

Queensland



# **LOTTERIES ACT 1997**

**Act No. 34 of 1997**



# Queensland



## LOTTERIES ACT 1997

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**DICTIONARY**

Queensland



## **Lotteries Act 1997**

### **Act No. 34 of 1997**

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**An Act to regulate lotteries and for other purposes**

*[Assented to 18 July 1997]*

**The Parliament of Queensland enacts—**

## **PART 1—PRELIMINARY**

### **Short title**

1. This Act may be cited as the *Lotteries Act 1997*.

### **Commencement**

2. This Act commences on a day to be fixed by proclamation.

### **Definitions—the dictionary**

3. The dictionary<sup>1</sup> in schedule 3 defines particular words used in this Act.

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<sup>1</sup> In some Acts, definitions are contained in a dictionary that appears as the last schedule and forms part of the Act—*Acts Interpretation Act 1954*, section 14. Words defined elsewhere in the Act are generally signposted by entries in the dictionary. However, if a section has a definition that only applies to the section, or a part of the section, it is generally not signposted by an entry in the dictionary. If this type of definition is set out in a separate subsection, the subsection is generally the last subsection of the section. Signpost definitions in the dictionary alert the reader to the terms defined elsewhere in the Act and tell the reader where these definitions can be found. For example, the definition ‘**“agency agreement”** see section 78’ tells the reader that the term “agency agreement” is defined in section 78.

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## PART 2—AUTHORISED LOTTERIES

### *Division 1—Basic concepts*

#### Meaning of “gaming scheme”

4. A “gaming scheme” is a game, scheme or arrangement in which the winners of prizes are decided—

- (a) wholly or partly by chance; or
- (b) by a competition or other activity of which the outcome is dependent on fate or guessing.

#### Meaning of “lottery”

5. A “lottery” is a gaming scheme classified under a rule as a lottery.

### *Division 2—Requirement to hold lottery licence*

#### Requirement for lottery licence

6.(1) A person must not conduct a lottery unless the person is authorised to do so under a lottery licence.

Maximum penalty—200 penalty units or 2 years imprisonment.

- (2) A person must not conduct a gaming scheme that is not a lottery if—
- (a) the gaming scheme may reasonably be confused with a lottery; or
  - (b) because of the scheme’s similarity to a lottery, it may reasonably be taken to be in direct competition with a lottery.

Maximum penalty—200 penalty units or 2 years imprisonment.

(3) Subsection (2) does not apply if the gaming scheme is conducted under a Gaming Act.

(4) A person must not participate in a lottery, or a gaming scheme mentioned in subsection (2), knowing the person who is conducting the lottery or scheme is not authorised under this Act or a Gaming Act to

conduct the lottery or scheme.

Maximum penalty—40 penalty units.

(5) A person must not conduct a gaming scheme (other than an approved lottery) under a name that—

- (a) is a name by which an approved lottery is conducted; or
- (b) is likely to be confused with the name by which an approved lottery is conducted; or
- (c) includes a word—
  - (i) contained in the name by which an approved lottery is conducted; and
  - (ii) prescribed under a regulation.

Maximum penalty for subsection (5)—40 penalty units.

### **Foreign gaming schemes**

7.(1) Unless authorised by an approved arrangement, a person must not—

- (a) sell or offer for sale, or cause to be sold or offered for sale, a ticket in a gaming scheme conducted by a foreign agency; or
- (b) accept or cause to be accepted, an amount for purchase of a ticket, or submission of an entry form, for a gaming scheme conducted by a foreign agency.

Maximum penalty—200 penalty units or 2 years imprisonment.

(2) Unless authorised by an approved arrangement, a person must not publish or cause to be published an advertisement or notice that promotes, is calculated to promote, or is likely to be taken as promoting, a gaming scheme conducted by a foreign agency.

Maximum penalty—200 penalty units or 2 years imprisonment.

(3) In this section—

**“approved arrangement”** means an arrangement, approved by the chief executive in writing, under which a lottery licensee, by agreement with a foreign agency that is conducting or proposes to conduct a gaming



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scheme, is to assume responsibility for the conduct of the gaming scheme in Queensland.

### **Lawful activities**

**8.** Despite any other law, the following activities are lawful—

- (a) the conduct in accordance with this Act by a lottery licensee of a lottery specified in the licence;
- (b) activities of a lottery agent in accordance with this Act and the relevant agency agreement;
- (c) participation (including the purchase of a lottery ticket) in a lottery conducted under a lottery licence;
- (d) the use of approved lottery equipment by lottery licensees and lottery agents;
- (e) the doing of anything else required or authorised to be done under this Act.

### ***Division 3—Applications for, and issue of, lottery licences***

#### **Application for lottery licence**

**9.(1)** An application for a lottery licence must be made to the Minister in the approved form.

**(2)** An application must be accompanied by any application fee prescribed under a regulation.

**(3)** The Minister may, by written notice given to an applicant for a lottery licence, require the applicant to give the Minister further information or a document that is necessary and reasonable to help the Minister decide the application.

#### **Consideration of application**

**10.** The Minister must consider an application for a lottery licence and either grant or refuse to grant the application.

### Conditions for granting application

**11.(1)** The Minister may grant an application for a lottery licence only if the Minister is satisfied—

- (a) the applicant is a suitable person to hold a lottery licence; and
- (b) each business or executive associate of the applicant is a suitable person to be associated with a lottery licensee's operations.

**(2)** However, the Minister may refuse to grant an application even if the Minister is satisfied of the matters mentioned in subsection (1).

### Suitability of applicant to hold lottery licence

**12.(1)** In deciding whether an applicant for a lottery licence is a suitable person to hold a lottery licence, the Minister may have regard to the following matters—

- (a) the applicant's character or business reputation;
- (b) the applicant's current financial position and financial background;
- (c) if the applicant is not an individual—whether the applicant has, or has arranged, a satisfactory ownership, trust or corporate structure;
- (d) whether the applicant has, or is able to obtain, appropriate resources and appropriate services;
- (e) whether the applicant has the appropriate business ability to conduct lotteries successfully in accordance with a lottery licence;
- (f) if the applicant has a business association with another entity—
  - (i) the entity's character or business reputation; and
  - (ii) the entity's current financial position and financial background;
- (g) any other issues prescribed under a regulation.

**(2)** In subsection (1)—

**“appropriate resources”** means financial resources the Minister considers adequate to ensure the financial viability of operations conducted under

a lottery licence.

**“appropriate services”** means the services of persons who have appropriate experience to ensure the proper and successful conduct of lotteries.

### **Suitability of business and executive associates**

**13.** In deciding whether a business or executive associate of an applicant for a lottery licence is a suitable person to be associated with a lottery licensee’s operations, the Minister may have regard to the following matters—

- (a) the person’s character or business reputation;
- (b) the person’s current financial position and financial background;
- (c) if the person has a business association with another entity—
  - (i) the entity’s character or business reputation; and
  - (ii) the entity’s current financial position and financial background;
- (d) any other matters prescribed under a regulation.

### **Investigations of suitability of persons**

**14.(1)** The chief executive may investigate an applicant for a lottery licence to help the Minister decide whether the applicant is a suitable person to hold a lottery licence.

**(2)** The chief executive may investigate a business or executive associate of an applicant for a lottery licence to help the Minister decide whether the business or executive associate is a suitable person to be associated with a lottery licensee’s operations.

### **Decision on application**

**15.(1)** If the Minister decides to grant an application for a lottery licence, the Minister must promptly issue a lottery licence to the applicant.

**(2)** If the Minister decides to refuse to grant an application for a lottery

licence, the Minister must promptly give the applicant written notice of the decision.

### **Conditions of licence**

**16.** The Minister may issue a lottery licence—

- (a) on conditions the Minister considers necessary or desirable for the proper conduct of lotteries; and
- (b) on other conditions the Minister considers necessary or desirable in the public interest.

### **Form of lottery licence**

**17.(1)** A lottery licence must be in the approved form.

**(2)** The approved form must provide for the inclusion of the following particulars—

- (a) the lottery licensee's name;
- (b) the date of issue of the licence;
- (c) the term for which the licence is (subject to this Act) to remain in force;
- (d) the lotteries to which the licence relates;
- (e) the conditions of the licence;
- (f) any other particulars prescribed under a regulation.

### **Changing conditions of lottery licence**

**18.(1)** The Minister may decide to change the conditions of a lottery licence, if the Minister considers it is necessary or desirable to make the change for the proper conduct of lotteries by the lottery licensee or otherwise in the public interest.

**(2)** However, if a condition of a lottery licence is designated in the licence as a condition that may be changed only by agreement between the Minister and the lottery licensee, the condition may be changed only by agreement between those persons.

(3) If the Minister decides to change conditions of a lottery licence under this section, the Minister must promptly give the lottery licensee written notice of the change (a “**condition notice**”) and the reasons for the change.

(4) The power of the Minister under subsection (1) includes the power to add conditions to an unconditional licence.

### **Return of licence for endorsement of changed conditions**

**19.(1)** The lottery licensee must return the lottery licence to the Minister within 7 days of receiving the condition notice notifying a change of conditions, unless the licensee has a reasonable excuse.

Maximum penalty—40 penalty units.

(2) On receiving the lottery licence, the Minister must—

- (a) amend the licence in an appropriate way and return the amended licence to the lottery licensee; or
- (b) if the Minister does not consider it is practicable to amend the licence—issue a replacement licence, incorporating the changed conditions, to the lottery licensee.

(3) A change of conditions takes effect when the condition notice notifying the change is given to the lottery licensee and does not depend on the lottery licence being amended to record the change or a replacement licence being issued.

### **Amendment of lottery licence**

**20.(1)** The Minister may amend a lottery licence only with the written approval of the lottery licensee.

(2) Subsection (1) does not limit section 18.

## ***Division 4—General provisions about lottery licences***

### **Lottery licence not to be transferable**

**21.(1)** A lottery licence cannot be transferred.

(2) However, if a lottery licence is mortgaged, charged or encumbered with the written approval of the Minister, this section does not prevent the transfer of the licence, subject to section 22, by way of enforcement of the security.

### **Mortgage and assignment of lottery licence**

**22.(1)** A lottery licensee must not mortgage, charge or otherwise encumber the licence except with the written approval of the Minister.

(2) If a person has a right to sell and transfer a lottery licence under or because of a mortgage, charge or encumbrance, the licence may only be sold and transferred to a person approved by the Minister.

(3) Before the Minister approves the transfer of a lottery licence under this section, the Minister must be satisfied that—

- (a) the proposed transferee is a suitable person to hold a lottery licence; and
- (b) each business and executive associate of the proposed transferee is a suitable person to be associated with a lottery licensee's operations.

(4) The Minister may require the proposed transferee of the lottery licence to submit an application for the licence and may deal with the application, and investigate the suitability of the proposed transferee and the proposed transferee's business and executive associates, in the same way as if the application were an application for a new lottery licence.

(5) If a person has, under or because of, a mortgage, charge or encumbrance, a power to appoint a receiver or manager of the business conducted under a lottery licence, the power may only be exercised if the Minister first approves the proposed receiver or manager in writing.

### **Surrender of lottery licence**

**23.(1)** A lottery licensee may surrender the lottery licence by written notice given to the Minister.

(2) The surrender takes effect—

- (a) if paragraph (b) does not apply—

- (i) 3 months after the notice is given; or
  - (ii) if a later day of effect is stated in the notice—on the later day; or
- (b) if the Minister, by written notice, approves a day of effect that is earlier than 3 months after the notice is given—on the day of effect approved by the Minister.

### *Division 5—Suspension and cancellation of lottery licences*

#### **Grounds for suspension or cancellation**

**24.(1)** Each of the following is a ground for suspending or cancelling a lottery licence—

- (a) the lottery licensee is not, or is no longer, a suitable person to hold a lottery licence;
- (b) a business or executive associate of the lottery licensee is not, or is no longer, a suitable person to be associated with a lottery licensee's operations;
- (c) the lottery licensee has been convicted of an offence against this Act or a Gaming Act;
- (d) the lottery licensee has been convicted of an indictable offence;
- (e) the lottery licensee has contravened a condition of the lottery licence;
- (f) the lottery licensee has contravened a provision of this Act (being a provision a contravention of which does not constitute an offence against this Act);
- (g) the lottery licensee has failed to discharge the licensee's financial commitments for the licensee's operations;
- (h) the lottery licensee is bankrupt, has compounded with creditors or otherwise taken, or applied to take, advantage of any law about bankruptcy;
- (i) the lottery licensee is affected by control action under the Corporations Law;

- (j) the lottery licence was issued because of a materially false or misleading representation or declaration.

(2) For forming the belief that the ground mentioned in subsection (1)(a) exists, the Minister may have regard to the same matters to which the Minister may have regard in deciding whether an applicant is a suitable person to hold a lottery licence.

(3) For forming the belief that the ground mentioned in subsection (1)(b) exists, the Minister may have regard to the same matters to which the Minister may have regard in deciding whether a business or executive associate of an applicant is a suitable person to be associated with a lottery licensee's operations.

(4) For subsection (1)(i), a lottery licensee is affected by control action under the Corporations Law if the licensee—

- (a) has executed a deed of company arrangement under the Law; or
- (b) is the subject of a winding-up (whether voluntarily or under a court order) under the Law; or
- (c) is the subject of an appointment of an administrator, liquidator, receiver or receiver and manager under the Law.

### **Show cause notice**

**25.(1)** This section applies if the Minister believes—

- (a) a ground exists to suspend or cancel a lottery licence; and
- (b) the act, omission or other thing constituting the ground is of a serious and fundamental nature; and
- (c) either—
- (i) the integrity of the conduct of lotteries by the lottery licensee may be jeopardised in a material way; or
- (ii) the public interest may be affected in an adverse and material way.

(2) The Minister must give the lottery licensee a written notice (a “**show cause notice**”) that—

- (a) states the action (the “**proposed action**”) the Minister proposes



taking under this division; and

- (b) states the grounds for the proposed action; and
- (c) outlines the facts and circumstances forming the basis for the grounds; and
- (d) if the proposed action is suspension of the lottery licence—states the proposed suspension period; and
- (e) invites the lottery licensee to show within a stated period (the “**show cause period**”) why the proposed action should not be taken.

(3) The show cause period must be a period ending at least 21 days after the show cause notice is given to the lottery licensee.

### **Copy of show cause notice to be given to interested persons**

**26.(1)** The Minister must promptly give a copy of the show cause notice to each person (an “**interested person**”) the Minister believes has an interest in the lottery licence if the Minister considers—

- (a) the person’s interest may be affected adversely by the suspension or cancellation of the licence; and
- (b) it is otherwise appropriate in the circumstances to give the copy of the notice to the person.

(2) In considering whether it is appropriate to give a copy of the show cause notice to an interested person, the issues to which the Minister may have regard include the following—

- (a) the nature of the interested person’s interest;
- (b) whether the lottery licensee’s interest may be improperly prejudiced.

(3) An interested person to whom a copy of the show cause notice is given may make representations about the notice to the Minister in the show cause period.

### Consideration of representations

**27.** The Minister must consider all written representations (the “**accepted representations**”) made during the show cause period by—

- (a) the lottery licensee; or
- (b) any interested person to whom a copy of the show cause notice is given.

### Immediate suspension

**28.(1)** The Minister may suspend a lottery licence immediately if the Minister believes—

- (a) a ground exists to suspend or cancel the lottery licence; and
- (b) the circumstances are so extraordinary that it is imperative to suspend the licence immediately to ensure—
  - (i) the public interest is not affected in an adverse and material way; or
  - (ii) the integrity of the conduct of lotteries by the lottery licensee is not jeopardised in a material way.

**(2)** The suspension—

- (a) must be effected by written notice (a “**suspension notice**”) given to the lottery licensee with a show cause notice; and
- (b) operates immediately the suspension notice is given; and
- (c) continues to operate until the show cause notice is finally dealt with.

### Censuring lottery licensee

**29.(1)** This section applies if the Minister—

- (a) believes a ground exists to suspend or cancel a lottery licence; but
- (b) does not believe the giving of a show cause notice to the lottery licensee is warranted.

**(2)** This section also applies if, after considering the accepted representations for the show cause notice, the Minister—

- (a) still believes a ground exists to suspend or cancel the lottery licence; but
- (b) does not believe suspension or cancellation of the lottery licence is warranted.

(3) The Minister may, by written notice given to the lottery licensee, censure the licensee for a matter relating to the ground for suspension or cancellation.

### **Directions to rectify**

**30.(1)** This section applies if, after considering the accepted representations for the show cause notice, the Minister—

- (a) still believes a ground exists to suspend or cancel the lottery licence; but
- (b) considers a matter relating to the ground for suspension or cancellation is capable of being rectified and that it is appropriate to give the lottery licensee an opportunity to rectify the matter.

(2) The Minister may, by written notice given to the lottery licensee, direct the licensee to rectify the matter within the period stated in the notice.

(3) The period stated must be reasonable, having regard to the nature of the matter to be rectified.

### **Notice by the Minister**

**31.(1)** This section applies if, after considering the accepted representations for the show cause notice, the Minister still believes—

- (a) a ground exists to suspend or cancel the lottery licence; and
- (b) the act, omission or other thing constituting the ground is of a serious and fundamental nature; and
- (c) either—
  - (i) the integrity of the conduct of lotteries by the lottery licensee may be jeopardised in a material way; or
  - (ii) the public interest may be affected in an adverse and material way.

(2) This section also applies if the lottery licensee fails to comply with a direction to rectify a matter within the period stated in the relevant notice.

(3) The Minister must forward to the Governor in Council—

- (a) written notice of the Minister's belief or of the lottery licensee's failure to comply with the direction; and
- (b) copies of the accepted representations for the show cause notice.

### **Suspension, cancellation and appointment of administrator**

**32.(1)** After receiving the notice from the Minister under section 31, the Governor in Council may—

- (a) if the proposed action stated in the show cause notice was to suspend the lottery licence for a stated period—suspend the licence for not longer than the stated period; or
- (b) if the proposed action stated in the show cause notice was to cancel the lottery licence—
  - (i) suspend the licence for a period; or
  - (ii) cancel the licence; or
  - (iii) appoint an administrator to conduct the operations of the lottery licensee under the licence.

(2) The Minister must promptly give written notice of the decision of the Governor in Council to the lottery licensee.

(3) The decision takes effect on—

- (a) the day the notice is given to the lottery licensee; or
- (b) if a later day of effect is stated in the notice—the later day.

### **Terms of appointment, and role, of administrator**

**33.(1)** This section applies to an administrator appointed by the Governor in Council to conduct operations under a lottery licence.

