection (2).

(4) The Commission, where the Commission is of the opinion that it is in the public interest to do so, may exempt in writing any lease, agreement or arrangement referred to in subsection (1) and subject such exemption to such conditions as the Commission considers appropriate.

Any exemption under this subsection may, at any time, be revoked by the Commission.

(5) The provisions of this section do not apply to an agreement referred to in section 6.20 (6).

10.5 Exemption of devices, etc. (1) The Director may declare that any thing is not a gaming machine or a device capable of being represented as being a gaming machine for the purposes of this Act.

(2) The Director may declare that any thing is not a restricted component for the purposes of this Act.

(3) Any declaration under this section may, at any time, be revoked by the Director.

10.6 Approvals and authorities under this Act. (1) Where this Act provides that any act or thing must not be done except with, or may be done with, the approval or authorization of the Minister, Commission, Under Treasurer or Director, that approval or authorization may be granted by the Minister, Commission, Under Treasurer or Director, as the case may be, by instrument in writing.

(2) A person referred to in subsection (1) may in respect of any approval or authorization by the person—

- (a) subject such approval or authorization to conditions;
and
- (b) at any time—
 - (i) subject the approval or authorization to further conditions;
 - (ii) vary the conditions or further conditions;
and
 - (iii) withdraw such approval or authorization,

if the person considers it necessary or appropriate in the public interest or for the proper conduct of gaming.

(3) Without derogating from section 6.20 (5), a person must not fail to comply with any condition to which an approval or authorization is subject.

(4) A person must not—

- (a) modify any thing subject to an approval or authorization from;
or
- (b) fail to maintain any thing subject to an approval or authorization in,

the form, state or condition in which it was approved or authorized except in order to comply with conditions to which the approval or authorization is subject.

10.7 Signatories to approvals and written requirements, etc., of the Commission. An approval or authorization or any written requirement, notification, direction, exemption or order by the Commission is to be signed by the chairperson and 2 other commissioners.

10.8 Bribery of commissioners or officers of Division. (1) Any commissioner or officer of the Division who corruptly asks for, receives,

or obtains or agrees to receive or obtain any money, property or benefit of any kind for the commissioner or officer or any other person—

- (a) so that the commissioner or officer will forego or neglect his or her functions or duties under this Act or in order to influence him or her in the performance of his or her functions or duties under this Act;
- (b) on account of any thing already done or omitted to be done or to be afterwards done or omitted to be done by the commissioner or officer in the performance of his or her functions or duties under this Act;

or

- (c) for the commissioner or officer to use or take advantage of his or her position improperly to gain any benefit or advantage for or facilitate the commission of an offence by another person,

commits an offence against this Act.

(2) Any person who corruptly gives, confers or procures or promises or offers to give, confer or procure to, upon or for any commissioner or officer of the Division or any other person any money, property or benefit of any kind—

- (a) so that the commissioner or officer will forego or neglect his or her functions or duties under this Act or in order to influence him or her in the performance of his or her functions or duties under this Act;
- (b) on account of any thing already done or omitted to be done or to be afterwards done or omitted to be done by the commissioner or officer in the performance of his or her functions or duties under this Act;

or

- (c) for the commissioner or officer to use or take advantage of his or her position improperly to gain any benefit or advantage for or facilitate the commission of an offence by the first-mentioned person or any other person,

commits an offence against this Act.

Penalty: 400 penalty units or imprisonment for 2 years, or both.

