

Queensland



**GAMING MACHINE AND
OTHER LEGISLATION
AMENDMENT ACT 1999**

Act No. 8 of 1999

Queensland



**GAMING MACHINE AND OTHER
LEGISLATION AMENDMENT ACT 1999**

TABLE OF PROVISIONS

Section		Page
PART 1—PRELIMINARY		
1	Short title	12
2	Commencement	12
PART 2—AMENDMENT OF GAMING MACHINE ACT 1991		
3	Act amended in pt 2	12
4	Amendment of s 3 (Definitions)	12
5	Amendment of s 6 (Meaning of “associate”)	21
6	Insertion of new s 6AA	21
	6AA Meaning of “control action” under the Corporations Law	21
7	Amendment of s 12 (Powers of commission)	21
8	Amendment of s 24 (Appeals to Minister)	21
9	Replacement of s 31 (Delegation by chief executive)	23
	30A Delegation by Minister	23
	30B Delegation by commission	23
	31 Delegation by chief executive	24
10	Replacement of s 34 (Police assistance)	24
	34 Criminal history reports for investigations	24
11	Amendment of s 38 (Gaming lawful and does not constitute nuisance) . . .	25
12	Amendment of s 39 (Application for gaming machine licences)	25
13	Replacement of ss 40 and 41	28
	40 Recommendation by chief executive about application for gaming machine licence	28
	40A Decision on application for gaming machine licence	31

40B	Fixing number of gaming machines	34
40C	Matters to be taken into account for advising on or fixing number of gaming machines	35
41	Application by clubs for additional licensed premises	36
41A	Recommendation by chief executive about additional premises application	38
41B	Decision on additional premises application	40
41C	Fixing number of gaming machines for additional premises	42
41D	Application of gaming machine licence to additional premises	43
14	Amendment of s 42 (Changes in circumstances of applicants for and holders of licences)	43
15	Insertion of new s 42A	44
	42A Changes in circumstances of licensees of category 2 licensed premises	44
16	Amendment of s 43 (Issue of gaming machine licences)	45
17	Insertion of new s 44	46
	44 Issue of amalgamated gaming machine licences to clubs	46
18	Amendment of s 45 (Gaming machine licences to be displayed)	47
19	Amendment of s 47 (Term of gaming machine licences)	47
20	Amendment of s 51 (Renewal and continuance of gaming machine licences)	47
21	Replacement of ss 55–57	48
	55 Removal of rented gaming machines	48
	56 Application to increase approved number of gaming machines	50
	56A Recommendation by chief executive about increase application	50
	56B Decision on increase application	51
	56C Matters to be taken into account for increase application	52
	56D Fixing increase number of gaming machines	53
	57 Proposals to decrease approved number of gaming machines	53
	57A Recommendation by chief executive about decrease proposal	54
	57B Decision on decrease proposal	56
	57C Matters to be taken into account for decrease proposal	57
	57D Surrender or disposal of gaming machines on approval of decrease	58

22	Amendment of s 58 (Relocation of gaming machine areas)	59
23	Amendment of s 59 (Disclosure of influential or benefiting parties)	59
24	Amendment of s 62 (Surrender of gaming machine licences)	60
25	Replacement of s 63 (Cancellation or suspension of gaming machine licences in certain circumstances)	62
	63 Action affecting gaming machine licences based on action affecting liquor licences	62
26	Amendment of s 64 (Cancellation or suspension of gaming machine licences and letters of censure)	63
27	Amendment of s 65 (Suspension of gaming machine licence pending decision under s 64)	66
28	Insertion of new s 65A	67
	65A Suspension of gaming machine licence for non-payment of monthly fees, gaming tax or penalty	67
29	Amendment of s 66 (Effect of suspension of licence)	69
30	Insertion of new s 66A	69
	66A Notices to interested persons	69
31	Amendment of s 68 (Recovery of gaming machines etc.)	70
32	Insertion of new ss 68A and 68B	71
	68A Recovery or disposal of gaming machines and other property on cancellation or non-renewal of gaming machine licence	71
	68B Destruction of fingerprints	72
33	Amendment of s 69 (Appointment of administrator instead of suspension)	72
34	Omission of s 72D (Control action under the Corporations Law)	73
35	Omission of s 72N (Criminal history reports for investigation)	73
36	Amendment of s 72O (Recommendation about application)	73
37	Amendment of s 72ZA (Surrender of licence)	73
38	Replacement of ss 72ZB–72ZD	74
	72ZB Approving audit programs	74
	72ZC Conducting investigations	74
39	Amendment of s 72ZG (Grounds for suspension or cancellation)	75
40	Amendment of s 72ZH (Show cause notice)	75