(2) For any matter not provided for under this Act, the administrator holds office on terms decided by the Governor in Council.

(3) The administrator—

- (a) has full control of, and responsibility for, the operations of the lottery licensee conducted under the lottery licence (including lotteries that had been commenced but not completed as at the time of the administrator's appointment); and
- (b) subject to any directions by the Minister, must conduct the operations in accordance with this Act as if the administrator were the lottery licensee.

(4) The costs of and incidental to the conduct and administration of a lottery licensee's operations by an administrator under this section (the "**costs of administration**") are payable by the licensee.

(5) Any profits derived from the conduct of the lottery licensee's operations by the administrator are, after payment of the costs of administration, to be paid to the lottery licensee.

### **Cancellation or reduction of period of suspension**

**34.(1)** At any time the suspension of a lottery licence is in force, the Governor in Council may—

- (a) cancel the remaining period of suspension; or
- (b) reduce the remaining period of suspension by a stated period.

(2) The Minister must promptly give written notice of the decision of the Governor in Council to the lottery licensee.

### ***Division 6—Investigations into suitability***

#### **Audit program**

**35.(1)** The Minister may approve an audit program for investigating lottery licensees, or business or executive associates of lottery licensees.

(2) The chief executive is responsible for ensuring that investigations under an approved audit program are conducted in accordance with the program.

(3) A person may be investigated under an audit program only if there

has not been an investigation of the same person within the preceding 2 years.

### **Investigations**

**36.(1)** The chief executive may investigate a lottery licensee to help the Minister decide whether the person is a suitable person to hold, or to continue to hold, a lottery licence.

**(2)** The chief executive may investigate a business or executive associate of a lottery licensee to help the Minister decide whether the person is, or continues to be, a suitable person to be associated with a lottery licensee's operations.

**(3)** However, the chief executive may investigate a lottery licensee only if—

- (a) the Minister reasonably suspects the lottery licensee is not, or is no longer, a suitable person to hold a lottery licence; or
- (b) the investigation is made under an audit program for lottery licensees approved by the Minister.

**(4)** Also, the chief executive may investigate a business or executive associate of a lottery licensee only if—

- (a) the Minister reasonably suspects the person is not, or is no longer, a suitable person to be associated with a lottery licensee's operations; or
- (b) the investigation is made under an audit program for business and executive associates of lottery licensees approved by the Minister; or
- (c) the person—
  - (i) became a business or executive associate of the lottery licensee after the issue of the lottery licence; and
  - (ii) has not been investigated previously under an audit program mentioned in paragraph (b).

**Requirement to give information or document for investigation**

**37.(1)** In investigating a lottery licensee, or a business or executive associate of a lottery licensee, the chief executive may, by written notice given to the person, require the person to give the chief executive information or a document the chief executive considers relevant to the investigation.

**(2)** When making the requirement, the chief executive must warn the person it is an offence to fail to comply with the requirement, unless the person has a reasonable excuse.

**(3)** The person must comply with the requirement, unless the person has a reasonable excuse.

Maximum penalty—200 penalty units or 2 years imprisonment.

**(4)** It is a reasonable excuse for the person not to comply with the requirement if complying with the requirement might tend to incriminate the person.

**(5)** The person does not commit an offence against this section if the information or document sought by the chief executive is not in fact relevant to the investigation.

**Reports about person's criminal history**

**38.(1)** If the chief executive, in making an investigation about a person under section 14 or 36<sup>2</sup> asks the commissioner of the police service for a written report about the person's criminal history, the commissioner must give the report to the chief executive.

**(2)** However, the report is required to contain only criminal history in the commissioner's possession or to which the commissioner has access.

**Decisions about lottery licence not to be justiciable**

**39.(1)** A decision of the Governor in Council or Minister made, or appearing to be made, under this Act about a lottery licence, or person with an interest or potential interest in a lottery licence—

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<sup>2</sup> Section 14 (Investigations of suitability of persons) or 36 (Investigations)

- (a) is final and conclusive; and
- (b) cannot be challenged, appealed against, reviewed, quashed, set aside, or called in question in another way, under the *Judicial Review Act 1991* or otherwise (whether by the Supreme Court, another court, a tribunal or another entity); and
- (c) is not subject to any writ or order of the Supreme Court, another court, a tribunal or another entity on any ground.

(2) The decisions to which subsection (1) applies include, but are not limited to—

- (a) a decision of the Governor in Council mentioned in schedule 1, part 1; and
- (b) a decision of the Minister mentioned in schedule 1, part 2.

(3) In this section—

“**decision**” includes—

- (a) conduct engaged in to make a decision; and
- (b) conduct related to making a decision; and
- (c) failure to make a decision.

## **PART 3—KEY EMPLOYEES AND OPERATORS**

### *Division 1—Requirement for key employees to be licensed*

#### **Meaning of “key employee”**

**40.(1)** A lottery employee is a “**key employee**” if the employee—

- (a) occupies or acts in a managerial position, or carries out managerial functions, in relation to the conduct of a lottery; or
- (b) is in a position to affect or significantly influence the operations conducted under the lottery licence; or
- (c) occupies or acts in a position designated in the lottery licensee’s



approved control system as a key position.

(2) Subsection (1)(a) and (b) applies to a position only if the position is designated by the chief executive by written notice given to the lottery licensee as a key position.

(3) Subsection (1)(a) applies to functions only if the functions are designated by the chief executive by written notice given to the lottery licensee as key functions.

### **Obligation to hold licence**

**41.** A person must not occupy or act in the position of a key employee, or carry out the functions of a key employee, in relation to the conduct of a lottery unless the person is a licensed employee.

Maximum penalty—40 penalty units.

### **Prohibition of employment of unlicensed persons as key employees**

**42.** A lottery licensee must not employ a person as a key employee, or to carry out the functions of a key employee, unless the person is a licensed employee.

Maximum penalty—40 penalty units.

## ***Division 2—Key operators***

### **Meaning of “key operator”**

**43.** A “**key operator**” is a person (other than a lottery employee) who—

- (a) is in a position to control or exercise significant influence over the conduct of a lottery licensee’s operations; or
- (b) is associated with a lottery licensee in a way that enables the person to control or exercise significant influence over the conduct of a lottery licensee’s operations; or
- (c) occupies a position or has an association with a lottery licensee of a kind that makes the person a key operator under criteria prescribed under a regulation.

**Requirement that key operator apply for licence or end role**

**44.(1)** If the chief executive reasonably believes a person is a key operator, the chief executive may, by written notice given to the person, require the person either to apply to be licensed as a key operator under a key person licence, or to stop being a key operator, within 7 days of receiving the notice.

**(2)** The person must comply with the requirement (the “**key operator’s requirement**”) within 7 days of receiving the notice, unless the person has a reasonable excuse.

Maximum penalty—100 penalty units or 1 year’s imprisonment.

**(3)** The chief executive must give a copy of the notice to the relevant lottery licensee.

**Requirement that key operator end role**

**45.(1)** If the chief executive refuses to approve an application for a key person licence made by a person of whom a key operator’s requirement is made, the chief executive may, by written notice given to the person, require the person to stop being a key operator of the lottery licensee within the time stated in the notice.

**(2)** The person must comply with the requirement within the time stated in the notice, unless the person has a reasonable excuse.

Maximum penalty—100 penalty units or 1 year’s imprisonment.

**(3)** A person does not incur any liability as a result of action taken to comply with a notice under this section.

**Requirement to end key operator’s role**

**46.(1)** This section applies if a key operator’s requirement is made of a person and—

- (a) the person fails to comply with the requirement; or
- (b) the chief executive refuses to approve an application for a key person licence made by the person.

**(2)** The chief executive may, by written notice given to the lottery

licensee for whom the person is a key operator, require the licensee to take any necessary action to ensure that the person ceases to be a key operator within the time stated in the notice.

- (3) The lottery licensee must comply with the requirement.
- (4) This section applies to a lottery licensee despite another Act or law.
- (5) A lottery licensee does not incur any liability because of action taken to comply with a notice under this section.

### *Division 3—Applications for, and issue of, key person licences*

#### **Application for key person licence**

**47.(1)** An application for a key person licence must be made to the chief executive in the approved form.

- (2) The application must be accompanied by—
  - (a) if the applicant applies to be licensed as an employee—a letter from a lottery licensee addressed to the chief executive stating that the licensee intends to employ the applicant as a key employee subject to the applicant being issued with a key person licence; and
  - (b) any documents prescribed under a regulation; and
  - (c) the application fee prescribed under a regulation.

(3) The chief executive may, by written notice given to an applicant for a key person licence, require the applicant to give the chief executive further information or a document that is necessary and reasonable to help the chief executive decide the application.

#### **Consideration of application**

**48.(1)** The chief executive must consider an application for a key person licence and either grant or refuse to grant the application.

(2) Despite subsection (1), the chief executive is required to consider an application only if the applicant agrees to having the applicant's photograph and fingerprints taken.

**Conditions for granting application**

**49.(1)** The chief executive may grant an application for a key person licence only if—

- (a) the applicant's photograph and fingerprints have been taken; and
- (b) the chief executive is satisfied the applicant is a suitable person to hold a key person licence.

**(2)** In deciding whether the applicant is a suitable person to hold a key person licence, the chief executive may have regard to the following matters—

- (a) the applicant's character;
- (b) the applicant's current financial position and financial background;
- (c) the applicant's general suitability to carry out functions as a key employee or to be a key operator for a lottery licensee.

**Investigation of suitability of applicant**

**50.** The chief executive may investigate an applicant for a key person licence to help the chief executive decide whether the applicant is a suitable person to hold a key person licence.

**Decision on application**

**51.(1)** If the chief executive decides to grant an application for a key person licence, the chief executive must promptly—

- (a) issue a key person licence to the applicant; and
- (b) give written notice of the grant of the licence to the relevant lottery licensee.

**(2)** If the chief executive decides to refuse to grant an application for a key person licence, the chief executive must promptly—

- (a) give the applicant an information notice about the decision; and
- (b) give a copy of the notice to the relevant lottery licensee.

**Form of key person licence**

**52.(1)** A key person licence must be in the approved form.

**(2)** The approved form must provide for the inclusion of the following particulars—

- (a) the key person licensee's name;
- (b) a recent photograph of the licensee;
- (c) the date of issue of the licence;
- (d) whether the licensee is a licensed employee or licensed as a key operator;
- (e) the conditions of the licence;
- (f) other particulars prescribed under a regulation.

**Term of key person licence**

**53.** A key person licence remains in force unless it lapses or is cancelled or surrendered.

**Lapsing of key person licence**

**54.(1)** A key person licence lapses if the key person licensee is a licensed employee and—

- (a) at the end of 1 year after the licence was issued, the licensee has not been employed (as a key employee or in any other capacity) by a lottery licensee; or
- (b) the licensee ceases to be employed by a lottery licensee and is not re-employed by the same or another lottery licensee within the following 3 months.

**(2)** A key person licence lapses if the person licensed is licensed as a key operator and ceases to be a key operator.

**Conditions**

**55.(1)** The chief executive may issue a key person licence—

- (a) on conditions the chief executive considers necessary or desirable for the proper conduct of lotteries; and
- (b) on other conditions the chief executive considers necessary or desirable in the public interest.

(2) If the chief executive decides to issue a key person licence on conditions, the chief executive must promptly—

- (a) give the applicant an information notice about the decision; and
- (b) give a copy of the notice to the relevant lottery licensee.

### **Changing conditions of key person licence**

**56.(1)** The chief executive may decide to change the conditions of a key person licence if the chief executive considers it necessary or desirable to make the change for the proper conduct of lotteries or otherwise in the public interest.

(2) If the chief executive decides to change the conditions of a key person licence, the chief executive must promptly—

- (a) give the key person licensee an information notice about the decision; and
- (b) if the chief executive believes the key person licensee is currently an employee or key operator of a lottery licensee—give the lottery licensee a copy of the information notice.

(3) The key person licensee must return the licence to the chief executive within 7 days of receiving the information notice, unless the licensee has a reasonable excuse.

Maximum penalty—40 penalty units.

(4) On receiving the licence, the chief executive must—

- (a) amend the licence in an appropriate way and return the amended licence to the key person licensee; or
- (b) if the chief executive does not consider it practicable to amend the licence—issue another key person licence, incorporating the changed conditions, to the key person licensee to replace the licence returned to the chief executive.

(5) The change of conditions takes effect when the information notice is given to the key person licensee and does not depend on the licence being amended to record the change or a replacement licence being issued.

(6) The power of the chief executive under subsection (1) includes the power to add conditions to an unconditional licence.

### **Replacement of key person licence**

**57.(1)** A key person licensee may apply to the chief executive for the replacement of the licensee's licence if it has been lost, stolen, destroyed or damaged.

(2) The chief executive must consider an application and either grant or refuse to grant the application.

(3) The chief executive must grant the application if the chief executive is satisfied the licence has been lost, stolen or destroyed, or damaged in a way to require its replacement.

(4) If the chief executive decides to grant an application, the chief executive must, on payment of the fee prescribed under a regulation, issue another key person licence to the applicant to replace the lost, stolen, destroyed or damaged licence.

(5) If the chief executive decides to refuse to grant an application, the chief executive must promptly—

- (a) give the key person licensee an information notice about the decision; and
- (b) if the chief executive believes the key person licensee is currently an employee or a key operator of a lottery licensee—give the lottery licensee a copy of the information notice.

### **Surrender of key person licence**

**58.(1)** A key person licensee may surrender the licence by written notice given to the chief executive.

(2) The surrender takes effect on—

- (a) the day the notice is given to the chief executive; or

(b) if a later day of effect is stated in the notice—the later day.

(3) If the chief executive believes the key person licensee was at the time of the surrender an employee or a key operator of a lottery licensee, the chief executive must promptly give notice of the surrender to the lottery licensee.

#### *Division 4—Suspension and cancellation of key person licences*

### **Grounds for suspension or cancellation**

**59.(1)** Each of the following is a ground for suspending or cancelling the key person licence of a key person licensee—

- (a) the licensee is not, or is no longer, a suitable person to hold a key person licence;
- (b) the licensee has been convicted of an offence against this Act or a Gaming Act;
- (c) the licensee has been convicted of an indictable offence;
- (d) the licensee has contravened a condition of the licence;
- (e) the licensee has contravened a provision of this Act (being a provision a contravention of which does not constitute an offence against this Act);
- (f) the licence was issued because of a materially false or misleading representation or declaration.

(2) For forming a belief that the ground mentioned in subsection (1)(a) exists, the chief executive may have regard to the same matters to which the chief executive may have regard in deciding whether an applicant for a key person licence is a suitable person to hold a key person licence.

### **Show cause notice**

**60.(1)** If the chief executive believes a ground exists to suspend or cancel a key person licence, the chief executive must give the key person licensee a written notice under this section (a “**show cause notice**”).

(2) The show cause notice must—



- (a) state the action (the **“proposed action”**) the chief executive proposes taking under this division; and
- (b) state the grounds for the proposed action; and
- (c) outline the facts and circumstances forming the basis for the grounds; and
- (d) if the proposed action is suspension of the licence—state the proposed suspension period; and
- (e) invite the key person licensee to show within a stated period (the **“show cause period”**) why the proposed action should not be taken.

(3) The show cause period must be a period ending not less than 21 days after the show cause notice is given to the key person licensee.

(4) If the chief executive believes the key person licensee is an employee or key operator of a lottery licensee—

- (a) the chief executive must promptly give a copy of the show cause notice to the lottery licensee; and
- (b) the lottery licensee may make representations about the notice to the chief executive in the show cause period.

(5) The chief executive must consider all written representations (the **“accepted representations”**) made during the show cause period by—

- (a) the key person licensee; or
- (b) a lottery licensee to whom a copy of the show cause notice is given.

### **Immediate suspension**

**61.(1)** The chief executive may suspend a key person licence immediately if the chief executive believes—

- (a) a ground exists to suspend or cancel the licence; and
- (b) it is necessary to suspend the licence immediately—
  - (i) in the public interest; or
  - (ii) to ensure the integrity of the conduct of lotteries is not

jeopardised.

(2) The suspension—

- (a) must be effected by written notice (a “**suspension notice**”) given to the key person licensee with a show cause notice; and
- (b) operates immediately the suspension notice is given; and
- (c) continues to operate until the show cause notice is finally dealt with.

(3) The suspension notice must state the reason for the decision to suspend the key person licence immediately.

(4) If the chief executive believes the key person licensee is currently an employee or key operator of a lottery licensee, the chief executive must promptly give a copy of the suspension notice to the lottery licensee.

### **Censuring key person licensee**

**62.(1)** This section applies if, after considering the accepted representation for the show cause notice, the chief executive—

- (a) still believes a ground exists to suspend or cancel the key person licence; but
- (b) does not believe that suspension or cancellation of the licence is warranted.

(2) The chief executive may, by written notice given to the key person licensee, censure the licensee for a matter relating to the ground for suspension or cancellation.

(3) The notice must state the reason for the decision to censure the key person licensee.

(4) If the chief executive believes the key person licensee is currently an employee or key operator of a lottery licensee, the chief executive must promptly give a copy of the notice to the lottery licensee.

### **Direction to rectify**

**63.(1)** This section applies if, after considering the accepted representations for the show cause notice, the chief executive—

- (a) still believes a ground exists to suspend or cancel the key person licence; but
- (b) considers the matter relating to the ground for suspension or cancellation is capable of being rectified and that it is appropriate to give the key person licensee an opportunity to rectify the matter.

(2) The chief executive may, by written notice given to the key person licensee, direct the licensee to rectify the matter within the period stated in the notice.

(3) The notice must state the reason for the decision to give the direction.

(4) The period stated in the notice must be reasonable, having regard to the nature of the matter to be rectified.

(5) If the chief executive believes the key person licensee is currently an employee or key operator of a lottery licensee, the chief executive must promptly give a copy of the notice to the lottery licensee.

### **Suspension and cancellation of key person licence**

**64.(1)** This section applies if, after considering the accepted representations for the show cause notice, the chief executive—

- (a) still believes a ground exists to suspend or cancel the key person licence; and
- (b) believes suspension or cancellation of the licence is warranted.

(2) This section also applies if the key person licensee fails to comply with a direction to rectify a matter within the period stated in the relevant notice.

(3) The chief executive may—

- (a) if the proposed action stated in the show cause notice was to suspend the key person licence for a stated period—suspend the licence for not longer than the stated period; or
- (b) if the proposed action stated in the show cause notice was to cancel the key person licence—either cancel the licence or suspend it for a period.