10.9 Financial connexions and interests of officers of the Division.

(1) An officer of the Division—

- (a) must not knowingly have, directly or indirectly—
 - (i) any business or financial connexion with;

or

 - (ii) any business or financial interest in any matter in conjunction with,
a listed person or a holder of a licence under this Act;
- (b) must not—
 - (i) be;

- (ii) be an employee in any capacity of;
or
 - (iii) hold the position of executive officer or secretary of a body corporate which is,
a listed person or a holder of a licence under this Act;
or
 - (c) must not, without the approval of the Under Treasurer, solicit or accept employment from, be an employee in any capacity of, or have a business or financial connexion with a listed person or a holder of a licence under this Act within a period of 1 year after the officer ceases to be an officer of the Division.
- (2) A listed person or a holder of a licence under this Act—
- (a) must not knowingly have, directly or indirectly—
 - (i) any business or financial connexion with;
or
 - (ii) any business or financial interest in any matter in conjunction with,
an officer of the Division;
 - (b) must not employ in any capacity an officer of the Division;
or
 - (c) must not, without the approval of the Under Treasurer, employ in any capacity or have a business or financial connexion with a person who was an officer of the Division within a period of 1 year after that person ceases to be an officer of the Division.
- (3) An officer of the Division who has directly or indirectly—
- (a) any business or financial connexion with;
or
 - (b) any business or financial interest in any matter in conjunction with,

a person who becomes a listed person, a holder of a licence under this Act or an applicant for a licence under this Act must, immediately upon becoming aware that the person has so become listed, licensed or an applicant—

- (c) notify the Under Treasurer of such connexion or interest;
and
 - (d) if directed by the Under Treasurer, terminate the connexion or relinquish the interest within a time specified by the Under Treasurer.
- (4) The provisions of this section do not apply so as to prohibit an officer of the Division—
- (a) from being a financial member of a club that is a licensee, or having such other financial connexion with the club as is generally had by other members of the club;

or

- (b) from having any business or financial connexion (being a connexion that is not related to the manufacture, assembly, sale, supply, installation, alteration, obtaining, possession, adjustment, maintenance or repair of gaming equipment) with a listed person or holder of a licence under this Act such as is generally had by members of the public.

(5) An officer of the Division must, immediately upon making application for membership of a club that is a licensee or an applicant for a gaming machine licence, notify the Under Treasurer of the making of the application.

10.10 Reporting of accounting discrepancies and criminal activity.

(1) A licensee or machine manager who becomes aware or suspects that a person by fraud, misrepresentation or theft has obtained a benefit for the person or another person in relation to gaming or the conduct of gaming must, within 3 days of so becoming aware or suspecting, advise the Director in writing of all facts known to the licensee or machine manager in relation to the fraud, misrepresentation or theft.

(2) A person who—

- (a) terminates the employment or otherwise prejudices the career of;
- (b) prejudices the safety of;
- or
- (c) intimidates or harasses,

any licensee, machine manager or other person by reason that the licensee or machine manager has advised, or may advise, the Director in accordance with subsection (1) commits an offence against this Act.

10.11 Cheating. (1) A person must not dishonestly—

- (a) by a scheme or practice;
- (b) by the use of gaming equipment;
- or
- (c) by the use of an instrument or article of a type used in connexion with gaming, or appearing to be of a type used in connexion with gaming, or of any other thing,

in relation to gaming or the conduct of gaming, induce a licensee, or a person acting on behalf of the licensee, to deliver, give or credit to the person or another person, any money, gaming tokens, gaming machine credits, benefit, advantage, valuable consideration or security.

Penalty: 1 000 penalty units or imprisonment for 5 years, or both.

(2) A licensee must not dishonestly—

- (a) by a scheme or practice;
- (b) by the use of gaming equipment;
- or

- (c) by the use of an instrument or article of a type used in connexion with gaming, or appearing to be of a type used in connexion with gaming, or of any other thing,

in relation to gaming or the conduct of gaming, induce a person to deliver, give or credit to the licensee or another person, any money, gaming tokens, gaming machine credits, benefit, advantage, valuable consideration or security.

In this subsection “licensee” includes—

- (a) a machine manager or a person who supervises gaming or attends to gaming machines on behalf of a licensee;
and
(b) a person employed by a licensee to sell or redeem gaming tokens or carry out centralised credit transactions on behalf of the licensee.

Penalty: 1 000 penalty units or imprisonment for 5 years, or both.

(3) A person must not dishonestly cause gaming equipment to deliver, give or credit to the person or another person any gaming tokens, gaming machine credits, benefit, advantage, valuable consideration or security.