41	Replacement of s 72ZI (Involvement of interested persons in show cause process)	75
	72ZI Involvement of interested persons in show cause process	76
42	Amendment of s 72ZJ (Consideration of representations)	77
43	Amendment of s 72ZK (Ending show cause process without further action)	77
44	Amendment of s 72ZO (Decision of commission)	77
45	Amendment of s 72ZP (Suspension or cancellation)	78
46	Insertion of new s 72ZRA	78
	72ZRA Terms of appointment, and role, of administrator	78
47	Replacement of s 72ZS (Notices to interested persons)	79
	72ZS Notices to interested persons	79
48	Insertion of new ss 72ZVA and 72ZVB	80
	72ZVA Notice by licensed operator of failure of licensee to pay certain amounts	81
	72ZVB Storing and handling gaming equipment and other property	82
49	Replacement of s 72ZW (Returns about licensed key monitoring employees)	82
	72ZW Returns about employees	82
50	Insertion of new s 72ZZ	83
	72ZZ Requirement to end key officer's role	83
51	Insertion of new pt 3A, div 7A—	83
	<i>Division 7A—Compliance requirements</i>	
	<i>Subdivision 1—Control systems</i>	
	72ZZA Approved control system for licensed operator's monitoring operations	84
	72ZZB Control system submission	84
	72ZZC Control system (change) submission	85
	72ZZD Dealing with submissions	85
	72ZZE Direction to change approved control system	87
	<i>Subdivision 2—Monitoring records</i>	
	72ZZF Notices about keeping monitoring records	87

	72ZZG Monitoring records to be kept at certain place	88
	72ZZH Monitoring records to be kept for required period	88
	<i>Subdivision 3—Financial accounts, statements and reports</i>	
	72ZZI Keeping of accounts	89
	72ZZJ Preparation of financial statements and accounts	89
	72ZZK Submission of reports	89
	<i>Subdivision 4—Financial institution accounts</i>	
	72ZZL Keeping of accounts	90
	72ZZM Use of accounts	91
	<i>Subdivision 5—Audit</i>	
	72ZZN Audit guidelines	91
	72ZZO Audit of monitoring operations	92
	72ZZP Carrying out of audit	92
	72ZZQ Licensed operator to give documents about audit to chief executive	92
52	Amendment of s 72ZZ (Disclosure affidavits about persons having influence or receiving benefits)	94
53	Amendment of pt 4 hdg (Licensing of repairers, service contractors, machine managers and key monitoring employees)	94
54	Insertion of new ss 72ZZS and 72ZZT	94
	72ZZS Meaning of key monitoring employee	94
	72ZZT Meaning of key officer	95
55	Amendment of s 74 (Unlicensed persons not to be service contractors) . .	95
56	Replacement of s 75 (Unlicensed persons not to be machine managers)	96
	75 Licensing requirements for carrying out gaming duties on licensed premises	96
57	Amendment of s 76 (Certain persons must apply for machine manager’s licence)	99
58	Insertion of new ss 76B–76F	99
	76B Meaning of nominee	99
	76C Identity cards for certain nominees	100
	76D Nominees of licensees	101

76E	Application for gaming nominee's licence by licensed gaming employee	101
76F	Application for gaming employee's licence by licensed gaming nominee	103
59	Replacement of s 77 (Applications for licences under this part)	103
	77 Applications for licences under this part	103
60	Amendment of s 78 (Changes in circumstances of applicants for and holders of licences)	106
61	Amendment of s 79 (Consideration of applications)	107
62	Replacement of s 80 (Commission may grant or refuse to grant licences)	108
	80 Decision on applications	108
63	Amendment of s 81 (Issue of licences)	110
64	Amendment of s 83 (Term of licences)	110
65	Amendment of s 86 (Renewal and continuance of licences)	110
66	Amendment of s 88 (Display of certain licences)	111
67	Amendment of s 89 (Disclosure of influential or benefiting parties)	112
68	Replacement of s 90 (Investigations of holders of licences and associates)	113
	90 Approving audit programs for licensed gaming nominees and associates	113
	90A Conducting investigations of licensed persons and associates ...	113
	90B Requirement to give information or document for investigation ..	114
	90C Failure to give information or document for investigation	114
69	Amendment of s 92 (Notifications re employment and agreements)	115
70	Amendment of s 93 (Surrender of licences)	118
71	Amendment of s 94 (Cancellation or suspension of licences under this part)	118
72	Amendment of s 95 (Suspension of licences pending decision under s 94)	121
73	Amendment of s 96 (Effect of suspension of licence)	121
74	Insertion of new ss 96A and 96B	122
	96A Notices to interested persons	122
	96B Destruction of fingerprints	123