(4) The chief executive must promptly—

- (a) give an information notice about the decision to the key person licensee; and
  - (b) if the chief executive believes the key person licensee is currently an employee or a key operator of a lottery licensee—give a copy of the information notice to the lottery licensee.
- (5) The decision takes effect on—
- (a) the day the information notice is given to the key person licensee; or
  - (b) if a later day of effect is stated in the information notice—the later day.

### **Cancellation or reduction of period of suspension**

**65.(1)** At any time the suspension of a key person licence is in force, the chief executive may—

- (a) cancel the remaining period of suspension; or
- (b) reduce the remaining period of suspension by a stated period.

(2) The chief executive may cancel or reduce the period only if the chief executive considers it appropriate to take the action.

(3) The chief executive must promptly give written notice of the decision to—

- (a) the key person licensee; and
- (b) if the chief executive believed the key person licensee was an employee or a key operator of a lottery licensee when the key person licence was suspended—the lottery licensee.

### ***Division 5—Investigation of key person licensees***

#### **Audit program**

**66.(1)** The chief executive may approve an audit program for investigating key person licensees.

- (2) The chief executive is responsible for ensuring that investigations of

key person licensees are conducted under an approved audit program in accordance with the program.

(3) A person may be investigated under an audit program only if there has not been an investigation of the same person within the preceding 2 years.

### **Investigations into suitability of key person licensees**

**67.(1)** The chief executive may investigate a key person licensee to help the chief executive decide whether the licensee is a suitable person to hold, or to continue to hold, a key person licence.

(2) However, the chief executive may investigate a key person licensee under this section only if—

- (a) the chief executive reasonably suspects the licensee is not, or is no longer, a suitable person to hold a key person licence; or
- (b) the investigation is made under an audit program for key person licensees approved by the chief executive.

### **Requirement to give information or document for investigation**

**68.(1)** In investigating a key person licensee, the chief executive may, by written notice given to the licensee, require the licensee to give the chief executive information or a document the chief executive considers relevant to the investigation.

(2) When making the requirement, the chief executive must warn the key person licensee that it is an offence to fail to comply with the requirement, unless the licensee has a reasonable excuse.

(3) The key person licensee must comply with the requirement, unless the licensee has a reasonable excuse.

Maximum penalty—200 penalty units or 2 years imprisonment.

(4) It is a reasonable excuse if complying with the requirement might tend to incriminate the key person licensee.

(5) The key person licensee does not commit an offence against this section if the information or material sought by the chief executive is not in fact relevant to the investigation.

**Reports about criminal history**

**69.(1)** If the chief executive, in making an investigation under section 50 or 67<sup>3</sup> into the suitability of a person to hold, or to continue to hold, a key person licence, asks the commissioner of the police service for a written report on the person's criminal history, the commissioner must give the report to the chief executive.

**(2)** However, the report is required to contain only criminal history in the commissioner's possession or to which the commissioner has access.

***Division 6—Requirements about employment*****Notice of start of licensed employee's employment**

**70.** Within 7 days after a licensed employee starts employment with a lottery licensee, the lottery licensee must notify the chief executive of the start of the employment by notice in the approved form.

Maximum penalty—40 penalty units.

**Returns about employees**

**71.(1)** The chief executive may, by written notice given to a lottery licensee, require the licensee to give a return under this section.

**(2)** The notice must state the time (not less than 14 days after the notice is given) for giving the return.

**(3)** A notice must not be given under this section within 1 month after the giving of a previous notice.

**(4)** If a lottery licensee is given a notice under subsection (1), the licensee must give a return as required by this section listing the licensed and unlicensed employees currently employed by the licensee and the nature of the duties in which each of them is engaged.

Maximum penalty—40 penalty units.

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<sup>3</sup> Section 50 (Investigation of suitability of applicant) and 67 (Investigations into suitability of key person licensees)

(5) The return must—

- (a) be in the approved form; and
- (b) be given to the chief executive within the time stated in the notice.

### **Notice of end of licensed employee's employment**

**72.(1)** This section applies if—

- (a) a lottery licensee ends the employment of a licensed employee; or
- (b) a licensed employee ends the employee's employment with a lottery licensee; or
- (c) a licensed employee otherwise ceases to be employed by a lottery licensee.

(2) Within 7 days after a licensed employee's employment with a lottery licensee ends, the lottery licensee must notify the chief executive of the end of the employment by notice in the approved form.

Maximum penalty—40 penalty units.

### **Requirement to end licensed employee's employment**

**73.(1)** This section applies if—

- (a) a key person licence held by a licensed employee of a lottery licensee is cancelled or suspended; or
- (b) a licensed employee of a lottery licensee ceases to hold a key person licence for some other reason.

(2) The chief executive may, by written notice given to the lottery licensee, require the licensee to terminate the employee's employment as a key employee within the time stated in the notice.

(3) The lottery licensee must comply with the requirement.

(4) This section applies to a lottery licensee despite another Act or law or any industrial award or agreement.

(5) A lottery licensee does not incur any liability by complying with a requirement of the chief executive under this section.

***Division 7—Requirements about association with key operators*****Notice to end key operator's role**

**74.(1)** This section applies if a person who holds a key person licence as a key operator stops being a key operator for a lottery licensee.

**(2)** Within 7 days after the person stops being a key operator for the lottery licensee, the lottery licensee must notify the chief executive of that fact by notice in the approved form.

Maximum penalty—40 penalty units.

**Requirement to end key operator's role**

**75.(1)** This section applies if—

- (a) a key person licence held by a key operator for a lottery licensee is cancelled or suspended; or
- (b) a key operator for a lottery licensee ceases to hold a key person licence for some other reason.

**(2)** The chief executive may, by written notice given to the lottery licensee, require the lottery licensee to take any action reasonably necessary to ensure that the person ceases to be a key operator for the licensee within the time stated in the notice.

**(3)** The lottery licensee must comply with the notice.

**(4)** This section applies to a lottery licensee despite any other Act or law.

**(5)** A lottery licensee does not incur any liability because the licensee complies with a notice under this section.

***Division 8—General*****False statements by applicants**

**76.** A person must not, for an application made under this part, state anything the person knows is false or misleading in a material particular.

Maximum penalty—40 penalty units.



**Destruction of fingerprints**

77.(1) This section applies if—

- (a) an application for a key person licence is refused; or
- (b) a key person licence is surrendered; or
- (c) a key person licence lapses; or
- (d) a key person licence is cancelled.

(2) The chief executive must cause any fingerprints of the applicant or former key person licensee taken for the application for the key person licence to be destroyed as soon as practicable.

**PART 4—LOTTERY AGENTS***Division 1—Agency agreements***Meaning of “agency agreements”**

78. An “**agency agreement**” is an agreement between a lottery licensee and another person—

- (a) appointing the other person as an agent (a “**lottery agent**”) for 1 or more of the following purposes—
  - (i) selling lottery tickets;
  - (ii) paying prizes;
  - (iii) promoting lotteries conducted by the lottery licensee;
  - (iv) another purpose relating to the conduct of lotteries by the lottery licensee; and
- (b) dealing with the lottery agent’s authority; and
- (c) stating the conditions under which the lottery agent acts as, and remains, an agent of the lottery licensee; and

- (d) stating other matters agreed between the lottery agent and the lottery licensee.

### **Conditions for entering into agency agreement**

**79.(1)** A lottery licensee may enter into an agency agreement with a person only if—

- (a) it is entered into in relation to a small business owned and controlled by the person; and
- (b) the person is prescribed under a regulation as a person eligible to be a lottery agent.

**(2)** Subsection (1)(a) does not apply if the business in relation to which the agency agreement is to be entered into is—

- (a) a business in relation to which a previous agency agreement applied; or
- (b) a mail order business.

**(3)** A lottery licensee may enter into an agency agreement only if the agreement—

- (a) is in a form approved by the chief executive; and
- (b) states the lottery agent's place of operation; and
- (c) includes any other provisions required by the chief executive.

**(4)** The chief executive must not require the inclusion of a provision in an agency agreement unless the chief executive believes on reasonable grounds that the inclusion of the provision is reasonably necessary to ensure—

- (a) that the integrity of the conduct of lotteries by the lottery licensee is not jeopardised in a material way; or
- (b) the public interest is not affected in an adverse and material way.

**(5)** In this section—

**“mail order business”** means a business intended to be operated by a person for selling tickets (whether by mail or otherwise) to persons outside Queensland.

**“previous agency agreement”** means an agency agreement that is, under

section 243(1), taken to be an agency agreement duly made in accordance with this Act.

**“small business”** means a business undertaking—

- (a) that is wholly owned and controlled by an individual or individuals in partnership or by a proprietary company within the meaning of the Corporations Law; and
- (b) that is managed by the owner or directors; and
- (c) that is not a subsidiary of, or does not form part of, a larger business or enterprise; and
- (d) in which no more than 50 persons are employed.

### **Notice of agency agreement**

**80.** Within 7 days after entering into an agency agreement, the lottery licensee must inform the chief executive of the lottery agent’s name and place of operation.

### **Amendment of agency agreement**

**81.(1)** An agency agreement may only be amended with the written approval of the chief executive.

**(2)** The chief executive may withhold approval of a proposed amendment only if it is necessary to do so in the public interest or to protect proper standards of integrity in the conduct of lotteries.

### **Returns about agents**

**82.(1)** A lottery licensee must give a return as required by this section listing the licensee’s current lottery agents.

Maximum penalty—40 penalty units.

**(2)** The return must be in the approved form, and given to the chief executive at least once every 6 months.

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***Division 2—Terminating agency agreements*****Grounds for termination**

**83.(1)** Each of the following is a ground for directing the termination of an agency agreement—

- (a) the lottery agent is not, or is no longer, a suitable person to be a lottery agent;
- (b) a business or executive associate of the lottery agent is not, or is no longer, a suitable person to be associated with a lottery agent's operations;
- (c) the lottery agent has been convicted of an offence against this Act or a Gaming Act;
- (d) the lottery agent has been convicted of an indictable offence;
- (e) the lottery agent has contravened a provision of this Act (being a provision a contravention of which does not constitute an offence against this Act).

**(2)** Also, it is a ground for directing the termination of an agency agreement if the lottery agent is not, or is no longer, eligible to be a lottery agent for a lottery licensee.

**(3)** For forming a belief that the ground mentioned in subsection (1)(a) exists, the chief executive may have regard to the following issues—

- (a) the lottery agent's character or business reputation;
- (b) the lottery agent's current financial position and financial background;
- (c) the lottery agent's general suitability to act as an agent for a lottery licensee.

**(4)** For forming a belief that the ground mentioned in subsection (1)(b) exists, the chief executive may have regard to the business or executive associate's character or business reputation, and current financial position and financial background.

**Show cause notice**

**84.(1)** This section applies if the chief executive believes—

- (a) a ground exists for directing the termination of an agency agreement; and
- (b) the act, omission or other thing constituting the ground is of a serious and fundamental nature; and
- (c) either—
  - (i) the integrity of the conduct of lotteries by the lottery licensee may be jeopardised; or
  - (ii) the public interest may be affected adversely.

**(2)** The chief executive must give the lottery agent a written notice (a “**show cause notice**”) that—

- (a) states the chief executive proposes to take action (the “**proposed action**”) to direct the lottery licensee to terminate the agency agreement; and
- (b) states the grounds for the proposed action; and
- (c) outlines the facts and circumstances forming the basis for the grounds; and
- (d) invites the agent to show within a stated period (the “**show cause period**”) why the proposed action should not be taken.

**(3)** The show cause period must be a period ending not less than 21 days after the show cause notice is given to the lottery agent.

**(4)** The chief executive must promptly give a copy of the show cause notice to the lottery licensee.

**(5)** A lottery licensee to whom a copy of the show cause notice is given may make representations about the notice to the chief executive in the show cause period.

**(6)** The chief executive must consider all written representations (the “**accepted representations**”) made during the show cause period by—

- (a) the lottery agent; or
- (b) a lottery licensee to whom a copy of the show cause notice is given.

### **Suspending lottery agent's operations**

**85.(1)** This section applies if the chief executive believes—

- (a) a ground exists to direct the termination of an agency agreement; and
- (b) it is necessary to suspend the lottery agent's operations—
  - (i) in the public interest; or
  - (ii) to ensure the integrity of the conduct of lotteries by the lottery licensee is not jeopardised.

**(2)** The chief executive may suspend the lottery agent's operations.

**(3)** The suspension—

- (a) must be effected by written notice (a "**suspension notice**") given to the lottery agent with a show cause notice; and
- (b) operates immediately the suspension notice is given; and
- (c) continues to operate until the show cause notice is finally dealt with.

**(4)** The suspension notice must state the reason for the decision to suspend the lottery agent's operations.

**(5)** The chief executive must promptly give a copy of the suspension notice to the lottery licensee.

**(6)** A lottery agent must not carry on operations while the agent's operations are suspended.

Maximum penalty for subsection (6)—200 penalty units or 2 years imprisonment.

### **Censuring lottery agent**

**86.(1)** This section applies if the chief executive—

- (a) believes a ground exists to direct the termination of the agency agreement; but
- (b) does not believe the giving of a show cause notice to the lottery agent is warranted.

(2) This section also applies if, after considering the accepted representations for the show cause notice, the chief executive—

- (a) still believes a ground exists to direct the termination of the agency agreement; but
- (b) does not believe termination of the agreement is warranted.

(3) The chief executive may, by written notice given to the lottery agent, censure the agent for a matter relating to the ground for directing the termination of the agreement.

(4) The notice must state the reason for the decision to censure the lottery agent.

(5) The chief executive must promptly give a copy of the notice to the lottery licensee.

### **Direction to rectify**

**87.(1)** This section applies if, after considering the accepted representations for the show cause notice, the chief executive—

- (a) still believes a ground exists to direct the termination of the agency agreement; but
- (b) considers a matter relating to the ground is capable of being rectified and that it is appropriate to give the lottery agent an opportunity to rectify the matter.

(2) The chief executive may, by written notice given to the lottery agent, direct the agent to rectify the matter within the period stated in the notice.

(3) The notice must state the reason for the decision to give the direction.

(4) The period stated in the notice must be reasonable, having regard to the nature of the matter to be rectified.

(5) The chief executive must promptly give a copy of the notice to the lottery licensee.

### **Directions to terminate affecting lottery agents**

**88.(1)** This section applies if, after considering the accepted representations for the show cause notice, the chief executive still believes—

- 
- (a) a ground exists to direct the termination of the agency agreement; and
  - (b) the act, omission or other thing constituting the ground is of a serious and fundamental nature; and
  - (c) either—
    - (i) the integrity of the conduct of lotteries by the lottery licensee may be jeopardised; or
    - (ii) the public interest may be affected adversely.

(2) This section also applies if the lottery agent fails to comply with a direction to rectify a matter within the period stated in the relevant notice.

(3) The chief executive may, by written notice given to the lottery licensee, direct the licensee to terminate the agreement within the time stated in the notice.

(4) If the chief executive decides to give a direction under this section, the chief executive must promptly give written notice of the decision to the lottery agent affected by the decision.

(5) A notice under subsection (3) or (4) must state—

- (a) the reason for the decision to give the direction; and
- (b) that the person to whom the notice is given may appeal against the decision to a Magistrates Court within 28 days.

### **Termination of agreement**

**89.(1)** If the chief executive directs a lottery licensee to terminate an agency agreement, the licensee must—

- (a) terminate the agreement within the time stated in the notice giving the direction; and
- (b) notify the chief executive of the termination in the approved form within 7 days after terminating the agreement.

(2) If the lottery licensee does not terminate the agency agreement as required by subsection (1), the agreement is terminated by this Act.

(3) The State does not incur any liability if an agency agreement is terminated by a lottery licensee under subsection (1) or by this Act.



(4) A lottery licensee does not incur any liability because the licensee terminates an agency agreement under subsection (1).

### **Notice of termination of agreement**

**90.(1)** This section applies if an agency agreement is terminated otherwise than because of a direction to terminate the agreement given to the lottery licensee by the chief executive.

(2) The lottery licensee must notify the chief executive in writing of the termination within 7 days after the agreement is terminated.

Maximum penalty—40 penalty units.

## ***Division 3—Investigations into suitability***

### **Investigations**

**91.(1)** The chief executive may investigate a lottery agent to help the chief executive decide whether the person is, or continues to be, a suitable person to be a lottery agent.

(2) The chief executive may investigate a business or executive associate of a lottery agent to help the chief executive decide whether the person is, or continues to be, a suitable person to be associated with a lottery agent's operations.

(3) However, the chief executive may investigate a lottery agent, or a business or executive associate of a lottery agent, only if the chief executive reasonably suspects the person is not, or is no longer, a suitable person to be a lottery agent, or to be associated with a lottery agent's operations.

### **Requirement to give information or material for investigation**

**92.(1)** In investigating a lottery agent or business or executive associate of a lottery agent, the chief executive may, by written notice given to the person, require the person to give the chief executive information or a document the chief executive considers relevant to the investigation.

(2) When making the requirement, the chief executive must warn the person it is an offence to fail to comply with the requirement, unless the

person has a reasonable excuse.

(3) The person must comply with the requirement unless the person has a reasonable excuse.

Maximum penalty—200 penalty units or 2 years imprisonment.

(4) It is a reasonable excuse if complying with the requirement might tend to incriminate the person.

(5) The person does not commit an offence against this section if the information or document sought by the chief executive is not in fact relevant to the investigation.

### **Reports about person's criminal history**

**93.(1)** If the chief executive, in making an investigation under this division about a person, asks the commissioner of the police service for a written report about the person's criminal history, the commissioner must give the report to the chief executive.

(2) However, the report is required to contain only criminal history in the commissioner's possession or to which the commissioner has access.

## **PART 5—LOTTERY TAX AND LICENCE FEE**

### **Liability to tax**

**94.(1)** A lottery licensee must pay a tax (a "**lottery tax**") to the chief executive.

(2) The lottery tax is to be calculated and paid in accordance with a regulation.

### **Liability to licence fees**

**95.(1)** A lottery licensee must give consideration (the "**licence fees**") for the lottery licence.

(2) The licence fees are to be calculated and paid or satisfied in accordance with the conditions of the lottery licence.

### **Returns for calculation of lottery tax**

**96.(1)** A lottery licensee must give the chief executive returns as required under a regulation giving the details required under the regulation for the calculation of lottery tax.

(2) A return must be in the approved form.

### **Penalty for late payment**

**97.(1)** A lottery licensee must pay to the chief executive a penalty on an amount or value of lottery tax or licence fee outstanding (the “**unpaid amount**”) as at the end of the period allowed for payment.

(2) The penalty is the percentage prescribed under a regulation of the unpaid amount.