Penalty: 1 000 penalty units or imprisonment for 5 years, or both.

(4) A person must not, for the purpose of cheating or stealing in relation to gaming or the conduct of gaming, use, or be in possession of—

- (a) any gaming tokens that the person knows are bogus or counterfeit;
or
(b) any thing that permits or facilitates cheating or stealing.

Penalty: 1 000 penalty units or imprisonment for 5 years, or both.

10.12 Forgery and like offences. A person who—

- (a) forges or counterfeits any gaming token, licence, identification card or other form of identification authorized to be issued under this Act;
(b) knowingly utters any such gaming token, licence, identification card or other form of identification so forged or counterfeited;
(c) personates any person named in any such licence, identification card or other form of identification;
(d) falsely represents that he or she is an inspector or an officer of the Division;
(e) connives at any such forging, counterfeiting, uttering, personating or representing as referred to in this section;
or

- (f) provides or submits information or material knowing it to be false, erroneous or misleading in a material particular in, or in relation to, any application, response to a requirement, submission, advice, notification, answer to a notice, statement or affidavit made under or pursuant to any provision of this Act,

commits an offence against this Act.

Penalty: 400 penalty units or imprisonment for 2 years, or both.

10.13 Detention, arrest, etc., of persons by police officers in relation to offences under ss. 3.27, 6.6 (1) or (2), 6.23 (1), 10.11 or 10.12. (1) Any police officer may arrest without warrant any person who has, or whom the police officer suspects on reasonable grounds has, committed or attempted to commit an offence against section 3.27, 6.6 (1) or (2), 6.23 (1), 10.11 or 10.12.

(2) Any police officer who pursuant to subsection (1) arrests a person, may—

- (a) search that person and the possessions of that person;
- (b) seize any thing found as a result of the search that may afford evidence of the commission of an offence;
- (c) use such force as is reasonable in the circumstances for the purpose of such detention and search.

(3) Before arresting any person pursuant to subsection (1) any police officer who is not readily identifiable as a police officer must produce to the person the officer's identification issued to the officer by the Commissioner of Police.

10.14 Liability for offences by servants, agents or employees. (1) (a) Where a person commits an offence against this Act as servant, agent or employee then, without derogating from section 7 of *The Criminal Code*, the employer of that person is, subject to paragraph (b), deemed—

- (i) to have committed the offence;
and
- (ii) to be criminally responsible for the act or omission that constitutes the offence,

and, notwithstanding section 23 of *The Criminal Code* or any other rule of law or practice, may be charged with the offence and punished accordingly.

(b) It is a defence to a prosecution for an offence against an employer referred to in this subsection to prove that the offence was committed without the employer's consent or connivance and that the employer exercised due diligence to prevent the commission of the offence.

(2) In proceedings for an offence against this Act alleged to have been committed by a defendant as servant, agent or employee the court must not convict the defendant if the evidence establishes that—

- (a) the offence was committed while the business of the defendant's employer was being conducted under the personal supervision of the employer or any manager or any other representative of the employer;
and
- (b) the reason that the defendant committed the offence was that he or she had been compelled to do so by the employer, manager or representative.

(3) Save as provided by subsection (2), this section applies so as not to prejudice liability imposed by or under this Act on any person by whom an offence against this Act is actually committed.

10.15 Liability for offence by body corporate. (1) Where a body corporate commits an offence against this Act then, without derogating from section 7 of *The Criminal Code*—

- (a) the person who, at the time the offence is committed, is secretary or an executive officer of the body corporate;
and
- (b) every person who, at the time the offence is committed, manages or acts or takes part in the management, administration or government of the business of the body corporate in Queensland,

is, subject to subsection (3), deemed—

- (c) to have committed the offence;
and
- (d) to be criminally responsible for the act or omission that constitutes the offence,

and, notwithstanding section 23 of *The Criminal Code* or any other rule of law or practice, may be charged with the offence and punished accordingly.