75	Amendment of s 97 (Provisional licences)	123
76	Amendment of s 98 (Installation and storage of gaming machines by licensees)	124
77	Amendment of s 98A (Licensee's register of gaming machines)	124
78	Amendment of s 99 (Gaming machines not to be played if not installed in gaming machine area)	124
79	Amendment of s 106 (Licensees not to extend credit)	125
80	Insertion of new s 110A	125
	110A Unclaimed payments	125
81	Amendment of s 111 (Malfunction of gaming machines)	126
82	Amendment of s 112 (Defective gaming machines not allowed)	127
83	Amendment of s 114 (Certain persons only to have access etc. to gaming machines)	127
84	Omission of ss 115 and 116	127
85	Amendment of s 123 (Ascertainment of age)	127
86	Amendment of s 129 (Obstruction generally)	128
87	Amendment of s 140 (Possession etc. of gaming machines and restricted components by licensees)	128
88	Amendment of s 141 (Possession etc. of gaming machines etc. by other persons)	129
89	Amendment of s 145 (Procedure for determination of tenders)	129
90	Replacement of s 146A (Changes to approved games)	129
	146A Replacing approved games	129
	146B Changes to percentage returns	130
91	Insertion of new s 148A	131
	148A Inducing the acquisition of gaming equipment or ancillary or related equipment	131
92	Amendment of s 151 (Gaming prohibited on unprotected devices)	132
93	Amendment of s 152 (Unlawful interference with gaming equipment)	132
94	Amendment of s 153 (Protection of sensitive areas of gaming equipment)	132
95	Amendment of s 155 (Use of gaming machines not provided to licensees)	133
96	Amendment of s 158 (Accounts and analyses)	133

97	Amendment of s 159 (Monthly gaming machine reconciliation reports to be submitted)	134
98	Amendment of s 161 (Audit of accounts of licensee)	134
99	Omission of s 161A (Audit of accounts of licensed operators)	135
100	Amendment of s 163 (Monthly taxable metered win)	135
101	Amendment of s 170 (Payment of monthly fees, taxes etc.)	136
102	Insertion of new s 170A	136
	170A Adjustment of gaming machine tax	136
103	Amendment of s 171 (Penalty for late payment)	137
104	Replacement of s 173 (Statement and report by the chief executive) . . .	137
	173 Licensed operator's financial statement	137
105	Amendment of s 174 (Disposition of fees etc.)	138
106	Amendment of s 176 (Recovery of fees and taxes)	138
107	Replacement of s 177 (Offences relating to revenue)	139
	177 Offences relating to revenue	139
108	Omission of s 178 (Offences relating to explanations)	139
109	Amendment of s 186 (Certain persons not to play gaming machines) . . .	140
110	Amendment of s 187 (Officers of division may be prohibited from playing gaming machines)	140
111	Amendment of s 188 (Prohibition on control of applications by clubs) . .	140
112	Insertion of new s 188A	140
	188A Prohibition on control of gaming at clubs	141
113	Amendment of s 189 (Restriction on certain agreements)	141
114	Amendment of s 195 (Reporting of accounting discrepancies and criminal activity)	141
115	Amendment of s 196 (Cheating)	141
116	Amendment of s 206 (Proceedings for offences)	142
117	Amendment of s 212 (Disclosure of criminal history)	142
118	Amendment of s 215 (Regulation making power)	142
119	Omission of s 217 (Approval of chief executive may be conditional) . . .	142
120	Insertion of new pt 11, div 1 hdg	142

121	Amendment of s 218 (Chief executive to supply gaming machines etc. until there is a licensed operator)	143
122	Insertion of new pt 11, div 2	143

*Division 2—Provisions for Gaming Machine and Other Legislation
Amendment Act 1999*