(3) An additional penalty is payable by the lottery licensee to the chief executive for any part of the unpaid amount, and any previous penalty, remaining unpaid—

- (a) 1 month after the end of the period allowed for payment of the unpaid amount; and
- (b) at the end of each succeeding month starting—
  - (i) on the day of the month corresponding to the day mentioned in paragraph (a); or
  - (ii) if there is no corresponding day—on the first day of the following month.

(4) The additional penalty is the percentage prescribed under a regulation of each unpaid or other amount for which the penalty is payable.

(5) A penalty, or a part of a penalty, is not payable if the chief executive, for a reason the chief executive considers appropriate, decides the penalty, or the part of the penalty, need not be paid.

**Recovery of amounts**

**98.** An amount of lottery tax, licence fee or penalty payable under this part is a debt payable to the State and may be recovered by action in a court of competent jurisdiction.

**Revenue offences**

**99.(1)** A lottery licensee must not—

- (a) evade the payment of an amount payable by the licensee as lottery tax or licence fee; or
- (b) give the chief executive a return containing information the licensee knows to be false, misleading or incomplete in a material particular.

Maximum penalty—200 penalty units or 2 years imprisonment.

**(2)** Subsection (1)(b) does not apply to a lottery licensee if the licensee, when giving the return—

- (a) informs the chief executive in writing, to the best of the licensee's ability, how the return is false, misleading or incomplete; and
- (b) if the licensee has, or can reasonably obtain, the correct information—gives the correct information.

**(3)** It is enough for a complaint for an offence against subsection (1) to state that the return was false, misleading or incomplete to the defendant's knowledge.

**PART 6—COMPLIANCE REQUIREMENTS***Division 1—Control systems***Lotteries to be conducted under an approved control system**

**100.(1)** A lottery licensee may conduct a lottery under the lottery licence only if—

- (a) the licensee has an approved control system that relates to lottery agents, or each class of lottery agents, appointed by the licensee; and
- (b) the lottery is conducted under the system.

(2) A lottery licensee may change the licensee's approved control system only—

- (a) if directed by, or with the approval of, the chief executive; and
- (b) in the way directed or approved by the chief executive.

### **Control system submission**

**101.(1)** A lottery licensee may make a submission (a “**control system submission**”) to the chief executive for approval of the licensee's proposed control system.

(2) A control system submission must be made in writing not later than—

- (a) 90 days before the lottery licensee proposes to start conducting lotteries under the lottery licence; or
- (b) if the chief executive considers it appropriate to allow a submission to be made at a later time—the time allowed by the chief executive.

(3) A control system submission must describe and explain the lottery licensee's proposed control system.

(4) In particular, a control system submission must include information about—

- (a) the following things to be used for the conduct of lotteries—
  - (i) accounting systems and procedures and chart of accounts;
  - (ii) administrative systems and procedures;
  - (iii) computer software;
  - (iv) standard forms and terms; and
- (b) the general procedures to be followed for the conduct of lotteries; and

- (c) the procedures and standards for the maintenance, security, storage and transportation of equipment to be used for the conduct of lotteries; and
- (d) the procedures for recording and paying prizes won in lotteries; and
- (e) the procedures for using and maintaining security facilities.

(5) A control system submission may include information additional to the information mentioned in subsection (4).

### **Control system (change) submission**

**102.(1)** A lottery licensee may make a submission (a “**control system (change) submission**”) to the chief executive for approval to change the licensee’s approved control system.

(2) A control system (change) submission must be made in writing not later than—

- (a) 90 days before the lottery licensee proposes to start conducting lotteries under the approved control system, as proposed to be changed; or
- (b) if the chief executive considers it appropriate to allow a submission to be made at a later time—the time allowed by the chief executive.

(3) A control system (change) submission must contain particulars of the proposed changes of the lottery licensee’s approved control system.

### **Consideration of, and decisions about, submissions**

**103.(1)** This section applies to a control system submission or control system (change) submission made to the chief executive by a lottery licensee.

(2) The chief executive must consider the submission and either approve, or refuse to approve, the lottery licensee’s proposed control system or the proposed change of the licensee’s approved control system.

(3) In considering the submission, the chief executive may, by written notice given to the lottery licensee, require the licensee to give the chief

executive further information about the submission that is necessary and reasonable to help the chief executive make a decision about the submission.

(4) In considering whether to give an approval, the chief executive must have regard to the following issues—

- (a) whether the submission satisfies the requirements under this division for the submission;
- (b) whether the lottery licensee's proposed control system, or approved control system as proposed to be changed, is capable of providing satisfactory and effective control over the conduct of lotteries.

(5) The chief executive may refuse to give an approval if the lottery licensee fails to comply with a requirement under subsection (3) without a reasonable excuse.

(6) The chief executive must promptly give the lottery licensee a written notice of the chief executive's decision to give, or to refuse to give, an approval.

(7) If the chief executive decides to refuse to give an approval, the notice must state the reasons for the decision and, if the chief executive believes the submission can easily be rectified to enable the chief executive to give an approval, the notice must also—

- (a) explain how the submission may be changed; and
- (b) invite the lottery licensee to resubmit the submission after making the appropriate changes.

### **Direction to change approved system**

**104.(1)** The chief executive may, by written notice given to a lottery licensee, direct the licensee to change the licensee's approved control system within the time, and in the way, stated in the notice.

(2) The lottery licensee must comply with the direction.

(3) If the lottery licensee does not comply with the direction, at the end of the time stated in the notice the licensee's approved control system is taken to have been changed in the way stated in the notice.

### *Division 2—Lottery records*

#### **Notices about keeping lottery records**

**105.(1)** The chief executive may, by written notice given to a lottery licensee—

- (a) approve a place (the **“approved place”**) nominated by the licensee as the place where the licensee is required to keep the licensee’s lottery records; or
- (b) specify a lottery record of the licensee ( an **“exempt lottery record”**) that is not required to be kept at the approved place; or
- (c) specify a lottery record of the licensee that may be kept temporarily at a place other than the approved place, and the period for which, or the circumstances in which, the record may be kept at the other place; or
- (d) approve the keeping of information contained in a lottery record in a way different from the way the information was kept when the record was being used by the licensee; or
- (e) approve the destruction of a lottery record the chief executive considers need not be kept.

**(2)** A lottery record mentioned in subsection (1)(c) is also an **“exempt lottery record”**—

- (a) for the period stated in the notice; or
- (b) while the circumstances stated in the notice exist.

**(3)** The chief executive may specify a lottery record for subsection (1)(b) only if the chief executive considers there is sufficient reason for the record to be kept at a place other than the approved place.

**(4)** The exercise of the chief executive’s power under subsection (1)(d) or (e) is subject to any other law about the retention or destruction of the lottery record.

#### **Lottery records to be kept at certain place**

**106.(1)** A lottery licensee must keep the licensee’s lottery records at—



- (a) the licensee's public office; or
- (b) at an approved place for the records.

Maximum penalty—40 penalty units.

- (2) Subsection (1) does not apply to an exempt lottery record.

### **Lottery records to be kept for required period**

**107.(1)** A lottery licensee must keep a lottery record—

- (a) in the case of a record relating to an unclaimed prize—for 7 years after closure of the lottery; and
- (b) in any other case—for 5 years after the end of the transaction to which the record relates.

Maximum penalty—40 penalty units.

(2) Subsection (1) does not apply to a lottery record if the information previously contained in the record is kept in another way under an approval of the chief executive.

(3) Also, subsection (1) does not apply to a lottery record that has been destroyed under an approval of the chief executive.

(4) Subsection (1) has effect subject to any other law about the retention or destruction of the lottery record.

### ***Division 3—Financial accounts, statements and reports***

#### **Keeping of accounts**

**108.** A lottery licensee must—

- (a) keep accounting records that correctly record and explain the transactions and financial position for the licensee's operations conducted under the lottery licence; and
- (b) keep the accounting records in a way that allows—
  - (i) true and fair financial statements and accounts to be prepared from time to time; and

- (ii) the financial statements and accounts to be conveniently and properly audited.

Maximum penalty—40 penalty units.

### **Preparation of financial statements and accounts**

**109.(1)** A lottery licensee must prepare financial statements and accounts as required by this section giving a true and fair view of the licensee's financial operations conducted under the lottery licence.

Maximum penalty—40 penalty units.

- (2) The financial statements and accounts must include the following—
  - (a) trading accounts, if applicable, for each financial year;
  - (b) profit and loss accounts for each financial year;
  - (c) a balance sheet as at the end of each financial year.

### **Submission of reports**

**110.(1)** A lottery licensee must give reports to the chief executive as required by this section about the licensee's operations under the lottery licence.

Maximum penalty—40 penalty units.

(2) The reports must be given at the times stated in a written notice given to the lottery licensee by the chief executive.

(3) A report must be in the approved form.

(4) The chief executive may, by written notice given to a lottery licensee, require the licensee to give the chief executive further information about a report within the time stated in the notice to help the chief executive acquire a proper appreciation of the licensee's operations.

(5) A lottery licensee must comply with a requirement under subsection (4) within the time stated in the notice, unless the licensee has a reasonable excuse.

Maximum penalty—40 penalty units.

(6) A lottery licensee must not give the chief executive a report

containing information, or further information about a report, the licensee knows to be false, misleading or incomplete in a material particular.

Maximum penalty—100 penalty units.

(7) Subsection (6) does not apply to a lottery licensee if the licensee, when giving the report or further information—

- (a) informs the chief executive in writing, to the best of the licensee's ability, how the return or information is false, misleading or incomplete; and
- (b) if the licensee has, or can reasonably obtain, the correct information—gives the correct information.

(8) It is enough for a complaint of an offence against subsection (6) to state that the report or information was false, misleading or incomplete to the defendant's knowledge.

#### *Division 4—Financial institutions accounts*

##### **Keeping of accounts**

**111.** A lottery licensee must keep a financial institution account, or financial institution accounts, approved by the chief executive for use for all banking or similar transactions for the licensee's operations conducted under the lottery licence.

Maximum penalty—40 penalty units.

##### **Use of accounts**

**112.** A lottery licensee must not use a financial institution account approved by the chief executive other than for a purpose for which it is approved.

Maximum penalty—40 penalty units.

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***Division 5—Audit*****Audit of lottery licensee's operations**

**113.** As soon as practicable after the end of a financial year, a lottery licensee must, at the licensee's own expense, cause the licensee's books, accounts and financial statements for the licensee's operations conducted under the lottery licence for the financial year to be audited by a registered company auditor approved by the chief executive.

Maximum penalty—40 penalty units.

**Completion of audit**

**114.(1)** The auditor must—

- (a) complete the audit within 3 months after the end of the financial year; and
- (b) immediately after completion of the audit, give a copy of the audit report to the chief executive and the lottery licensee.

Maximum penalty—40 penalty units.

**(2)** Subsection (1)(a) does not apply to the auditor if, in the circumstances, it would be unreasonable to require the auditor to comply with the paragraph and the auditor completes the audit as soon as practicable.

**Further information following audit**

**115.(1)** On receiving a copy of the audit report, the chief executive may, by written notice given to the lottery licensee, require the licensee to give the chief executive further information about a matter relating to the licensee's operations mentioned in the audit report.

**(2)** A lottery licensee must comply with a requirement under subsection (1) within the time stated in the notice, unless the licensee has a reasonable excuse.

Maximum penalty for subsection (2)—40 penalty units.

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## PART 7—CONDUCT OF APPROVED LOTTERIES

### *Division 1—Ancillary and related agreements*

#### **Ancillary lottery agreement**

**116.(1)** An “**ancillary lottery agreement**” is an agreement, contract, lease or arrangement (whether written or unwritten) under which a person agrees to provide to a lottery licensee a thing or service in return for a direct or indirect interest in, or percentage or share of—

- (a) amounts received by the licensee in conducting approved lotteries;  
or
- (b) the revenue, profit or earnings derived by the licensee in conducting approved lotteries.

**(2)** However, an ancillary lottery agreement does not include an agency agreement.

**(3)** A lottery licensee must not enter into, or be a party to, an ancillary lottery agreement without the written approval of the Minister.

Maximum penalty for subsection (3)—40 penalty units.

#### **Approval of ancillary lottery agreements**

**117.(1)** A lottery licensee may apply to the Minister for approval to enter into an ancillary lottery agreement.

**(2)** The Minister may give the approval if the Minister considers it appropriate or desirable in all the circumstances for the lottery licensee to enter into the agreement.

**(3)** An approval must be in writing.

#### **Review of related agreements**

**118.(1)** The Minister may, by written notice given to a lottery licensee, require the licensee to give to the Minister, within the time stated in the notice—

- (a) the information stated in the notice about a related agreement to which the licensee is a party; and
- (b) if the agreement is in writing—a copy of the agreement.

(2) Without limiting subsection (1), the information the Minister may require to be given about the agreement includes the following—

- (a) the names of the parties;
- (b) a description of any property, goods or other things, or any services, supplied or to be supplied;
- (c) the value or nature of the consideration;
- (d) the term of the agreement.

(3) The lottery licensee must comply with the requirement within the time stated in the notice, unless the licensee has a reasonable excuse.

### **Show cause notice for related agreement**

**119.(1)** This section applies if, after considering the information given to the Minister about a related agreement and, if appropriate, the contents of the agreement, the Minister believes the continuance of the agreement—

- (a) may jeopardise the integrity of the conduct of lotteries by the lottery licensee who is a party to the agreement; or
- (b) may affect the public interest adversely.

(2) The Minister must give the lottery licensee who is a party to the agreement a written notice (a “**show cause notice**”) that—

- (a) states the Minister proposes to take action to direct the termination of the agreement (the “**proposed action**”); and
- (b) states the grounds for the proposed action; and
- (c) outlines the facts and circumstances forming the basis for the grounds; and
- (d) invites the licensee to show within a stated period (the “**show cause period**”) why the proposed action should not be taken.

(3) The show cause period must be a period ending at least 21 days after the notice is given.

(4) The Minister must promptly give a copy of the show cause notice to each other person (an **“interested person”**) who is a party to the agreement.

(5) An interested person may make representations about the notice to the Minister in the show cause period.

(6) The Minister must consider all written representations (the **“accepted representations”**) made during the show cause period by the lottery licensee or an interested person.

### **Direction to terminate related agreement**

**120.(1)** The Minister may direct the termination of a related agreement if, after considering the accepted representations for a show cause notice, the Minister still believes the continuance of the agreement—

- (a) may jeopardise the integrity of the conduct of lotteries by the lottery licensee who is a party to the agreement; or
- (b) may affect the public interest adversely.

(2) The direction must be given by written notice to each of the parties to the agreement.

(3) The notice must state—

- (a) the reason for the decision to direct the termination of the related agreement; and
- (b) the time within which the agreement is required to be terminated.

(4) If the agreement is not terminated within the time stated in the notice, it is terminated at the end of the time by this Act.

(5) The termination of the agreement under the direction or by this Act does not affect any rights or liabilities acquired or incurred by a party to the agreement before the termination.

(6) The State does not incur any liability if the agreement is terminated under the direction or by this Act.

(7) A party to the agreement does not incur any liability for breach of the agreement because the agreement is terminated under the direction.

## *Division 2—Operations of lottery licensees and agents*

### **Rules**

**121.(1)** The Minister may make rules about the following—

- (a) classifying gaming schemes as lotteries;
- (b) regulating the conduct of lotteries;
- (c) regulating prizes in lotteries.

**(2)** Rules are subordinate legislation.

**(3)** A lottery licensee may make submissions to the Minister about a rule or proposed rule.

### **General responsibilities of lottery licensee**

**122.** A lottery licensee, in doing an act for the conduct of an approved lottery, must ensure the act is done in accordance with the rules for the lottery.

Maximum penalty—40 penalty units.

### **Responsibility of licensee for acts of lottery agents**

**123.(1)** This section applies to the doing of an act by a lottery agent for the conduct of an approved lottery by the lottery licensee by whom the agent is appointed.

**(2)** The lottery licensee must take reasonable steps to ensure the act is done in accordance with the rules for the approved lottery.

Maximum penalty—40 penalty units.

### **Responsibility of lottery agent for agent's acts**

**124.** A lottery agent, in doing an act for the conduct of an approved lottery by the lottery licensee by whom the agent is appointed, must ensure the act is done in accordance with the rules for the approved lottery.

Maximum penalty—40 penalty units.



**Places of operation**

**125.(1)** A lottery licensee must not carry on the licensee's operations at a place other than a place that—

- (a) the licensee has, by notice given to the chief executive, nominated as being the licensee's proposed place of operation; and
- (b) if lottery tickets are to be sold or otherwise distributed to the public from the place—has been approved by the chief executive.

Maximum penalty—200 penalty units or 2 years imprisonment.

**(2)** A lottery agent must not carry on the agent's operations at a place other than a place that—

- (a) is of a kind prescribed under a regulation as appropriate for a lottery agent; and
- (b) is stated in the agency agreement as the agent's place of operation.

Maximum penalty for subsection (2)—200 penalty units or 2 years imprisonment.

**Price of lottery tickets**

**126.(1)** Before lottery tickets are made available for purchase, the lottery licensee must obtain the chief executive's approval for the price at which the lottery tickets are to be offered for sale.

**(2)** A lottery licensee or lottery agent must not offer lottery tickets for sale within the State at a price other than the price approved by the chief executive.

***Division 3—Official supervision*****Official supervision**

**127.** The chief executive must ensure the supervision of the following—

- (a) the systems used to decide prize winners in an approved lottery to ensure the security and efficient operation of the systems;

- (b) the operation of the systems for each approved lottery;
- (c) the accuracy of the results of each approved lottery.

### **Presence of inspector at certain operations**

**128.(1)** The chief executive may take action under this section to ensure the integrity of the conduct of an approved lottery.

**(2)** The chief executive may by written notice given to a lottery licensee direct the licensee not to do a stated thing in the conduct of an approved lottery unless an inspector is present.

**(3)** The licensee must comply with the direction.

Maximum penalty for subsection (3)—40 penalty units.

### ***Division 4—Prizes***

#### **Claims for prizes**

**129.(1)** In the agency payment period for an approved lottery, a claim for payment of a prize in the lottery may be made to the lottery licensee or a lottery agent of the lottery licensee.

**(2)** After the agency payment period for an approved lottery ends, a claim for payment of a prize in the lottery may be made only to the lottery licensee.

**(3)** A participant's entitlement to claim a prize in an approved lottery continues until whichever of the following happens first—

- (a) the prize is paid;
- (b) the end of 7 years after closure of the lottery in which the prize is won.

**(4)** The rules may provide that a person who is registered with the lottery licensee for an approved lottery need not make a claim for a prize to which the person is entitled.