(2) This section applies so as not to limit or affect in any way the liability of a body corporate to be proceeded against and punished for an offence against this Act committed by it.

(3) It is a defence to a prosecution for an offence against this Act brought against a person specified in subsection (1) (a) or (b) to prove that the offence was committed without that person's consent or connivance and that he or she exercised due diligence to prevent the commission of the offence.

10.16 Power to request name and address by police officers. (1) Any police officer, in connexion with the exercise of any powers or the discharge by the police officer of any duties under this Act in relation to any person, may request that person to state the person's full name,

the address of his or her usual place of residence and his or her date of birth or any of those particulars.

If the police officer suspects on reasonable grounds that any of the particulars stated is false, the police officer may request evidence of the correctness thereof.

(2) A person requested under this section to state the person's name, address and date of birth or any of those particulars who—

(a) refuses or fails to state forthwith any such particulars;
or

(b) states any false particulars,
commits an offence against this Act.

(3) A person requested under this section to produce evidence of the correctness of any particulars who—

(a) refuses or fails to produce that evidence;
or

(b) produces false evidence with respect to those particulars,
commits an offence against this Act.

(4) A police officer may arrest without warrant any person who, when requested under this section—

(a) to state that person's name, address and date of birth or any of those particulars;
or

(b) to produce evidence of the correctness of any such particulars, refuses or fails to do so or states any name, address or date of birth or produces evidence that in the opinion of the police officer is false.

(5) Any police officer who makes a request of a person under this section must—

(a) if the police officer is not readily identifiable as a police officer, produce to the person the officer's identification issued to the officer by the Commissioner of Police;
and

(b) warn the person when making the request that failure to comply with the request or to state false particulars or to produce false evidence with respect to the particulars requested is an offence against this Act.

10.17 Finger prints and the like. (1) Where a person has been arrested for an offence or an attempt to commit an offence against section 6.6 (1) or (2), 6.23 (1), 10.11 or 10.12, a police officer at the police establishment or police station to which the person is taken after arrest, or where the person is in custody, may take all such particulars as the police officer considers necessary for the identification of the person, including the person's voice print, photograph, finger prints, palm prints, foot prints, toe prints and handwriting.

In taking those particulars (other than any voice print or handwriting) such force as is reasonable in the circumstances may be used.

(2) A court that convicts a person who appears personally before it of an offence or an attempt to commit an offence against section 6.6 (1) or (2), 6.23 (1), 10.11 or 10.12, may in its discretion order that person into the custody of a police officer for the purpose of obtaining any particulars referred to in subsection (1).

That police officer and any other police officer acting in aid of that police officer must take that person to a place where those particulars can adequately be taken and take those particulars.

In taking the person to the place such force as is reasonable in the circumstances may be used.

(3) Where a person is found not guilty of an offence or an attempt to commit an offence against section 6.6 (1) or (2), 6.23 (1), 10.11 or 10.12, any voice print, photograph, finger prints, palm prints, foot prints, toe prints or handwriting previously taken pursuant to this section in relation to the offence in respect of which the person was found not guilty must, on written request by the person, be destroyed in the person's presence or in the presence of a person nominated by the person.

10.18 Claims of privilege in proceedings for offences. (1) In proceedings for an offence against this Act a prosecutor or a witness for the prosecution must not be compelled to disclose information, or produce any document containing the information, where the information may be subject to a bona fide claim of privilege under any Act or law.

(2) Except as provided in subsection (1), in proceedings for an offence against this Act a prosecutor or a witness for the prosecution, on application by or on behalf of the defendant, may be compelled to disclose to the court information relevant to the proceedings or produce any document containing information relevant to the proceedings.

The court in the interests of justice, having regard to all the circumstances of the proceedings, must determine if the information is to be disclosed, or the document produced, to the defendant or his or her legal representative.

10.19 Protection of officers, etc. No liability is incurred by the Crown, the Minister, the Commission, a commissioner, the Under Treasurer, the Commissioner of Police, the Director, any inspector or any other officer of the Division or any police officer or other person acting in aid of an inspector pursuant to this Act on account of any thing done for the purposes of this Act.