223	Definitions	143
224	Term of gaming machine licences	144
225	Approved control systems for existing operators	144
226	Nominees of licensees	145
227	Application for gaming nominees’ licences	145
228	Applications for machine managers’ licences	146
229	Machine managers’ licences	146
230	Licensed machine managers	146
231	Term of part 4 licences	146
232	Continuation of certain agreements for stated period	147

PART 3—AMENDMENT OF CASINO CONTROL ACT 1982

123	Act amended in pt 3	147
124	Insertion of new s 71A	148
	71A Unclaimed winnings and prizes	148

**PART 4—AMENDMENT OF INTERACTIVE GAMBLING
(PLAYER PROTECTION) ACT 1998**

125	Act amended in pt 4	149
126	Amendment of s 135 (Inactive players accounts)	149
127	Amendment of s 137 (Prohibition of interactive gambling)	149
128	Amendment of s 162 (Approval of regulated interactive gambling equipment)	149

PART 5—AMENDMENT OF KENO ACT 1996

129	Act amended in pt 5	150
130	Amendment of s 148 (Extending credit)	150
131	Replacement of s 152 (Claims for payment)	151
	152 Claims for payment	151
132	Insertion of new s 159A	152
	159A Keno gaming by keno agent or keno agent’s employees	152

PART 6—AMENDMENT OF LOTTERIES ACT 1997

133	Act amended in pt 6	152
134	Insertion of new s 132A	153
	132A Relationship of provisions about unclaimed prizes with Public Trustee Act	153

PART 7—AMENDMENT OF WAGERING ACT 1998

135	Act amended in pt 7	153
136	Amendment of s 213 (Claims for payment of winning bets)	153

Queensland



Gaming Machine and Other Legislation Amendment Act 1999

Act No. 8 of 1999

**An Act to amend the *Gaming Machine Act 1991* and certain other
Acts**

[Assented to 30 March 1999]

The Parliament of Queensland enacts—

PART 1—PRELIMINARY

Short title

1. This Act may be cited as the *Gaming Machine and Other Legislation Amendment Act 1999*.

Commencement

2.(1) Section 113 is taken to have commenced on 20 November 1998.

(2) The remaining provisions commence on a day to be fixed by proclamation.

PART 2—AMENDMENT OF GAMING MACHINE ACT 1991

Act amended in pt 2

3. This part amends the *Gaming Machine Act 1991*.

Amendment of s 3 (Definitions)

4.(1) Section 3, definitions “disclosure affidavit”, “game”, “information notice”, “inspector”, “key monitoring employee”, “key officer”, “licensed machine manager”, “machine manager”, “money clearance” and “promotions”—

omit.

(2) Section 3—

insert—

‘**“additional premises”**’ see section 41(3)(e).

“additional premises application” means an application, made under section 41 by a club that is a licensee, for approval of premises (additional to the existing licensed premises) as premises to which the club’s gaming machine licence relates.

“appropriately qualified”, for a person to whom a power under this Act may be delegated, includes having the qualifications, experience or standing appropriate to exercise the power.

Example of ‘standing’—

A person’s classification level in the public service.

“approved authority”, for licensed premises, means—

- (a) the liquor licensing authority; or
- (b) the Queensland Fire and Rescue Authority; or
- (c) the local government whose area is the area in which the premises are situated.

“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 number”, of gaming machines, for licensed premises, means—

- (a) the number (the **“original number”**) of gaming machines originally permitted to be installed on the premises; or
- (b) if the original number is subsequently adjusted by an increase under section 56B or a decrease under section 57B—the original number as adjusted under the section or sections.

“approved place” see section 72ZZF.

“associates (nominees) audit program” means an audit program, for investigating associates of licensed gaming nominees, approved by the Minister under section 90.

“associates (operators) audit program” means an audit program, for

investigating associates of licensed operators, approved by the Minister under section 72ZB.

“audit guidelines” see section 72ZZN.

“authorised gaming machine”, of a licensee, means a gaming machine that is, for the licensee, either—

- (a) a rented gaming machine; or
- (b) a privately acquired gaming machine.

“category 1 licensed premises” means licensed premises for which 1 of the following licences under the *Liquor Act 1992* is in force—

- (a) a general liquor licence;
- (b) an on-premises licence;
- (c) a special facility licence (other than the special facility licence held by the Surfers Paradise Bowls Club Incorporated).