**Payment of prizes**

**130.(1)** If the holder of a winning lottery ticket in an approved lottery claims the prize and gives the lottery ticket to the lottery licensee or a lottery agent of the lottery licensee, the licensee must, or the agent may if authorised to do so by the agency agreement, pay the prize to the person or as directed by the person.

**(2)** However, the lottery licensee or agent is not required to pay a prize if there are reasonable grounds to believe that the claimant obtained the lottery ticket unlawfully or that an antecedent holder of the ticket obtained it unlawfully.

**(3)** A lottery licensee or a lottery agent need not inquire, and does not incur any liability for failing to inquire, into whether a person from whom a lottery ticket is received—

- (a) is the lawful holder of the lottery ticket; or
- (b) is a minor or otherwise under a legal disability.

**(4)** After the agency payment period for an approved lottery ends, a lottery licensee may pay a prize to a person registered with the licensee whom the licensee believes to be entitled to the prize or as directed by the person.

**(5)** The obligation of a lottery licensee to pay a prize in an approved lottery is fully complied with and discharged on payment of the prize under this Act by the licensee or a lottery agent of the licensee.

**Disposal of unclaimed prizes that are property**

**131.(1)** This section applies to a prize in an approved lottery if—

- (a) it is property other than money or lottery tickets; and
- (b) it is not paid or collected within 3 months after the closure of the lottery.

**(2)** The lottery licensee—

- (a) may dispose of the property by public auction or tender or in some other way approved by the chief executive; and
- (b) may pay for the disposal from the proceeds of sale; and

- (c) must keep and deal with the remainder of the proceeds as if the remainder were the prize in the lottery.

(3) On disposal of a prize under subsection (2), entitlement to the prize is converted to an entitlement to the remainder kept.

### **Unclaimed prizes generally**

**132.(1)** If a prize in an approved lottery is not paid to a person who is entitled to the prize under the rules, the lottery licensee must identify the prize in its accounting records as unclaimed prize money for 7 years after the closure of the lottery.

(2) After unclaimed money has been identified under subsection (1) for 1 year, the lottery licensee may use the money for a prize or additional prize in an approved lottery or, with the approval of the chief executive, in another way.

(3) This section does not affect a person's entitlement to claim a prize in an approved lottery for 7 years after the closure of the lottery.

### **Approval of regulated lottery equipment**

**133.(1)** A lottery licensee may apply to the chief executive—

- (a) for an approval for regulated lottery equipment proposed to be used in the conduct of lotteries by the licensee; or
- (b) for approval to modify regulated lottery equipment used in the conduct of lotteries by the licensee.

(2) The chief executive must—

- (a) consider the application; and
- (b) if the chief executive believes it is necessary for the chief executive to evaluate the equipment, or the equipment as proposed to be modified, to decide the application—carry out the evaluation as soon as practicable; and
- (c) after completing the consideration of the application and carrying out any necessary evaluation—approve, or refuse to approve, the equipment or modification.

(3) Despite subsection (2)(b) and (c), the chief executive is not required to carry out the evaluation, or decide the application, unless the fee prescribed under a regulation for the evaluation has been paid.

(4) The chief executive must promptly give the lottery licensee written notice of the chief executive's decision.

(5) If the chief executive decides to refuse to give an approval, the notice must state the reasons for the decision.

### **Use of regulated lottery equipment**

**134.(1)** A lottery licensee must not use any regulated lottery equipment in conducting an approved lottery unless the equipment is approved lottery equipment.

Maximum penalty—40 penalty units.

(2) A lottery agent must not use any regulated lottery equipment for the conduct of an approved lottery for the lottery licensee by whom the agent was appointed unless the equipment is approved lottery equipment.

Maximum penalty—40 penalty units.

(3) A lottery licensee or agent must not modify approved lottery equipment unless the modification is approved by the chief executive in writing.

Maximum penalty for subsection (3)—40 penalty units.

### **Advertising lotteries**

**135.** A person who advertises an approved lottery must take reasonable steps to ensure that the advertisement—

- (a) is not indecent or offensive; and
- (b) is based on fact; and
- (c) is not false, deceptive or misleading in a material particular.

### **Directions about advertising**

**136.(1)** If the chief executive reasonably believes an advertisement about

a lottery does not comply with section 135, the chief executive may direct the person appearing to be responsible for authorising the advertisement to take the appropriate steps—

- (a) to stop the advertisement being shown; or
- (b) to change the advertisement.

(2) The direction must—

- (a) be in writing; and
- (b) state the grounds for the direction; and
- (c) for a direction to change the advertisement—state how the advertisement is to be changed.

(3) A person to whom a direction is given must comply with the direction, unless the person has a reasonable excuse.

Maximum penalty for subsection (3)—20 penalty units.

### **Inquiries about complaints**

**137.(1)** A lottery licensee must inquire into—

- (a) a complaint made to the licensee by a person about—
  - (i) the conduct of an approved lottery by the licensee; or
  - (ii) the operations of a lottery agent of the licensee relating to an approved lottery conducted by the licensee; or
- (b) a complaint referred to the licensee by the chief executive under subsection (3).

(2) Within 21 days after the complaint is received by, or referred to, the lottery licensee, the licensee must give written notice of the result of the inquiry to—

- (a) the complainant; and
- (b) if the complaint was referred to the licensee by the chief executive—the chief executive.

(3) If a complaint is made to the chief executive by a person about the conduct of an approved lottery, or the operations of a lottery agent relating to an approved lottery, the chief executive must promptly—

- (a) inquire into the complaint; or
  - (b) if the chief executive believes the complaint has not previously been referred to the lottery licensee who conducted the lottery and that it is appropriate to refer the complaint to the licensee—refer the complaint to the licensee.
- (4) The chief executive must promptly advise the complainant of—
- (a) the result of the chief executive’s inquiry; or
  - (b) the chief executive’s decision to refer the complaint to the lottery licensee.
- (5) A complaint must—
- (a) be in writing; and
  - (b) state the complainant’s name and address; and
  - (c) give appropriate details of the complaint.

### Claims for payment

**138.(1)** If a claim for payment of a prize in an approved lottery is made to a lottery licensee, the licensee must—

- (a) immediately try to resolve the claim; and
- (b) if the licensee is not able to resolve the claim—by written notice (a **“claim result notice”**) given to the claimant, promptly inform the claimant—
  - (i) of the licensee’s decision on the claim; and
  - (ii) that the person may, within 10 days of receiving the notice, ask the chief executive to review the decision.

(2) If the claim is not resolved, the claimant may ask the chief executive to review the lottery licensee’s decision on the claim, or if the claimant has not received a claim result notice, to resolve the claim.

(3) A request to the chief executive under subsection (2)—

- (a) must be in the approved form; and
- (b) if the claimant received a claim result notice—must be made within 10 days after receiving the notice.

(4) If a request is made to the chief executive, the chief executive must deal with the request in the way prescribed under a regulation.

### **Reporting improper behaviour**

**139.(1)** This section applies if a lottery licensee becomes aware, or reasonably suspects, that—

- (a) a person, by a dishonest act, has obtained a benefit for the person or another person in relation to an approved lottery conducted by the licensee; or
- (b) there has been a contravention of this Act, in relation to the conduct of an approved lottery, by a lottery agent, an employee of a lottery agent or another person.

(2) This section also applies if a lottery agent becomes aware, or reasonably suspects, that—

- (a) a person, by a dishonest act, has obtained a benefit for the person or another person in relation to an approved lottery conducted by the lottery licensee by whom the agent is appointed; or
- (b) there has been a contravention of this Act, in relation to the conduct of an approved lottery, by an employee of the agent or by another person.

(3) Within 3 days of becoming aware of, or suspecting, the dishonest act or contravention, the lottery licensee or agent must give the chief executive a written notice advising the chief executive of all facts known to the licensee or agent about the matter.

Maximum penalty—200 penalty units or 2 years imprisonment.

(4) A person must not mistreat another person because—

- (a) the other person has given, or may give, a notice under this section; or
- (b) the person believes the other person has given, or may give, a notice under this section.

Maximum penalty—200 penalty units or 2 years imprisonment.

(5) In this section—



**“dishonest act”** means fraud, misrepresentation or theft.

**“mistreat”** a person means—

- (a) end the person’s employment or prejudice the career of the person in another way; or
- (b) prejudice the safety of the person; or
- (c) intimidate or harass the person.

### *Division 5—Lottery offences*

#### **Cheating**

**140.(1)** A person must not, in relation to an approved lottery, dishonestly obtain a benefit by—

- (a) an act, practice or scheme; or
- (b) the use of a thing.

Maximum penalty—200 penalty units or 2 years imprisonment.

**(2)** For subsection (1), a person obtains a benefit if the person obtains for the person or another person, or induces a person to deliver, give or credit to the person or another person, any money, benefit, advantage, valuable consideration or security.

#### **Forgery and deception**

**141.(1)** A person must not—

- (a) forge an official lottery document; or
- (b) knowingly utter a forged official lottery document.

Maximum penalty—200 penalty units or 2 years imprisonment.

**(2)** A person must not connive at the commission of an offence against subsection (1).

Maximum penalty—200 penalty units or 2 years imprisonment.

**(3)** A person forges a document if the person makes a false document, knowing it to be false, with the intention that—

- (a) it may be used or acted on to the prejudice or benefit of a person; or
- (b) a person may, in the belief that it is genuine, be induced to do, or refrain from doing, something.

(4) Without limiting subsection (3), a genuine document may become a false document because of—

- (a) an alteration of the document in a material respect; or
- (b) an addition to the body of the document in a material respect; or
- (c) an addition of a false date, signature, attestation, seal or other material matter.

(5) A person utters a document if the person—

- (a) uses or deals with the document; or
- (b) attempts to use or deal with the document; or
- (c) induces a person to use, deal with or act on the document; or
- (d) attempts to induce a person to use, deal with or act on the document.

### **Impersonating certain persons**

**142.(1)** A person must not pretend to be a lottery agent, a key person licensee or a lottery official.

Maximum penalty—200 penalty units or 2 years imprisonment.

(2) A person must not connive at the commission of an offence against subsection (1).

Maximum penalty for subsection (2)—200 penalty units or 2 years imprisonment.

### **Bribery**

**143.(1)** A lottery official must not ask for, receive or obtain, or agree to receive or obtain, any money, property or benefit of any kind for the official or another person for an improper purpose.

Maximum penalty—200 penalty units or 2 years imprisonment.

(2) A person must not give, confer or obtain, or promise or offer to give, confer or obtain, any money, property or benefit of any kind to, on or for a lottery official or another person for an improper purpose.

Maximum penalty—200 penalty units or 2 years imprisonment.

(3) A lottery official or other person does an act mentioned in subsection (1) or (2) for an improper purpose if the official or other person does the act—

- (a) for the official to forego or neglect the official's functions under this Act, or to influence the official in the performance of the official's functions under this Act; or
- (b) because of anything already done or omitted to be done, or to be afterwards done or omitted to be done, by the official in the performance of the official's functions under this Act; or
- (c) for the official to use, or take advantage of, the official's office improperly to gain a benefit or advantage for, or facilitate the commission of an offence by—
  - (i) if the act is done by the official—another person; or
  - (ii) if the act is done by another person—that person or another person.

### **Participation in lotteries by lottery employees or lottery officials**

**144.(1)** A lottery employee (whether licensed or unlicensed) or a lottery official must not participate in a lottery if directly involved in the draw, supervising the draw, or recording the results of the draw, of the lottery.

Maximum penalty—40 penalty units.

(2) A person who participates in a lottery contrary to a prohibition under subsection (1) is disqualified from winning any prize that the person might otherwise have won.

### **Key officials**

**145.(1)** The chief executive may declare a lottery official to be a key official.

(2) The chief executive may direct a key official—

- (a) not to participate in lotteries; or
- (b) not to participate in a lottery except in stated circumstances or for stated purposes; or
- (c) not to have a financial relationship with a lottery licensee or a lottery agent.

(3) A declaration or direction—

- (a) must be made or given by written notice given to the lottery official; and
- (b) may only be made or given if the chief executive considers it appropriate to take the action in the public interest.

(4) A key official must not participate in a lottery in contravention of a direction given by the chief executive under this section.

Maximum penalty for subsection (4)—40 penalty units.

### **Relationship of key officials with lottery licensees and agents**

**146.(1)** This section applies only to a key official who has been given a direction by the chief executive not to have a financial relationship with a lottery licensee or agent.

(2) A key official must not—

- (a) accept or solicit employment from a lottery licensee or agent; or
- (b) be an employee in any capacity of a lottery licensee or agent; or
- (c) knowingly have, directly or indirectly—
  - (i) a business or financial association with a lottery licensee or agent; or
  - (ii) a business or financial interest together with a lottery licensee or agent.

Maximum penalty—40 penalty units.

(3) A person must not, for 1 year after ceasing to be a key official, without the chief executive's approval—

- (a) accept or solicit employment from a lottery licensee or agent; or
- (b) be an employee in any capacity of a lottery licensee or agent; or
- (c) knowingly have, directly or indirectly—
  - (i) a business or financial association with a lottery licensee or agent; or
  - (ii) a business or financial interest together with a lottery licensee or agent.

Maximum penalty for subsection (3)—40 penalty units.

### **Relationship of key officials with prospective licensees**

**147.(1)** This section applies if a key official knowingly has, directly or indirectly—

- (a) a business or financial association with another person who is a prospective lottery licensee; or
- (b) a business or financial interest together with another person who is a prospective lottery licensee.

**(2)** However, this section applies only if the key official has been given a direction by the chief executive not to have a financial relationship with a lottery licensee or agent.

**(3)** Immediately after the key official becomes aware that the other person is a prospective lottery licensee, the official must give written notice of the official's association or interest to the chief executive.

Maximum penalty—40 penalty units.

**(4)** The chief executive may, by written notice given to the key official, direct the official to end the association, or give up the interest, within the time stated in the notice.

**(5)** However, the chief executive may give the direction only if the chief executive considers it appropriate to take the action in the public interest.

**(6)** A key official to whom a direction is given must comply with the direction within the time stated in the notice.

Maximum penalty—40 penalty units.

(7) In this section—

**“prospective lottery licensee”** means a person who has applied for a licence as a lottery licensee but whose application has not yet been decided.

### **Relationship of lottery licensees and agents with key officials**

**148.(1)** This section applies only to a key official who has been given a direction by the chief executive not to have a financial relationship with a lottery licensee or agent.

(2) Also, this section applies only if the lottery licensee or the lottery agent knows, or ought reasonably to know, that the key official is a key official to whom this section applies.

(3) The lottery licensee or lottery agent must not—

- (a) employ the key official in any capacity; or
- (b) knowingly have, directly or indirectly—
  - (i) a business or financial association with the key official; or
  - (ii) a business or financial interest together with the key official.

Maximum penalty—40 penalty units.

(4) The lottery licensee or agent must not, for 1 year after the person ceases to be a key official, without the chief executive’s approval—

- (a) employ the person in any capacity; or
- (b) knowingly have, directly or indirectly—
  - (i) a business or financial association with the person; or
  - (ii) a business or financial interest together with the person.

Maximum penalty for subsection (4)—40 penalty units.

### **Participation by minors prohibited**

**149.(1)** A person involved in the conduct of an approved lottery must not accept an entry form, or money or other consideration for a lottery ticket, for the lottery from a minor.

Maximum penalty—40 penalty units.

(2) It is a defence to a charge against subsection (1) to prove that the defendant had no reason to believe, and did not believe, that the person from whom the entry form, money or other consideration was accepted was a minor.

### **Obscene etc. terms prohibited**

**150.(1)** A person must not give to a lottery licensee or lottery agent—

- (a) an entry form containing a name or designation that is obscene, indecent or offensive; or
- (b) for inclusion on an entry form a name or designation that is obscene, indecent or offensive.

Maximum penalty—20 penalty units.

(2) A lottery licensee or a lottery agent may refuse to accept an entry form, name or designation that the licensee or agent reasonably considers is given in contravention of subsection (1).

### **Offences by certain persons**

**151.(1)** Except as authorised under an agency agreement, a person (other than a lottery licensee) must not—

- (a) for the person's gain or reward—
  - (i) induce anyone else to take part in an approved lottery; or
  - (ii) offer to anyone else an opportunity to take part in an approved lottery; or
  - (iii) distribute or supply entry forms for an approved lottery or lottery tickets, or cause entry forms for an approved lottery or lottery tickets to be distributed or supplied to persons other than lottery licensees or agents; or
- (b) advertise or publicly promote subscription to, or taking part in, an approved lottery.

Maximum penalty—200 penalty units.

- (2) A person must not, for an approved lottery, charge an amount for—
- (a) filling in an entry form; or
  - (b) depositing an entry form, directly or indirectly, with a lottery licensee or a lottery agent; or
  - (c) submitting, or arranging for the submission of, an entry form to a lottery licensee or a lottery agent; or
  - (d) collecting or distributing prizes.

Maximum penalty—200 penalty units.

(3) A person must not hold himself or herself out, by advertisement or in another way, to be available to perform a service mentioned in subsection (2).

Maximum penalty for subsection (3)—200 penalty units.

### **Lottery licensee not to publish identity of participant in certain cases**

**152.** If a lottery participant asks a lottery licensee for anonymity, the lottery licensee must not publish the name, or other identifying particulars, of the participant so that it becomes or is likely to become publicly known that the person has participated, or has won or claimed a prize, in an approved lottery.

Maximum penalty—40 penalty units.

## **PART 8—INVESTIGATION AND ENFORCEMENT**

### *Division 1—Inspectors*

#### **Persons who are inspectors**

**153.** A person who is an inspector under a Gaming Act is an inspector for this Act.



**Powers**

**154.(1)** For this Act, an inspector has the powers given under this Act.

(2) An inspector is subject to the directions of the chief executive in exercising the powers.

(3) An inspector's powers may be limited—

- (a) under a regulation; or
- (b) by written notice given by the chief executive to the inspector.

**Term of office**

**155.** A person ceases to hold office as an inspector under this Act if the person ceases to hold office as an inspector under a Gaming Act (and does not remain an inspector under some other Gaming Act).

**Identity cards**

**156.(1)** An inspector must have an identity card.

(2) An inspector's identity card is the identity card given to the person as an inspector under a Gaming Act.

(3) The identity card must identify the person as an inspector for this Act.

**Production or display of identity card**

**157.(1)** An inspector may exercise a power in relation to someone else (the “**other person**”) only if the inspector—

- (a) first produces the inspector's identity card for the other person's inspection; or
- (b) has the identity card displayed so it is clearly visible to the other person.