10.20 General penalty. A person who contravenes or fails to comply with any provision of this Act commits an offence against this Act and, save where a specific penalty is otherwise provided, is liable to a penalty of 200 penalty units or imprisonment for 1 year, or both.

10.21 Attempt to commit offence. (1) A person must not attempt to commit an offence against this Act.

(2) A person convicted of the offence of attempting to commit an offence against this Act is liable to the same penalty as an offender convicted of the offence itself unless the person proves that he or she desisted of his or her own motion from the further prosecution of his or her intention, without its fulfilment being prevented by circumstances independent of his or her will, in which case the person is liable to one half of the penalty to which he or she would otherwise be liable.

(3) A person may be convicted of attempting to commit an offence against this Act upon a complaint charging the person with that offence.

10.22 Proceedings for offences. (1) Subject to subsections (3), (4) and (5), offences against this Act may be prosecuted in a summary way under the *Justices Act 1886-1990*.

(2) A prosecution for an offence against this Act may be commenced within 1 year from the time when the matter of complaint arose or if the proceedings are instituted by—

(a) the Director, or a person authorized by the Director, within 6 months after the matter of complaint comes to the knowledge of the Director;

or

(b) a person authorized by the Commission, within 6 months after the matter of complaint comes to the knowledge of the Commission,

whichever is the period later to expire.

(3) An offence against section 3.27, 5.2 (1), 6.6 (1) or (2), 6.11 (2), 6.22 (1) or (2), 6.23 (1), (3) or (4), 6.24 (1), 6.26 (1) or (3), 8.13, 8.14, 10.8, 10.11 or 10.12 may be prosecuted in a summary way under the *Justices Act 1886-1990* or upon indictment.

(4) Where proceedings for an offence against section 3.27, 5.2 (1), 6.6 (1) or (2), 6.11 (2), 6.22 (1) or (2), 6.23 (1), (3) or (4), 6.24 (1), 6.26 (1) or (3), 8.13, 8.14, 10.8, 10.11 or 10.12 are taken with a view to summary conviction of the defendant, the court, if it forms the opinion that the matter should not be determined summarily or if the defendant requires that the matter be dealt with upon indictment, must abstain from determining the matter summarily.

Instead of dealing with the proceedings as proceedings with a view to the committal of the defendant for trial or sentence, as the case may be, the court may exercise in respect of the defendant for the purpose of such proceedings all the powers conferred on it by law as though the proceedings were proceedings with a view to committal in the first instance.

(5) Where the court abstains from determining a matter summarily pursuant to subsection (4), a plea of the defendant, if taken at the outset of the summary proceedings, is to be disregarded and, before committing

the defendant for trial or for sentence, the court must address the defendant in accordance with the provisions of section 104 of the *Justices Act 1886-1990*.

(6) A conviction upon indictment for an offence against section 3.27, 5.2 (1), 6.6 (1) or (2), 6.11 (2), 6.22 (1) or (2), 6.23 (1), (3) or (4), 6.24 (1), 6.26 (1) or (3), 8.13, 8.14, 10.8, 10.11 or 10.12 is, and has effect in law as, a conviction for an indictable offence.

10.23 Institution of proceedings. (1) Without derogating from the provisions of subsection (2), proceedings for an offence against section 3.27, 5.22 (2) or (3), 5.23 (2), (3), (5) or (6), 6.6 (1) or (2), 6.23 (1), 10.11, 10.12 or 10.16 may be instituted by a police officer and a police officer is entitled to appear before a Magistrates Court on behalf of and act for the complainant.

(2) Proceedings for an offence against this Act may be instituted by the Director or by a person authorized by the Commission or Director to institute the proceedings in a particular case.

(3) In any case where power is given to arrest an offender, it also includes power and authority to proceed against an offender by way of complaint and summons under the *Justices Act 1886-1990*.