“category 2 licensed premises” means licensed premises that are not category 1 licensed premises.

“control action”, under the Corporations Law, see section 6AA.

“control system” means a system of internal controls and administrative and accounting procedures for the conduct by a licensed operator of the operator’s monitoring operations.

“control system (change) submission” see section 72ZZC.

“control system submission” see section 72ZZB.

“criminal history”, of a person, means the person’s criminal history within the meaning of the *Criminal Law (Rehabilitation of Offenders) Act 1986*, and—

- (a) despite section 6 of that Act, includes a conviction of the person to which the section applies; and
- (b) despite section 5 of that Act, includes a charge made against the person for an offence.

“decrease proposal” means—

- (a) an application made by a licensee under section 57 for a decrease

in the approved number of gaming machines for licensed premises of the licensee; or

- (b) a request made by an approved authority under section 57 for a decrease in the approved number of gaming machines for licensed premises of a licensee; or
- (c) a report made by an inspector under section 57 recommending a decrease in the approved number of gaming machines for licensed premises of a licensee.

“directly interested person”, for a licensed operator, means—

- (a) an approved financier with whom the operator has entered into an agreement or arrangement relating to the operator’s monitoring operations; or
- (b) a secured creditor of the operator.

“disclosure affidavit” see section 72ZZR.

“excluded interested person”, for a licensed operator, means an indirectly interested person of the operator designated by the chief executive to be an excluded interested person for the operator.

“exempt monitoring record” see section 72ZZF(1)(b).

“existing licence” see section 41C(1).

“existing premises” see section 41B(3)(c).

“game” means a game—

- (a) designed to be played on a gaming machine; and
- (b) that is identifiable from all other games by—
 - (i) the name of the game; or
 - (ii) differences in rules or programming.

“gaming duties” means duties about the conduct of gaming prescribed under a regulation.

“gaming employee” means—

- (a) a licensed gaming employee employed under section 75(3), (4) or (5); or

-
- (b) a licensed gaming nominee employed under section 75(3) or (4); or
 - (c) an applicant for a gaming employee's licence employed under section 75(4) or (6); or
 - (d) an applicant for a gaming nominee's licence employed under section 75(4); or
 - (e) a person employed under section 75(9); or
 - (f) the nominee of a licensee.

“increase application” means an application made by a licensee under section 56 for an increase in the approved number of gaming machines for licensed premises of the licensee.

“indirectly interested person”, for a licensed operator, means a person the operator knows, or ought reasonably to know, has an interest in the operator's licence, but does not include a directly interested person of the operator.

“information notice”, for a decision of the commission, means a written notice stating the decision and the reasons for the decision, and also stating—

- (a) if the notice is being given to a person who has a right to appeal against the decision to the Minister—
 - (i) that the person may appeal against the decision to the Minister within 14 days after being given notice of the decision; and
 - (ii) how the appeal may be made; or
- (b) if the notice is being given to a person who has a right to appeal against the decision to a Magistrates Court—
 - (i) that the person may appeal against the decision to a Magistrates Court within 28 days after receiving notice of the decision; and
 - (ii) how the appeal may be made.

“inspector” means a person who is an inspector under this Act.

“interested person”, for a licensed operator, means a directly or indirectly

interested person of the operator.

“key monitoring employee” see section 72ZZS(1).

“key officer” see section 72ZZT.

“licensed gaming employee” means the holder of a gaming employee’s licence in force under this Act.

“licensed gaming nominee” means the holder of a gaming nominee’s licence in force under this Act.

“licensed person” means—

- (a) a licensed repairer; or
- (b) a licensed service contractor; or
- (c) a licensed gaming nominee; or
- (d) a licensed gaming employee; or
- (e) a licensed key monitoring employee.

“money clearance” means—

- (a) the removal of gaming tokens from—
 - (i) the cash box of a gaming machine; or
 - (ii) the banknote acceptor of a gaming machine; or
- (b) the deduction of an amount from money received by a licensee from persons to enable the persons to establish gaming machine credits under a centralised credit system.

“monitoring operations”, of a licensed operator, means operations conducted by the operator under the operator’s licence.

“monitoring record”, of a licensed operator, means a record (including a document) about the operator’s monitoring operations.

“nominee”, of a licensee for premises, see section 76B.

“nominees audit program” means an audit program for investigating licensed gaming nominees approved by the Minister under section 90.