(2) However, if for any reason it is not practicable to comply with subsection (1) before exercising the power, the inspector must produce the identity card for the other person's inspection at the first reasonable opportunity.

***Division 2—Powers of inspectors******Subdivision 1—Power to enter places*****Entry without consent or warrant**

**158.** An inspector may, without the occupier's consent or a warrant, enter—

- (a) a public place; or
- (b) a place where a lottery is being, or is about to be, conducted under a lottery licence; or
- (c) a place where a lottery licensee or a lottery agent carries on business at any time when the place is open for carrying on business or otherwise open for entry; or
- (d) the land around premises to ask its occupier for consent to enter the premises.

**Entry with consent or warrant**

**159.** Unless an inspector is authorised to enter a place under section 158, an inspector may enter a place only if—

- (a) its occupier consents to the entry; or
- (b) the entry is authorised by a warrant.

***Subdivision 2—Consents and warrants for entry*****Consent to entry**

**160.(1)** This section applies if an inspector intends to ask an occupier of a place to consent to the inspector or another inspector entering the place.

**(2)** Before asking for the consent, the inspector must tell the occupier—

- (a) the purpose of the entry; and
- (b) that the occupier is not required to consent.

(3) If the consent is given, the inspector may ask the occupier to sign an acknowledgment of the consent (a “**consent acknowledgment**”).

(4) The acknowledgment must state—

- (a) the occupier has been told—
  - (i) the purpose of the entry; and
  - (ii) that the occupier is not required to consent; and
- (b) the purpose of the entry; and
- (c) the occupier gives the inspector consent to enter the place and exercise powers under this part; and
- (d) the time and date the consent was given.

(5) If the occupier signs a consent acknowledgment, the inspector must promptly give a copy to the occupier.

### **Evidence of consent**

**161.(1)** Subsection (2) applies if—

- (a) an issue arises in a court proceeding whether the occupier of a place consented to an inspector entering the place under this part; and
- (b) a consent acknowledgment is not produced in evidence for the entry; and
- (c) it is not proved the occupier consented to the entry.

(2) The court may presume the occupier did not consent.

### **Application for warrant**

**162.(1)** An inspector may apply to a magistrate for a warrant for a place.

(2) The application must be sworn and state the grounds on which the warrant is sought.

(3) The magistrate may refuse to consider the application until the inspector gives the magistrate all the information the magistrate requires about the application in the way the magistrate requires.

*Example—*

The magistrate may require additional information supporting the application to be given by statutory declaration.

**Issue of warrant**

**163.(1)** The magistrate may issue a warrant only if the magistrate is satisfied there are reasonable grounds for suspecting—

- (a) there is a particular thing or activity (the “**evidence**”) that may provide evidence of an offence against this Act; and
- (b) the evidence is at the place, or may be at the place, within the next 7 days.

**(2)** The warrant must state—

- (a) that a stated inspector may, with necessary and reasonable help and force, enter the place and exercise the inspector’s powers under this part; and
- (b) the offence for which the warrant is sought; and
- (c) the evidence that may be seized under the warrant; and
- (d) the hours of the day or night when the place may be entered; and
- (e) the date, within 14 days after the warrant’s issue, the warrant ends.

**Special warrants**

**164.(1)** An inspector may apply for a warrant (a “**special warrant**”) by phone, fax, radio or another form of communication if the inspector considers it necessary because of—

- (a) urgent circumstances; or
- (b) other special circumstances, including, for example, the inspector’s remote location.

**(2)** Before applying for the warrant, the inspector must prepare an application stating the grounds on which the warrant is sought.

**(3)** The inspector may apply for the warrant before the application is

sworn.

(4) After issuing the warrant, the magistrate must promptly fax a copy to the inspector if it is reasonably practicable to fax the copy.

(5) If it is not reasonably practicable to fax a copy to the inspector—

(a) the magistrate must tell the inspector—

(i) what the terms of the warrant are; and

(ii) the date and time the warrant was issued; and

(b) the inspector must complete a form of warrant (a “**warrant form**”) and write on it—

(i) the magistrate’s name; and

(ii) the date and time the magistrate issued the warrant; and

(iii) the terms of the warrant.

(6) The facsimile warrant, or the warrant form properly completed by the inspector, authorises the entry and the exercise of the other powers stated in the warrant issued by the magistrate.

(7) The inspector must, at the first reasonable opportunity, send to the magistrate—

(a) the sworn application; and

(b) if the inspector completed a warrant form—the completed warrant form.

(8) On receiving the documents, the magistrate must attach them to the warrant.

### **Evidence about special warrants**

**165.(1)** Subsection (2) applies if—

(a) an issue arises in a court proceeding whether a power exercised by an inspector was not authorised by a special warrant; and

(b) the warrant is not produced in evidence.

(2) The court must presume the exercise of the power was not authorised by a special warrant, unless the contrary is proved.

### *Subdivision 3—General powers*

#### **General powers after entering places**

**166.(1)** This section applies to an inspector who enters a place.

**(2)** However, if an inspector enters a place to get the occupier's consent to enter premises, this section applies to the inspector only if the consent is given or the entry is otherwise authorised.

**(3)** For monitoring or enforcing compliance with this Act, the inspector may—

- (a) search any part of the place; or
- (b) inspect, measure, test, photograph or film any part of the place or anything at the place; or
- (c) take a thing, or a sample of or from a thing, at the place for analysis or testing; or
- (d) copy a document at the place; or
- (e) access, electronically or in some other way, a system used at the place for conducting a lottery or other gaming scheme or for administrative purposes related to the conduct of a lottery or other gaming scheme; or
- (f) take into or onto the place any person, equipment and materials the inspector reasonably requires for exercising a power under this part; or
- (g) require the occupier of the place, or a person at the place, to give the inspector reasonable help to exercise the inspector's powers under paragraphs (a) to (f); or
- (h) require the occupier of the place, or a person at the place, to give the inspector information to help the inspector ascertain whether this Act is being complied with.

**(4)** When making a requirement mentioned in subsection (3)(g) or (h), the inspector must warn the person it is an offence to fail to comply with the requirement, unless the person has a reasonable excuse.

**Failure to help inspector**

**167.(1)** A person required to give reasonable help under section 166(3)(g) must comply with the requirement, unless the person has a reasonable excuse.

Maximum penalty—40 penalty units.

(2) If the requirement is to be complied with by the person giving information, or producing a document (other than a document required to be kept by the person under this Act), it is a reasonable excuse for the person to fail to comply with the requirement, if complying with the requirement might tend to incriminate the person.

**Failure to give information**

**168.(1)** A person of whom a requirement is made under section 166(3)(h) must comply with the requirement, unless the person has a reasonable excuse.

Maximum penalty—40 penalty units.

(2) It is a reasonable excuse for the person to fail to comply with the requirement if complying with the requirement might tend to incriminate the person.

**Role of police officers**

**169.(1)** An inspector may ask a police officer to help the inspector in the exercise of a power under this part.

(2) The police officer must give the inspector the reasonable help the inspector requires, if it is practicable to give the help.

***Subdivision 4—Power to seize evidence*****Seizing evidence at place that may be entered without consent or warrant**

**170.** An inspector who enters a place that may be entered under this part without the consent of the occupier and without a warrant, may seize a thing

at the place if the inspector reasonably believes the thing is evidence of an offence against this Act.

### **Seizing evidence at places that may only be entered with consent or warrant**

**171.(1)** This section applies if—

- (a) an inspector is authorised to enter a place under this part only with the consent of the occupier or a warrant; and
- (b) the inspector enters the place after obtaining the necessary consent or warrant.

**(2)** If the inspector enters the place with the occupier's consent, the inspector may seize a thing at the place if—

- (a) the inspector reasonably believes the thing is evidence of an offence against this Act; and
- (b) seizure of the thing is consistent with the purpose of entry as told to the occupier when asking for the occupier's consent.

**(3)** If the inspector enters the place with a warrant, the inspector may seize the evidence for which the warrant was issued.

**(4)** The inspector may also seize anything else at the place if the inspector reasonably believes—

- (a) the thing is evidence of an offence against this Act; and
- (b) the seizure is necessary to prevent the thing being—
  - (i) hidden, lost or destroyed; or
  - (ii) used to continue, or repeat, the offence.

**(5)** Also, the inspector may seize a thing at the place if the inspector reasonably believes it has just been used in committing an offence against this Act.

### **Securing things after seizure**

**172.** Having seized a thing, an inspector may—

- (a) move the thing from the place where it was seized (the “**place of**



**seizure**’); or

- (b) leave the thing at the place of seizure but take reasonable action to restrict access to it.

*Examples of restricting access to a thing—*

1. Sealing a thing and marking it to show access to it is restricted.
2. Sealing the entrance to a room where the thing is situated and marking it to show access to it is restricted.

### **Tampering with things subject to seizure**

**173.** If an inspector restricts access to a thing subject to seizure, a person must not tamper, or attempt to tamper, with the thing, or something restricting access to the thing, without an inspector’s approval.

Maximum penalty—40 penalty units.

### **Powers to support seizure**

**174.(1)** To enable a thing to be seized, an inspector may require the person in control of it—

- (a) to take it to a stated reasonable place by a stated reasonable time; and
- (b) if necessary, to remain in control of it at the stated place for a reasonable time.

**(2)** The requirement—

- (a) must be made by notice in the approved form; or
- (b) if for any reason it is not practicable to give the notice, may be made orally and confirmed by notice in the approved form as soon as practicable.

**(3)** A person of whom a requirement is made must comply with the requirement, unless the person has a reasonable excuse.

Maximum penalty—40 penalty units.

**(4)** A further requirement may be made under this section about the same thing if it is necessary and reasonable to make the further requirement.

**Receipts to be given on seizure**

**175.(1)** As soon as practicable after an inspector seizes a thing, the inspector must give a receipt for it to the person from whom it was seized.

**(2)** However, if for any reason it is not practicable to comply with subsection (1), the inspector must leave the receipt at the place of seizure in a conspicuous position and in a reasonably secure way.

**(3)** The receipt must describe generally each thing seized and its condition.

**(4)** This section does not apply to a thing if it is impracticable or would be unreasonable to give the receipt (given the thing's nature, condition and value).

**Forfeiture**

**176.(1)** A thing that has been seized under this part is forfeited to the State if the inspector who seized the thing—

- (a) cannot find its owner, after making reasonable inquiries; or
- (b) cannot return it to its owner, after making reasonable efforts; or
- (c) reasonably believes it is necessary to retain the thing to prevent it being used to commit an offence against this Act.

**(2)** In applying subsection (1)—

- (a) subsection (1)(a) does not require the inspector to make inquiries if it would be unreasonable to make inquiries to find the owner; and
- (b) subsection (1)(b) does not require the inspector to make efforts if it would be unreasonable to make efforts to return the thing to its owner.

**(3)** If the inspector decides to forfeit a thing under subsection (1)(c), the inspector must tell the owner of the decision by written notice.

**(4)** Subsection (3) does not apply if—

- (a) the inspector cannot find the owner, after making reasonable inquiries; or
- (b) it is impracticable or would be unreasonable to give the notice.

- (5) The notice must state—
- (a) the reasons for the decision; and
  - (b) that the owner may appeal against the decision to a Magistrates Court within 28 days; and
  - (c) how the appeal may be made; and
  - (d) that the owner may apply for a stay of the decision if the owner appeals against the decision.
- (6) Regard must be had to a thing's nature, condition and value—
- (a) in deciding—
    - (i) whether it is reasonable to make inquiries or efforts; and
    - (ii) if making inquiries or efforts—what inquiries or efforts are reasonable; or
  - (b) in deciding whether it would be unreasonable to give notice about a thing.

### **Return of things that have been seized**

**177.(1)** If a thing has been seized but not forfeited, the inspector must return it to its owner—

- (a) at the end of 6 months; or
- (b) if a proceeding for an offence involving the thing is started within 6 months—at the end of the proceeding and any appeal from the proceeding.

(2) Despite subsection (1), unless the thing has been forfeited, the inspector must promptly return a thing seized as evidence to its owner if the inspector stops being satisfied its continued retention as evidence is necessary.

### **Access to things that have been seized**

**178.(1)** Until a thing that has been seized is forfeited or returned, an inspector must allow its owner to inspect it and, if it is a document, to copy it.

(2) Subsection (1) does not apply if it is impracticable or would be unreasonable to allow the inspection or copying.

*Subdivision 5—Power to give directions to stop using things*

**Direction to stop using thing**

**179.(1)** This section applies if an inspector reasonably believes—

- (a) a thing used in the conduct of approved lotteries is unsatisfactory for the purpose for which it is used; and
- (b) the continued use of the thing may—
  - (i) jeopardise the integrity of the conduct of approved lotteries; or
  - (ii) adversely affect the public interest.

(2) The inspector may direct the person who has, or reasonably appears to have, authority to exercise control over the thing to stop using the thing, or allowing the thing to be used, in the conduct of approved lotteries.

**Requirements about stop directions**

**180.(1)** A direction given to a person under section 179 (a “**stop direction**”) may be given orally or by written notice (a “**stop notice**”).

(2) However, if the direction is given orally, it must be confirmed by written notice (also a “**stop notice**”) given to the person as soon as practicable.

(3) A stop direction may be given for a thing at a place occupied by a lottery licensee, a lottery agent or other person involved in the conduct of an approved lottery.

(4) A stop direction does not apply to a use of the thing carried out for repairing or testing the thing.

(5) A stop notice must state—

- (a) the grounds on which the inspector believes the thing is unsatisfactory; and

- (b) the circumstances (if any) under which the stop direction may be cancelled.

### **Failure to comply with stop direction**

**181.** A person to whom a stop direction is given must comply with the direction.

Maximum penalty—40 penalty units.

### *Subdivision 6—Power to obtain information*

#### **Power to require name and address**

**182.(1)** This section applies if—

- (a) an inspector finds a person committing an offence against this Act; or
- (b) an inspector finds a person in circumstances that lead, or has information that leads, the inspector reasonably to suspect the person has just committed an offence against this Act.

**(2)** The inspector may require the person to state the person's name and residential address.

**(3)** When making the requirement, the inspector must warn the person that it is an offence to fail to state the person's name or residential address, unless the person has a reasonable excuse.

**(4)** The inspector may require the person to give evidence of the correctness of the stated name or residential address if the inspector reasonably suspects the stated name or address to be false.

**(5)** Without limiting section 169,<sup>4</sup> an inspector may ask a police officer to help with the enforcement of this section.

**(6)** A requirement under subsection (2) or (4) is called a “**personal details requirement**”.

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<sup>4</sup> Section 169 (Role of police officers)

**Failure to give name or address**

**183.(1)** A person of whom a personal details requirement is made must comply with the requirement, unless the person has a reasonable excuse.

Maximum penalty—40 penalty units.

- (2)** A person does not commit an offence against subsection (1) if—
- (a) the person was required to state the person's name and residential address by an inspector who suspected the person had committed an offence against this Act; and
  - (b) the person is not proved to have committed the offence.

**Steps police officer may take for failure to give name and address**

**184.** A police officer may take the following steps if a person fails to comply with a personal details requirement—

- (a) the police officer may ask the person whether the person has a reasonable excuse for not complying with the requirement;
- (b) if the person gives an excuse, the police officer may ask for details or further details of the excuse;
- (c) if the person does not answer the question or gives an excuse the police officer reasonably believes is not a reasonable excuse, the officer may—
  - (i) tell the person that the officer is considering arresting the person for failing to comply with the requirement; and
  - (ii) require the person to state the person's name and residential address (or, if the person has no residential address, an address at which the person can most likely be contacted); and
  - (iii) if the police officer reasonably suspects a stated name or address is false—require the person to give evidence of the correctness of the stated name or address;
- (d) the police officer may arrest the person without a warrant if the officer reasonably believes—
  - (i) the person has not complied with a requirement of the

officer under paragraph (c)(ii) or (iii); and

- (ii) proceedings by way of complaint and summons against the person for an offence against section 183 would be ineffective.

### **Power to require production of documents**

**185.(1)** An inspector may require a person to make available for inspection by an inspector, or produce to the inspector for inspection, at a reasonable time and place nominated by the inspector—

- (a) a document issued to the person under this Act; or
- (b) a document required to be kept by the person under this Act; or
- (c) if the person is a lottery licensee—a document kept by the licensee about the conduct of lotteries by the licensee; or
- (d) if the person is a lottery agent—a document kept by the agent about the conduct of lotteries by the lottery licensee by whom the agent is appointed.

**(2)** The inspector may keep the document to copy it.

**(3)** If the inspector copies the document, or an entry in the document, the inspector may require the person responsible for keeping the document to certify the copy as a true copy of the document or entry.

**(4)** The inspector must return the document to the person as soon as practicable after copying it.

**(5)** However, if a requirement (a “**document certification requirement**”) is made of a person under subsection (3), the inspector may keep the document until the person complies with the requirement.

**(6)** A requirement under subsection (1) is called a “**document production requirement**”.

### **Failure to produce document**

**186.(1)** A person of whom a document production requirement is made must comply with the requirement, unless the person has a reasonable excuse.

Maximum penalty—40 penalty units.

(2) It is a reasonable excuse for a person not to comply with a document production requirement if complying with the requirement might tend to incriminate the person.

### **Failure to certify copy of document**

**187.** A person of whom a document certification requirement is made must comply with the requirement, unless the person has a reasonable excuse.

Maximum penalty—40 penalty units.

### **Power to require attendance of persons**

**188.(1)** An inspector may require a person, or an executive officer of a corporation, of whom a document production requirement has been made to attend before the inspector to answer questions or give information about the document to which the document production requirement relates.

(2) An inspector may require any of the following persons to attend before the inspector to answer questions or give information about the operations of a lottery licensee conducted under a lottery licence—

- (a) the licensee or, if the licensee is a corporation, an executive officer of the licensee;
- (b) a licensed employee employed by the licensee;
- (c) a lottery agent appointed by the licensee or, if the lottery agent is a corporation, an executive officer of the corporation;
- (d) an employee of a lottery agent mentioned in paragraph (c);
- (e) another person associated with the operations or management of—
  - (i) the licensee; or
  - (ii) a lottery agent mentioned in paragraph (c).

(3) An inspector may require any of the following persons to attend before the inspector to answer questions or give information about a lottery agent's operations for the conduct of an approved lottery by the lottery



licensee by whom the agent is appointed—

- (a) the lottery agent or, if the agent is a corporation, an executive officer of the agent;
- (b) an employee of the lottery agent;
- (c) the lottery licensee or, if the lottery licensee is a corporation, an executive officer of the corporation;
- (d) another person associated with the operations or management of—
  - (i) the lottery agent; or
  - (ii) the lottery licensee.