10.24 Warrant and arrest of person offending against Act. Upon complaint on oath made before any justice by any person authorized in writing by the Director in that behalf that he or she believes on reasonable grounds that an offence against this Act has been committed, the justice, if the justice believes on reasonable grounds that proceedings by summons would not be effective, may by warrant under his or her hand directed to any police officer order the person named in the warrant to be arrested and brought as soon as possible before a court to be dealt with according to law.

10.25 Forfeiture. (1) The court that convicts a person of an offence against this Act may order to be forfeited to Her Majesty—

(a) any thing seized under section 10.13;
and

(b) any article, records or other thing, seized and retained pursuant to section 9.3 (1) (f) or 9.3 (3) (c) and detained pursuant to section 9.3 (4),

relating to or connected with the commission of the offence of which the person has been convicted.

(2) Where a person charged with an offence against this Act is not convicted of any offence, the court may order to be forfeited to Her Majesty any article, records or other thing, seized and retained pursuant to section 9.3 (1) (f) or 9.3 (3) (c) and detained pursuant to section 9.3 (4), that was or were found in the possession or under the control of that person.

(3) Any thing forfeited to Her Majesty pursuant to this section is to be dealt with or disposed of in such manner as the Minister directs.

(4) A dealing with or forfeiture or disposal of any thing under this section does not confer upon any person a right to compensation.

10.26 Service of notices, documents, etc. (1) Any written advice, direction, order, requirement, requisition, notice, authorization, notification or any other document (any such writing being hereafter in this section referred to as “document”) under this Act is to be taken to have been given or issued to or served upon a person if—

- (a) it is served personally on the person to whom it is directed or on a person authorized by that person, either generally or in a particular case, to accept service of any thing on that person’s behalf;
- (b) it is left at the place of residence or business of the person to whom it is directed last known to the person who gives, issues or serves it;
- (c) it is sent by post or facsimile transmission to the place of residence or business of the person to whom it is directed last known to the person who gives, issues or serves it;
- or
- (d) where a manner of service is prescribed by any other Act or law in relation to a person or class of person, it is served in the manner so prescribed.

(2) Where any document is given, issued or served, the person who gives, issues or serves it may attend before a justice and depose on oath and in writing endorsed on a copy of the document as to the manner of giving, issue or service thereof showing therein the date of personal service, leaving, posting, transmission or service in other manner specified in subsection (1), as the case may be, of such document.

(3) Every such deposition upon production in court is evidence of the matters contained therein and in the absence of evidence to the contrary is conclusive evidence of the giving, issuing or serving of such document to or on the person to whom it is directed.

10.27 Evidentiary provisions. In proceedings under this Act—

- (a) it is not necessary to prove the appointment of the Minister, the chairperson, a commissioner, the Under Treasurer, any police officer, the Director, any inspector or any other officer of the Division;
- (b) a signature purporting to be that of any person in any capacity referred to in paragraph (a) is to be taken to be the signature it purports to be until the contrary is proved;
- (c) a document or writing purporting to be a copy of any document referred to in section 10.26 (1) or of any licence granted or issued under this Act is evidence of the document of which it purports to be a copy and, in the absence of evidence to the contrary, is conclusive such evidence;
- and
- (d) a certificate purporting to be signed by the Director certifying that at a specified time or during a specified period—
 - (i) there was or was not in force under this Act a licence of a specified kind;

or

- (ii) a person was or was not a recognized manufacturer or supplier of gaming machines or a recognized supplier of restricted components,

is evidence and, in the absence of evidence to the contrary, conclusive evidence of the matters contained in the certificate.