“operators audit program” means an audit program for investigating licensed operators approved by the Minister under section 72ZB.

“ownership”, for a game change or a percentage return to player change, includes the holding of a lease or sublease.

“parent entity”, of a licensed operator, see Corporation’s Law, section 243D(1).¹

“power”, for a delegation by the commission, includes doing an act or making a decision for the purpose of performing a function.

“privately acquired gaming machine” means a gaming machine, other than a rented gaming machine that—

- (a) is purchased or otherwise acquired by a licensee, for use for gaming on the licensee’s licensed premises, from—
 - (i) the chief executive; or
 - (ii) a licensed operator, approved financier, gaming trainer or recognised manufacturer or supplier of gaming machines; or
 - (iii) another licensee; and
- (b) has not been disposed of by the licensee.

“promotions” means an amount, part of an amount, or something else, able to be won by playing a gaming machine, whether or not a winning result for a game is obtained, and made available by a licensee or licensed operator, but, if a winning result for a game is obtained, does not include the amount constituted by the winning result itself.

“rented gaming machine” means a gaming machine—

- (a) provided to a licensee by the chief executive for use for gaming on the licensee’s licensed premises; and
- (b) for which a daily rental fee, calculated under the *Gaming Machine Regulation 1991*, section 37, is required to be taken into account in calculating the monthly fees payable by the licensee under section 164 of this Act.

¹ Corporation’s Law—

243D.(1) (“parent entity”) An entity is a **“parent entity”** of another entity if:

- (a) both are bodies corporate and the first entity is a holding company of the other; or
- (b) the first entity has control over the other.

“supporting material”, for an additional premises application, means—

- (a) for the making of a recommendation under section 41A(1), or the giving of advice under section 41A(8), by the chief executive about the application—any information or document received by the chief executive in response to a notice given under section 41A(2)(b) about the application; or
- (b) for the making of a decision by the commission under section 41B(1), or the fixing by the commission of a number of gaming machines under section 41C, for the application—
 - (i) any information or document mentioned in paragraph (a); or
 - (ii) any information or document received by the commission in response to a notice given under section 41B(2) about the application.

“supporting material”, for an application for a gaming machine licence, means—

- (a) for the making of a recommendation under section 40(1), or the giving of advice under section 40(10), by the chief executive about the application—any information or document received by the chief executive in response to a notice given under section 40(2)(b) about the application; or
- (b) for the making of a decision by the commission under section 38(1)(a), or the fixing by the commission of a number of gaming machines under section 40B, for the application—
 - (i) any information or document mentioned in paragraph (a); or
 - (ii) any information or document received by the commission in response to a notice given under section 40A(1) about the application.

“supporting material”, for an application for a licence under part 4, means—

- (a) for the making of a recommendation by the chief executive under section 79(2) about the application—any information or document received by the chief executive in response to a notice given under section 79(1A) about the application; or

(b) for the making of a decision by the commission under section 80(1) about the application—

- (i) any information or document mentioned in paragraph (a); and
- (ii) any information or document received by the commission in response to a notice given under section 80 (2).

“supporting material”, for an increase application, means—

- (a) for the making of a recommendation by the chief executive under section 56A about the application—any information or document received by the chief executive in response to a notice given under subsection (3) of that section about the application; or
- (b) for the making of a decision by the commission under section 56B about the application—
 - (i) any information or document mentioned in paragraph (a); or
 - (ii) any information or document received by the commission in response to a notice given under section 56B(2) about the application.

“total approved number”, of gaming machines, for 2 or more licensed premises to which a single gaming machine licence relates, means the number representing the total of each of the approved numbers of gaming machines for each of the premises.’.

(3) Section 3, definition **“disclosed associate”**, ‘72ZZ(4)(a) or (b).⁵—

omit, insert—

‘72ZZR(4)(a) or (b).².

(4) Section 3, definition **“service contract”**, ‘provided to a licensee or that is on licensed premises’—

omit, insert—

‘on licensed premises or otherwise in a licensee’s possession,’.

² Section 72ZZR (Disclosure affidavits about persons having influence or receiving benefits)

Amendment of s 6 (Meaning of “associate”)

- 5.** Section 6(a)(ix), ‘a natural person’—
omit, insert—
‘an individual’.