**(4)** A requirement made of a person under this section must—

- (a) be made by written notice given to the person; and
- (b) state a reasonable time and place for the person's attendance.

**(5)** When making the requirement, the inspector must warn the person that it is an offence to fail to comply with the requirement, unless the person has a reasonable excuse.

### **Failure to comply with requirement about attendance**

**189.(1)** A person of whom a requirement is made under section 188 must not, unless the person has a reasonable excuse—

- (a) fail to attend before the inspector at the time and place stated in the notice imposing the requirement; or
- (b) when attending before the inspector—
  - (i) fail to comply with a requirement to answer a question or give information; or
  - (ii) state anything the person knows to be false or misleading in a material particular.

Maximum penalty—40 penalty units.

**(2)** It is a reasonable excuse for a person to fail to comply with a requirement to answer a question or give information if complying with the requirement might tend to incriminate the person.

**Power to require financial records**

**190.(1)** This section applies to a person who is the manager or other principal officer at a place of business of a financial institution at which—

- (a) a lottery licensee keeps an account in relation to the licensee's operations under a lottery licence; or
- (b) a lottery agent keeps an account in relation to the agent's operations.

**(2)** An inspector may, by written notice given to the person, require the person to give to the inspector, within the time (not less than 7 days) stated in the notice—

- (a) a statement of account for the account; or
- (b) copies of cheques or other records relevant to the account; or
- (c) other particulars or documents relevant to the account stated in the notice.

**(3)** An inspector may make a requirement under subsection (2) (a **“financial records requirement”**) only with the written approval of the chief executive.

**Effect of compliance with financial records requirement**

**191.(1)** No liability for breach of trust or on any other basis attaches to a person who is the manager or other principal officer at a place of business of a financial institution merely because the person complies with a financial records requirement.

**(2)** No liability for breach of trust or on any other basis attaches to a financial institution merely because a person who is the manager or other principal officer at a place of business of the institution complies with a financial records requirement.

**Failure to comply with financial records requirement**

**192.** A person of whom a financial records requirement is made must comply with the requirement within the time stated in the relevant notice,

unless the person has a reasonable excuse.

Maximum penalty—40 penalty units.

### *Division 3—Powers of Minister*

#### **Direction about management practice**

**193.(1)** This section applies if the Minister reasonably believes—

- (a) the management, supervision or control of a part of a lottery licensee’s or agent’s operations (the “**management practice**”) is unsatisfactory; and
- (b) the management practice may—
  - (i) compromise proper standards of integrity in the conduct of approved lotteries by the lottery licensee; or
  - (ii) adversely affect the public interest in some other way.

**(2)** The Minister may direct the lottery licensee or the lottery agent to stop, or change, the management practice.

**(3)** The direction must—

- (a) be in writing; and
- (b) state the grounds on which the Minister believes the management practice is unsatisfactory; and
- (c) if the person is required to change the management practice—clearly describe how the practice is to be changed; and
- (d) state when the person is required to comply with the direction.

**(4)** A person to whom a direction is given must comply with the direction, unless the person has a reasonable excuse.

Maximum penalty for subsection (4)—40 penalty units.

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***Division 4—General enforcement matters*****Forfeiture on conviction**

**194.(1)** On conviction of a person for an offence against this Act, the court may order the forfeiture to the State of—

- (a) anything used to commit the offence; or
- (b) anything else the subject of the offence.

**(2)** The court may make the order—

- (a) whether or not the thing has been seized; and
- (b) if the thing has been seized—whether or not the thing has been returned to its owner.

**(3)** The court may make any order to enforce the forfeiture it considers appropriate.

**(4)** This section does not limit the court's powers under the *Penalties and Sentences Act 1992* or another law.

**Dealing with forfeited things**

**195.(1)** On the forfeiture of a thing to the State, the thing becomes the State's property and may be dealt with by the chief executive as the chief executive considers appropriate.

**(2)** Without limiting subsection (1), the chief executive may destroy the thing.

**Notice of damage**

**196.(1)** This section applies if—

- (a) an inspector damages something when exercising or purporting to exercise a power; or
- (b) a person (the “**other person**”) acting under the direction of an inspector damages something.

**(2)** The inspector must promptly give written notice of particulars of the damage to the person who appears to the inspector to be the owner of the

thing.

(3) If the inspector believes the damage was caused by a latent defect in the thing or circumstances beyond the inspector's or other person's control, the inspector may state that belief in the notice.

(4) If, for any reason, it is impracticable to comply with subsection (2), the inspector must leave the notice in a conspicuous position and in a reasonably secure way where the damage happened.

(5) This section does not apply to damage the inspector reasonably considers trivial.

(6) In this section—  
“owner”, of a thing, includes the person in possession or control of it.

### **Compensation**

**197.(1)** A person may claim compensation from the State if the person incurs loss or expense because of the exercise or purported exercise of a power under any of the following subdivisions of division 2<sup>5</sup>—

- subdivision 1 (Power to enter places)
- subdivision 3 (General powers)
- subdivision 4 (Power to seize evidence)
- subdivision 6 (Power to obtain information).

(2) Without limiting subsection (1), compensation may be claimed for loss or expense incurred in complying with a requirement made of the person under the subdivision.

(3) Compensation may be claimed and ordered in a proceeding—

- (a) brought in a court with jurisdiction in proceedings for the recovery of the amount of compensation claimed; or
- (b) for an offence against this Act brought against the person claiming compensation.

(4) A court may order compensation to be paid only if it is satisfied it is

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<sup>5</sup> Division 2 (Powers of inspectors)

just to make the order in the circumstances of the particular case.

(5) A regulation may prescribe matters that may, or must, be taken into account by the court when considering whether it is just to make the order.

### **Protecting officials from liability**

**198.(1)** In this section—

“**official**” means—

- (a) the Minister; or
- (b) the chief executive; or
- (c) an inspector; or
- (d) a person acting under the direction of an inspector.

(2) An official is not civilly liable for an act done, or omission made, honestly and without negligence under this Act.

(3) If subsection (2) prevents a civil liability attaching to an official, the liability attaches instead to the State.

### ***Division 5—General enforcement offences***

#### **False or misleading statements**

**199.(1)** A person must not state anything to an inspector the person knows to be false or misleading in a material particular.

Maximum penalty—40 penalty units.

(2) It is enough for a complaint for an offence against subsection (1) to state that the statement made was false or misleading to the person’s knowledge.

#### **False, misleading or incomplete documents**

**200.(1)** A person must not give an inspector a document containing information the person knows to be false, misleading or incomplete in a material particular.

Maximum penalty—40 penalty units.

(2) Subsection (1) does not apply to a person if the person, when giving the document—

- (a) tells the inspector, to the best of the person's ability, how it is false, misleading or incomplete; and
- (b) if the person has, or can reasonably obtain, the correct information—gives the correct information.

(3) Also, a person must not make an entry in a document required or permitted to be made or kept under this Act knowing the entry to be false, misleading or incomplete in a material particular.

Maximum penalty—40 penalty units.

(4) It is enough for a complaint for an offence against subsection (1) or (3) to state that the document or entry was false, misleading or incomplete to the person's knowledge.

### **Obstructing inspectors**

**201.(1)** A person must not obstruct an inspector in the exercise of a power, unless the person has a reasonable excuse for the obstruction.

Maximum penalty—40 penalty units.

(2) If a person has obstructed an inspector and the inspector decides to proceed with the exercise of the power, the inspector must warn the person that—

- (a) it is an offence to obstruct the inspector, unless the person has a reasonable excuse; and
- (b) the inspector considers the person's conduct an obstruction.

(3) If, after an inspector has warned the person, the person continues with the conduct or repeats the conduct, the inspector may ask a police officer to help with the enforcement of this section.

(4) Subsection (3) does not limit section 169.<sup>6</sup>

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<sup>6</sup> Section 169 (Role of police officers)

**Steps police officer may take against obstruction**

**202.** A police officer may take the following steps if a person has obstructed an inspector—

- (a) the police officer may ask the person whether the person has a reasonable excuse for the conduct;
- (b) if the person gives an excuse, the police officer may ask for details or further details of the excuse;
- (c) if the person does not answer the question or gives an excuse the police officer reasonably believes not to be a reasonable excuse, the officer may—
  - (i) tell the person that the officer is considering arresting the person for obstruction; and
  - (ii) require the person to stop, or not repeat, the conduct;
- (d) the police officer may arrest the person without a warrant if the officer reasonably believes—
  - (i) the person has not complied with a requirement of the officer under paragraph (c)(ii); and
  - (ii) proceedings by way of complaint and summons against the person for an offence against section 201 would be ineffective.

**PART 9—LEGAL PROCEEDINGS***Division 1—Evidence***Application of division**

**203.** This division applies to a proceeding under this Act.



**Appointments and authority**

**204.** It is not necessary to prove—

- (a) the chief executive's appointment; or
- (b) an inspector's appointment under a Gaming Act; or
- (c) the authority of the chief executive or an inspector to do anything under this Act.

**Signatures**

**205.** A signature purporting to be the signature of the chief executive or an inspector is evidence of the signature it purports to be.

**Evidentiary aids**

**206.(1)** A certificate purporting to be signed by the chief executive stating any of the following matters is evidence of the matter—

- (a) a stated document is one of the following things made, given, issued or kept under this Act—
  - (i) an appointment, approval or decision;
  - (ii) a notice, direction or requirement;
  - (iii) a licence;
  - (iv) a record, or an extract from a record;
- (b) a stated document is another document kept under this Act;
- (c) a stated document is a copy of a thing mentioned in paragraph (a) or (b);
- (d) on a stated day, or during a stated period, a stated person was or was not the holder of a licence;
- (e) on a stated day, or during a stated period, a licence—
  - (i) was or was not in force; or
  - (ii) was or was not subject to a stated condition;
- (f) on a stated day, a licence was suspended for a stated period or cancelled;

- (g) on a stated day, or during a stated period, a stated appointment (including a person's appointment as an inspector under a Gaming Act) or a stated approval was, or was not, in force for a stated person or thing;
- (h) on a stated day, a stated person was given a stated notice or direction under this Act;
- (i) on a stated day, a stated requirement was made of a stated person;
- (j) a stated amount is payable under this Act by a stated person and has not been paid;
- (k) anything else prescribed under a regulation.

(2) In this section—

“**licence**” means a lottery licence or a key person licence.

### *Division 2—Proceedings*

#### **Indictable and summary offences**

**207.(1)** An offence against section 140, 141, or 143<sup>7</sup> is an indictable offence.

(2) Any other offence against this Act is a summary offence.

#### **Proceedings for indictable offences**

**208.(1)** A proceeding for an indictable offence against this Act may be taken, at the election of the prosecution—

- (a) by way of summary proceedings under the *Justices Act 1886*; or
- (b) on indictment.

(2) A magistrate must not hear an indictable offence summarily if—

- (a) the defendant asks at the start of the hearing that the charge be prosecuted on indictment; or

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<sup>7</sup> Section 140 (Cheating), 141 (Forgery and deception) or 143 (Bribery)

(b) the magistrate considers the charge should be prosecuted on indictment.

(3) If subsection (2) applies—

(a) the magistrate must proceed by way of an examination of witnesses for an indictable offence; and

(b) a plea of the person charged at the start of the proceedings must be disregarded; and

(c) evidence brought in the proceedings before the magistrate decided to act under subsection (2) is taken to be evidence in the proceeding for the committal of the person for trial or sentence; and

(d) before committing the person for trial or sentence, the magistrate must make a statement to the person as required by the *Justices Act 1886*, section 104(2)(b).<sup>8</sup>

(4) The maximum penalty that may be summarily imposed for an indictable offence is 165 penalty units.

### **Limitation on who may summarily hear indictable offence proceedings**

**209.(1)** A proceeding must be before a magistrate if it is a proceeding—

(a) for the summary conviction of a person on a charge of an indictable offence; or

(b) for an examination of witnesses for a charge of an indictable offence.

(2) However, if a proceeding for an indictable offence is brought before a justice who is not a magistrate, jurisdiction is limited to taking or making a procedural action or order within the meaning of the *Justices of the Peace and Commissioners for Declarations Act 1991*.

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<sup>8</sup> Section 104 (Proceedings upon an examination of witnesses in relation to an indictable offence)

**Limitation on time for starting summary proceedings**

**210.** A proceeding for an offence against this Act by way of summary proceeding under the *Justices Act 1886* may start at any time but if started more than 1 year after the commission of the offence must start within 6 months after the offence comes to the complainant's knowledge.

**Responsibility for acts or omissions of representatives**

**211.(1)** In this section—

**“representative”** means—

- (a) of a corporation—an executive officer, employee or agent of the corporation; or
- (b) of an individual—an employee or agent of the individual.

**“state of mind”** of a person includes—

- (a) the person's knowledge, intention, opinion, belief or purpose; and
- (b) the person's reasons for the intention, opinion, belief or purpose.

**(2)** Subsections (3) and (4) apply in a proceeding for an offence against this Act.

**(3)** If it is relevant to prove a person's state of mind about a particular act or omission, it is enough to show—

- (a) the act was done or omitted to be done by a representative of the person within the scope of the representative's actual or apparent authority; and
- (b) the representative had the state of mind.

**(4)** An act done or omitted to be done for a person by a representative of the person within the scope of the representative's actual or apparent authority is taken to have been done or omitted to be done also by the person, unless the person proves the person could not, by the exercise of reasonable diligence, have prevented the act or omission.

**Executive officers must ensure corporation complies with Act**

**212.(1)** The executive officers of a corporation must ensure the

corporation complies with this Act.

(2) If a corporation commits an offence against a provision of this Act, each of the corporation's executive officers also commits an offence, namely, the offence of failing to ensure that the corporation complies with the provision.

Maximum penalty for subsection (2)—the penalty for the contravention of the provision by an individual.

(3) Evidence that the corporation has been convicted of an offence against a provision of this Act is evidence that each of the executive officers committed the offence of failing to ensure that the corporation complies with the provision.

(4) However, it is a defence for an executive officer to prove—

- (a) if the officer was in a position to influence the conduct of the corporation in relation to the offence—the officer exercised reasonable diligence to ensure the corporation complied with the provision; or
- (b) the officer was not in a position to influence the conduct of the corporation in relation to the offence.

### **Attempts to commit offences**

**213.(1)** A person who attempts to commit an offence against this Act commits an offence.

(2) The maximum penalty for an attempt is one-half the maximum penalty for the completed offence.

(3) The Criminal Code, section 4<sup>9</sup> applies to subsection (1).

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<sup>9</sup> Section 4 (Attempts to commit offences)

## PART 10—APPEALS

### Appeals by lottery licensees

**214.** A lottery licensee may appeal against a decision of the chief executive mentioned in schedule 2, part 1.

### Appeals by applicants for key person licences

**215.** An applicant for a key person licence may appeal against a decision of the chief executive under section 48<sup>10</sup> to refuse to grant the application.

### Appeals by licensees under key person licences

**216.** A licensee under a key person licence may appeal against a decision of the chief executive mentioned in schedule 2, part 2.

### Appeals by lottery agents

**217.** A lottery agent may appeal against a decision of the chief executive mentioned in schedule 2, part 3.

### Appeals by other persons

**218.** The owner of a thing seized by an inspector may appeal against a decision of an inspector under section 176<sup>11</sup> to forfeit the thing.

### Court to which appeal may be made

**219.(1)** An appeal by a licensee under a key person licence or an applicant for a key person licence may be made to the Magistrates Court nearest the place where the appellant resides or carries on, or proposes to carry on, employment, or activities as a key operator, under the licence.

**(2)** An appeal by a lottery licensee may be made to the Magistrates Court

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<sup>10</sup> Section 48 (Consideration of application)

<sup>11</sup> Section 176 (Forfeiture)

nearest the place where the licensee resides or carries on operations under the licence.

(3) An appeal by a lottery agent may be made to the Magistrates Court nearest the place where the agent resides or carries on operations.

(4) An appeal by another person may be made to the Magistrates Court nearest the place where the person resides or carries on business.

### **Starting appeal**

**220.(1)** An appeal is started by—

- (a) filing a written notice of appeal with the clerk of the court of the Magistrates Court; and
- (b) serving a copy of the notice on the person (the “**decision maker**”) who made the decision appealed against.

(2) The notice of appeal must be filed within 28 days after the appellant receives notice of the decision.

(3) The court may at any time extend the period for filing the notice of appeal.

(4) The notice of appeal must state fully the grounds of the appeal and the facts relied on.

### **Stay of operation of decisions**

**221.(1)** The Magistrates Court may grant a stay of the operation of a decision appealed against to secure the effectiveness of the appeal.

(2) A stay—

- (a) may be given on conditions the court considers appropriate; and
- (b) operates for the period fixed by the court; and
- (c) may be revoked or amended by the court.

(3) The period of a stay under this section must not extend past the time when the court decides the appeal.

(4) An appeal against a decision affects the decision, or carrying out of the decision, only if the decision is stayed.

**Hearing procedures**

**222.(1)** In deciding an appeal, the Magistrates Court—

- (a) has the same powers as the decision maker; and
- (b) is not bound by the rules of evidence; and
- (c) must comply with natural justice; and
- (d) may hear the appeal in court or chambers.

**(2)** An appeal is by way of rehearing.

**Powers of court on appeal**

**223.(1)** In deciding an appeal, the Magistrates Court may—

- (a) confirm the decision; or
- (b) set aside the decision and substitute another decision; or
- (c) set aside the decision and return the issue to the decision maker with the directions the court considers appropriate.

**(2)** If the Magistrates Court substitutes another decision, the substituted decision is, for this Act (other than this part) taken to be the decision maker's decision.

**Appeals to District Court**

**224.** An appeal to a District Court from a decision of a Magistrates Court may be made only on a question of law.

**PART 11—MISCELLANEOUS****Confidentiality of information**

**225.(1)** A person who is, or was, an inspector, or officer or employee of the department, must not disclose information gained by the person in performing functions under this Act.



Maximum penalty—200 penalty units or 2 years imprisonment.

(2) Subsection (1) does not apply to the disclosure of information by a person—

- (a) for a purpose under this Act or a Gaming Act; or
- (b) with a lawful excuse; or
- (c) under an approval of the chief executive under this section.

(3) The chief executive may approve the disclosure of information by a person to—

- (a) an entity prescribed under a regulation; or
- (b) an officer, employee or member of the entity; or
- (c) a stated department, entity or person.

(4) Before giving an approval for subsection (3)(c), the chief executive must—

- (a) give written notice of the proposed approval to any person whom the chief executive considers likely to be affected adversely by the disclosure; and
- (b) give the person the opportunity of making a submission about the proposed approval within the time (not less than 14 days) stated in the notice.