10.28 Disclosure of criminal history. A person who—

- (a) is the subject of an inquiry under section 2.4 (6) or 2.20 (2) or (3);
- (b) is an applicant for a licence under Part 3 or 4;
- (c) is the secretary or an executive officer of a body corporate that is an applicant for a licence under Part 3 or 4;
- (d) submits a tender in response to a call under section 6.15 (1);
- (e) is the secretary or an executive officer of a body corporate that submits a tender in response to a call under section 6.15 (1);

or

- (f) is required to submit information or material, or additional information or material, under section 2.20 (5), 3.3 (6), 3.20 (2), 4.7 (3), 4.18 (2), 6.4 (2) or 6.16 (3),

must, if so required for the purposes of this Act, disclose—

- (g) his or her criminal history with respect to contraventions of or failures to comply with any provision of law, whether committed in Queensland or elsewhere;
and
- (h) convictions recorded against him or her in respect of contraventions of or failures to comply with any provision of law, whether committed in Queensland or elsewhere, that pursuant to any law are deemed not to be convictions.

10.29 Refund of moneys in certain circumstances. The Director may—

- (a) refund moneys paid to the Director in error;
- (b) refund a fee paid relative to an application under this Act where—
 - (i) in the opinion of the Director no substantial expense has been incurred by the Director in regard to such application; and
 - (ii) the applicant, or other person acceptable to the Director, makes a written request for the application not to proceed.

10.30 Alternatives to forms. (1) The Director may instead of requiring any report to be made in the form determined by the Director, approve the submission of information the subject of the report by any

other method or medium of storage considered appropriate by the Director.

(2) Where pursuant to subsection (1) the Director approves the submission of information by an alternative method or medium of storage the submission of information by the alternative method or medium has the same effect as if it had been made in the form determined by the Director.

10.31 Regulations. (1) The Governor in Council may make regulations, not inconsistent with this Act, for or with respect to—

- (a) arrangements and procedures for the taking of finger prints and palm prints of an applicant for a repairer's licence or machine manager's licence;
- (b) the activities of listed persons or holders of licences under this Act;
- (c) forms to be used for the purposes of this Act;
- (d) the control of the premises of licensed repairers or licensed service contractors;
- (e) security procedures for the manufacture, assembly, storage, handling, transport, consignment and receipt of gaming equipment and restricted components;
- (f) the form and manner of applications for approval of premises used in connexion with the manufacture, assembly, storage or handling of gaming machines or restricted components;
- (g) the different categories of licensed premises;
- (h) the restrictions or entitlements which apply to different categories of licensed premises;
- (i) any matter or thing in relation to the administration of this Act in respect of which a fee is payable and prescribing the amount of such fee;
- (j) prescribing, where not provided in this Act, when a fee may be payable for any service or act carried out or undertaken and the amount of such fee;
- (k) matters to enable the proper conduct of gaming;
- (l) provision of signs and notices in licensed premises;
- (m) the control of advertising or promotions by any licensee, recognized manufacturer or supplier of gaming machines or other person in relation to gaming machines, gaming and the conduct of gaming;
- (n) applications and fees with respect to the approval of electronic monitoring and centralised credit systems;
- (o) the keeping of accounts with financial institutions by licensees;
- (p) the Director's obligations to licensees in relation to the providing of gaming equipment;
- (q) identification of machine managers and employees of licensees;

-
- (r) the conduct and proceedings of meetings of the Commission;
 - (s) offences against the regulations and prescribing the amount of any penalty for an offence against any regulation, provided that any such penalty must not exceed 20 penalty units;
 - (t) all matters required or permitted by this Act to be prescribed where such matters are to be or may be prescribed or where the method of prescription is not otherwise provided;
 - (u) all matters that may be convenient for the administration of this Act or that may be necessary or expedient to achieve the objects and purposes of this Act.

(2) The power to regulate conferred by this section includes the power to prohibit.

10.32 Tabling and disallowance of Orders in Council and certain decisions of Minister. Section 28A of the *Acts Interpretation Act 1954-1990* applies to Orders in Council made under this Act, and directions given by the Minister under sections 2.15(5) and 2.16(1) (e), as if they were regulations and, for the purposes of that application—

- (a) a reference in that section to a regulation is a reference to such an Order in Council or direction;
and
- (b) all other necessary modifications of that section are taken to be made.

Minister's Second Reading Speech made on 26 February 1991.