(5) If information is disclosed to an entity or person under an approval given by the chief executive, the entity or person, and any employee or other person under the control of the entity or person, are taken to be persons to whom subsection (1) applies and to have gained the information in performing functions under this Act.

## **Delegations**

**226.(1)** The Minister may delegate the Minister's powers under this Act to the chief executive or an appropriately qualified officer of the department.

(2) The chief executive may delegate the chief executive's powers under this Act to an appropriately qualified inspector or an appropriately qualified officer of the department.

(3) The chief executive must notify lottery licensees of the current

delegations in force under this section from time to time.

(4) A contravention by the chief executive of subsection (3) does not invalidate a delegation.

(5) In this section—

“**appropriately qualified**” includes having the qualifications, experience or standing appropriate to the exercise of the power.

*Example of ‘standing’—*

A person’s classification level in the public service.

### **Approval of forms**

**227.** The chief executive may approve forms for use under this Act.

### **Regulation-making power**

**228.** The Governor in Council may make regulations under this Act.

## **PART 12—REPEALS, AMENDMENTS AND TRANSITIONAL PROVISIONS**

### *Division 1—Repeals*

#### **Repeal of Lotteries Act 1994**

**229.** The *Lotteries Act 1994* is repealed.

#### **References to repealed Act**

**230.** A reference in any other Act or instrument to the repealed Act is to be read (where the context admits) as a reference to this Act.

**Division 2—Amendments****Amendment of Art Unions Act 1992**

**231.(1)** The *Art Unions Act 1992* is amended as set out in this section.

**(2)** Section 5—

*insert—*

‘**(3)** However, a lottery conducted under the *Lotteries Act 1997*, or under arrangements approved under that Act, is not an art union.’.

**Amendment of Casino Control Act 1982**

**232.(1)** The *Casino Control Act 1982* is amended as set out in this section.

**(2)** Section 4(1), definition “**Gaming Act**”—

*omit, insert—*

‘ “**Gaming Act**” means any of the following Acts—

- *Art Unions Act 1992*
- *Gaming Machine Act 1991*
- *Keno Act 1996*
- *Lotteries Act 1997*.’.

**Amendment of Gaming Machine Act 1991**

**233.(1)** The *Gaming Machine Act 1991* is amended as set out in this section.

**(2)** Section 3, definition “**Gaming Act**”—

*omit, insert—*

‘ “**Gaming Act**” means any of the following Acts—

- *Art Unions Act 1992*
- *Casino Control Act 1982*

- *Keno Act 1996*
- *Lotteries Act 1997.*'.

### **Amendment of Keno Act 1996**

**234.(1)** The *Keno Act 1996* is amended as set out in this section.

**(2)** Schedule 4 (Dictionary), definition “**Gaming Act**”—  
*omit, insert—*

“**Gaming Act**” means any of the following Acts—

- *Art Unions Act 1992*
- *Casino Control Act 1982*
- *Gaming Machine Act 1991*
- *Lotteries Act 1997.*'.

### ***Division 3—Transitional provisions***

#### **Application of division**

**235.** This division applies only if, on the commencement day, the corporation becomes the holder of a lottery licence.

#### **Definitions**

**236.** In this division—

“**commencement day**” means the day on which the provision in which the term is used commences.

“**corporation**” means the Golden Casket Lottery Corporation established under the repealed Act and, if before or on the commencement day that entity becomes a government owned corporation, includes the entity as a government owned corporation.

“**repealed Act**” means the *Lotteries Act 1994*.

### **Corporation's exclusive rights**

**237.(1)** This section applies if the Minister issues a lottery licence to the corporation before issuing a lottery licence to another person.

(2) The lottery licence may be issued as an exclusive licence for a specified term and on specified conditions.

(3) The lottery licence may be issued on conditions about the exclusive right of the corporation to conduct certain gaming schemes or classes of gaming schemes.

### **Approval of corporation's control system**

**238.** This section applies if, on the commencement day, the corporation makes a control system submission to the chief executive.

(2) The corporation's control system is taken to be an approved control system until the chief executive approves or refuses to approve the control system.

### **Approval of corporation's regulated lottery equipment**

**239.(1)** This section applies if, on the commencement day, the corporation applies to the chief executive for approval of the corporation's regulated lottery equipment.

(2) The corporation's regulated lottery equipment is taken to be approved lottery equipment for the corporation until the chief executive approves or refuses to approve the equipment.

### **Lotteries in progress and unclaimed prize money at commencement day**

**240.(1)** A lottery that had been commenced under the repealed Act by the corporation but not completed at the commencement day may be continued and completed under this Act by the corporation.

(2) If, immediately before the commencement day, an amount was identified in the corporation's accounting records under the repealed Act, section 28(1) as unclaimed prize money for a lottery, the corporation—

- (a) must continue to identify the amount in its accounting records as unclaimed prize money for the lottery until the end of 1 year after the closure of the lottery; and
- (b) may, at the end of the period mentioned in paragraph (a), use the money as if it were money to which section 132(2) applied.

(3) If, before the commencement day, the corporation was entitled to use unclaimed prize money for a lottery under the repealed Act, section 28(2) but did not use the money under the subsection, the corporation may use the money as if it were money to which section 132(2) applied.

### **Continued operation for certain purposes of repealed Act**

**241.(1)** Despite its repeal, the repealed Act, sections 17(2), 18 and 24(1) to (5) (the **“former provisions”**), and the rules in force under the repealed Act immediately before the commencement day (the **“former rules”**), continue to operate, and apply to lotteries conducted under this Act by the corporation, as if they were valid rules under this Act until the earlier of the following—

- (a) the end of the period of 1 year from the commencement day;
- (b) the commencement of rules made under this Act superseding the relevant former provisions or rules.

(2) A rule expressed to supersede a former provision or rule operates to the exclusion of the former provision or rule.

(3) In this section and for the former provisions and rules—

**“entry form”** means a lottery ticket.

**“selling fee”** means the amount to which a lottery agent is entitled for processing the entry form for a participant in the lottery concerned under the agent’s agency agreement.

**“subscription”** means the amount calculated by deducting any selling fee from the price of a lottery ticket.

### **Key employees**

**242.(1)** This section applies to a key employee of the corporation who, on the commencement day, applies to the chief executive to be licensed as

an employee under a key person licence.

(2) The key employee is taken to be a licensed employee until the chief executive grants or refuses to grant the application.

### **Agency agreements**

**243.(1)** An agency agreement made under the repealed Act by the corporation before and in force at the commencement day is taken to be an agency agreement duly made in accordance with this Act.

(2) Within 7 days after the commencement day, the corporation must give the chief executive a written notice informing the chief executive of the name and place of operation of each lottery agent with whom the corporation has an agency agreement to which this section applies.

(3) An agency agreement that continues in force under this section terminates (if it does not terminate earlier for some other reason) when the corporation ceases to be a lottery licensee.

### **Agreements with foreign agencies**

**244.** An agreement between the corporation and a foreign agency in force immediately before the commencement day continues in force as an approved arrangement under section 7.<sup>12</sup>

### **Transitional regulations**

**245.(1)** A regulation may make provision of a saving or transitional nature for which—

- (a) it is necessary or convenient to assist the transition from the conduct by the corporation of lotteries under the repealed Act to the conduct by it of lotteries under this Act; and
- (b) this Act does not make provision or sufficient provision.

(2) A regulation under this section may have retrospective operation to a day not earlier than the commencement day.

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<sup>12</sup> Section 7 (Foreign gaming schemes)

(3) Subject to subsection (4), a regulation under this section expires 1 year after it is made.

(4) This section expires one year after the commencement day.

### Re-enactment of Golden Casket Art Union Act 1978, s 22A

246.(1) In this section—

“**Instant Casket**” has the same meaning as it had for the purposes of the *Golden Casket Art Union Act 1978*, section 22A.

“**symbol**” includes amount, word and number.

(2) This section is enacted to settle any doubt about whether tickets in certain Instant Caskets conducted before the commencement day are tickets that entitle the ticket holder to a prize.

(3) Subsections (5) and (6) apply to a ticket in an Instant Casket that included a statement to the effect that a prize is won if a specified number of symbols printed in a panel on the ticket are matched.

(4) Subsection (7) applies to a ticket in an Instant Casket whether or not it included a statement to that effect.

(5) The ticket is a winning ticket only if the panel has printed in it the specified number of the same symbol.

*Example of winning ticket—*

1. Statement on ticket—‘Match 3 numbers and win’.
2. Panel on ticket.

7	1
Seven	One
3	7
Three	Seven
4	7
Four	Seven

(6) The ticket is not a winning ticket if, for example, the panel has printed in it the specified number of pairs of different symbols.



*Example of non-winning ticket—*

1. Statement on ticket—‘Match 3 numbers and win’.
2. Panel on ticket.

7	1
Seven	One
3	7
Three	Seven
3	1
Three	One

(7) In deciding whether a ticket is a winning ticket, a caption to a symbol is taken to be part of the symbol and not a separate symbol.

## **SCHEDULE 1**

### **DECISIONS NOT SUBJECT TO APPEAL**

section 39

#### **PART 1—DECISIONS OF GOVERNOR IN COUNCIL**

Section	Description of decision
32	Suspending a lottery licence
32	Cancelling a lottery licence
32	Appointing an administrator to conduct the operations of a lottery licensee
34	For a lottery licence that is suspended—cancelling or reducing any remaining period of suspension

#### **PART 2—DECISIONS OF MINISTER**

Section	Description of decision
10	Granting or refusing to grant an application for a lottery licence
16	Imposing a condition on a lottery licence
18	Changing conditions of a lottery licence
28	Suspending a lottery licence
29	Censuring a lottery licensee
30	Directing a lottery licensee to rectify

SCHEDULE 1 (continued)

	a matter
117	Giving, or refusing to give, an approval for an ancillary lottery agreement
120	Directing the termination of a related agreement
193	Directing a lottery licensee or agent to stop or change a management practice

## **SCHEDULE 2**

### **DECISIONS OF CHIEF EXECUTIVE SUBJECT TO APPEAL**

sections 214, 216 and 217

#### **PART 1—DECISIONS AFFECTING LOTTERY LICENSEES**

Section	Description of decision
64	Suspending or cancelling a key person licence
88	Directing lottery licensee to terminate an agency agreement

#### **PART 2—DECISIONS AFFECTING LICENSEES UNDER KEY PERSON LICENCES**

Section	Description of decision
55	Imposing condition on key person licence
56	Changing a condition of a key person licence
57	Refusing to grant an application to replace a key person licence
64	Suspending or cancelling a key person licence

SCHEDULE 2 (continued)

**PART 3—DECISIONS AFFECTING LOTTERY  
AGENTS**

Section	Description of decision
88	Directing a lottery licensee to terminate an agency agreement

## SCHEDULE 3

### DICTIONARY

section 3

“**accepted representations**” for part 2, division 5, see section 27.

“**accepted representations**” for part 3, division 4, see section 60.

“**accepted representations**” for part 4, division 2, see section 84.

“**accepted representations**” for part 7, division 1, see section 119.

“**agency agreement**” see section 78.

“**agency payment period**”, for an approved lottery, means the period prescribed under the rules for the lottery during which a prize in a drawing of the lottery may be claimed from a lottery agent.

“**ancillary lottery agreement**” see section 116.

“**approved control system**” means a control system approved by the chief executive, and includes an approved control system changed under a direction or approval of the chief executive.

“**approved form**” see section 227.

“**approved lottery**” means a lottery conducted by a lottery licensee under a lottery licence.

“**approved lottery equipment**” means regulated lottery equipment approved under section 133.

“**approved place**” see section 105.

“**business associate**”, of a lottery agent, means a person whom the chief executive reasonably believes to be associated with the ownership or management of the agent’s operations.

“**business associate**”, of a lottery licensee, means a person whom the Minister reasonably believes to be associated with the ownership or management of the licensee’s operations.

SCHEDULE 3 (continued)

**“business associate”**, of an applicant for a lottery licence, means a person who the Minister reasonably believes—

- (a) is associated with the ownership or management of the applicant’s operations; or
- (b) will, if a lottery licence is issued to the applicant, be associated with the ownership or management of the licensee’s operations.

**“closure”**, of a lottery, means—

- (a) if a computer system is used to issue lottery tickets for the lottery—when the functioning computer system does not allow the tickets to be issued for the lottery; or
- (b) in any other case—the day fixed by the lottery licensee for the closure of the lottery by notice displayed in the licensee’s public office.

**“computer system”** means a computer system operated by a lottery licensee—

- (a) to process entry forms in a lottery; and
- (b) to issue lottery tickets; and
- (c) to identify whether an entry is a winning entry.

**“condition notice”** see section 18.

**“conduct”** includes promote, organise and operate.

**“control system”** means a system of internal controls and administrative and accounting procedures for the conduct of lotteries by a lottery licensee.

**“control system (change) submission”** see section 102.

**“control system submission”** see section 101.

**“conviction”** includes a plea of guilty or a finding of guilt by a court even though a conviction is not recorded.

**“document certification requirement”** see section 185.

**“document production requirement”** see section 185.

## SCHEDULE 3 (continued)

**“employ”** includes engage under a contract for services.

**“employee”** of a lottery licensee or a lottery agent means a person employed by the licensee or agent in functions related to the conduct of lotteries.

**“entry form”**, for an approved lottery or other gaming scheme, means an application form for tickets in the lottery or other gaming scheme made available by the person conducting the lottery or other gaming scheme for use by prospective participants.

**“executive associate”**, of a lottery agent, means an executive officer of a corporation, partner or trustee, or another person stated by the Minister, whom the Minister reasonably believes to be associated with the ownership or management of the operations of the agent.

**“executive associate”**, of a lottery licensee, means an executive officer of a corporation, partner or trustee, or another person stated by the Minister, whom the Minister reasonably believes to be associated with the ownership or management of the operations of the licensee.

**“executive associate”**, of an applicant for a lottery licensee, means an executive officer of a corporation, partner or trustee, or another person stated by the Minister whom the Minister reasonably believes—

- (a) is associated with the ownership or management of the applicant’s operations; or
- (b) will, if a lottery licence is issued to the applicant, be associated with the ownership or management of the licensee’s operations.

**“executive officer”**, of a corporation, means a person who is concerned with, or takes part in, the corporation’s management, whether or not the person is a director or the person’s position is given the name of executive officer.

**“exempt lottery record”** see section 105.

**“financial records requirement”** see section 190.

**“foreign agency”** means any of the following—

- (a) a department of government of another jurisdiction authorised by



SCHEDULE 3 (continued)

the law of the other jurisdiction to conduct a gaming scheme;

- (b) a statutory body or corporation established under the law of another jurisdiction that is authorised by the law of the other jurisdiction to conduct a gaming scheme;
- (c) another entity permitted by the law of another jurisdiction to conduct a gaming scheme.

**“Gaming Act”** means any of the following Acts—

- *Art Unions Act 1992*
- *Casino Control Act 1982*
- *Gaming Machine Act 1991*
- *Keno Act 1996*.

**“gaming scheme”** see section 4.

**“identity card”**, for an inspector, see section 156.

**“information notice”**, for a decision of the chief executive, is a written notice stating—

- (a) the decision; and
- (b) the reasons for the decision; and
- (c) that the person to whom the notice is given may appeal against the decision to a Magistrates Court within 28 days.

**“inspector”** means a person who is an inspector for this Act.

**“interested person”**, for section 27, see section 26.

**“key employee”** see section 40.

**“key official”** means a lottery official declared under section 145 to be a key official.

**“key operator”** see section 43.

**“key operator’s requirement”** see section 44.

**“key person licence”** means a licence issued under section 51.

SCHEDULE 3 (continued)

**“key person licensee”** means a person licensed under a key person licence.

**“license fees”** see section 95.

**“licensed employee”** means a person licensed as an employee under a key person licence.

**“lottery”** see section 5.

**“lottery agent”** see section 78.

**“lottery employee”** means a person employed by a lottery licensee in operations conducted under the lottery licence.

**“lottery equipment”** means a machine or other device (whether electronic, electrical or mechanical), computer software, or another thing, used, or suitable for use, in the conduct of a lottery.

**“lottery licence”** means a licence under this Act to conduct a lottery.

**“lottery licensee”** means a person who holds a lottery licence.

**“lottery official”** means—

- (a) an inspector; or
- (b) an officer of the department.

**“lottery record”**, of a lottery licensee, means a record (including a document) about the operations conducted by the licensee under the licence.

**“lottery tax”** see section 94.

**“lottery ticket”** means a ticket in an approved lottery.

**“official lottery document”** means—

- (a) a lottery ticket; or
- (b) a lottery licence; or
- (c) a key person licence; or
- (d) an inspector’s identity card.

**“participant”**, in an approved lottery or other gaming scheme, means a person who purchases a ticket, or otherwise participates, in the lottery

SCHEDULE 3 (continued)

or gaming scheme.

**“personal details requirement”** see section 182.

**“public office”**, for a lottery licensee, means the licensee’s principal place of business in the State or, if the licensee is a corporation and has its registered office in the State, the registered office.

**“registered company auditor”** means a person registered as an auditor, or taken to be so registered, under the Corporations Law, chapter 9, part 9.2.<sup>13</sup>

**“regulated lottery equipment”** means lottery equipment declared under a regulation to be regulated lottery equipment.

**“related agreement”** means—

- (a) an agreement, contract, lease or arrangement (whether written or unwritten) that—
  - (i) is entered into between a lottery licensee and another person; and
  - (ii) relates to the operations of the licensee under the licence; or
- (b) an ancillary lottery agreement.

**“rules”** means rules made under section 121.

**“show cause notice”** for part 2, division 5, see section 25.

**“show cause notice”** for part 3, division 4, see section 60.

**“show cause notice”** for part 4, division 2, see section 84.

**“show cause notice”** for part 7, division 1, see section 119.

**“show cause period”** for part 2, division 5, see section 25.

**“show cause period”** for part 3, division 4, see section 60.

**“show cause period”** for part 4, division 2, see section 84.

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<sup>13</sup> Corporations Law, chapter 9 (Miscellaneous), part 9.2 (Registration of auditors and liquidators)

SCHEDULE 3 (continued)

“**show cause period**” for part 7, division 1, see section 119.

“**special warrant**” see section 164.

“**stop direction**” see section 180.

“**ticket**”, in an approved lottery or other gaming scheme, means a right of participation (however described) in the lottery or other gaming scheme and includes a document, token or other thing evidencing a right to participate in the lottery or other gaming scheme.