Insertion of new s 6AA

- 6.** After section 6—
insert—

‘Meaning of “control action” under the Corporations Law

‘6AA. For this Act, a person is affected by control action under the Corporations Law if—

- (a) the person has executed a deed of company arrangement under the Law; or
- (b) the person is the subject of a winding-up (whether voluntarily or under a court order) under the Law; or
- (c) the person is the subject of an appointment of an administrator or liquidator under the Law; or
- (d) there is, under the law, a controller for property of the person.’

Amendment of s 12 (Powers of commission)

- 7.** Section 12(2)—
omit.

Amendment of s 24 (Appeals to Minister)

- 8.(1)** Section 24(8)(b)—
omit, insert—

- ‘(b) under section 40B(2), fixing a number of gaming machines for premises that is less than the number sought in the relevant application for the premises; or

- (ba) under section 41B, refusing to approve additional premises as premises to which a club's gaming machine licence relates; or
- (bb) under section 41C(2), fixing a number of gaming machines for additional premises that is less than the number sought in the additional premises application; or'.

(2) Section 24(8)(e) to (h)—

omit, insert—

- '(e) under section 56B(1), refusing to approve an increase in the approved number of gaming machines for a licensee's licensed premises; or
- (f) under section 56B(1), approving an increase in the approved number of gaming machines for a licensee's licensed premises that is less than the increase sought in the relevant application; or
- (g) under section 57B(1), refusing, for a decrease proposal that is an application, to approve a decrease in the approved number of gaming machines for a licensee's licensed premises; or
- (ga) under section 57B(1), approving, for a decrease proposal that is an application, a decrease in the approved number of gaming machines for a licensee's licensed premises that is less than the decrease sought in the application; or
- (gb) under section 57B(1), approving, for a decrease proposal that is a request or report, a decrease in the approved number of gaming machines for a licensee's licensed premises; or
- (h) under section 64(12)(d) or (12A); or'.

(3) Section 24(8)(m)—

omit, insert—

- '(m)under section 94(12)(d) or (12A); or'.

(4) Section 24(9), before paragraph (a)—

insert—

- '(aa) a decision of the chief executive under section 51 refusing to renew a gaming machine licence; or

(ab) a decision of the chief executive under section 65A suspending a gaming machine licence; or’.

(5) Section 24(9)—

insert—

- ‘(c) a decision of the chief executive under section 76E refusing to grant an application for a gaming nominee’s licence; or
- (d) a decision of the chief executive under section 76F refusing to grant an application for a gaming employee’s licence; or
- (e) a decision of the chief executive under section 86 refusing to renew a licence issued under part 4.’.

Replacement of s 31 (Delegation by chief executive)

9. Section 31—

omit, insert—

‘Delegation by Minister

‘30A. The Minister may delegate the Minister’s powers under this Act to—

- (a) the chief executive; or
- (b) an appropriately qualified inspector; or
- (c) an appropriately qualified officer of the department.

‘Delegation by commission

‘30B.(1) The commission may delegate its designated powers to—

- (a) the chief executive; or
- (b) an appropriately qualified inspector; or
- (c) an appropriately qualified officer of the department.

‘(2) In this section—

“**designated powers**”, of the commission, means the powers of the

commission under this Act, other than powers under sections 64(12) and (12A), 65, 72ZO, 94(12) and (12A), 95, 145 and 184.³

‘Delegation by chief executive

‘31. The chief executive may delegate the chief executive’s powers under this Act to—

- (a) an appropriately qualified inspector; or
- (b) an appropriately qualified officer of the department.’

Replacement of s 34 (Police assistance)

10. Section 34—

omit, insert—

‘Criminal history reports for investigations

‘34.(1) This section applies in relation to the investigation of a person for section 29(4), 40(2)(a), 60(1), 72ZC(1), 79(1)(b) and 90A.⁴

‘(2) If the chief executive 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.

‘(3) The report must contain—

- (a) relevant information in the commissioner’s possession; and
- (b) relevant information the commissioner can reasonably obtain by

³ Sections 64 (Cancellation or suspension of gaming machine licences and letters of censure), 65 (Suspension of gaming machine licence pending decision under s 64), 72ZO (Decision of commission), 94 (Cancellation or suspension of licences under this part), 95 (Suspension of licences pending decision under s 94), 145 (Procedure for determination of tenders) and 184 (Review and termination of agreements)

⁴ Sections 29 (Officers of division to be of good repute), 40 (Recommendation by chief executive about application for gaming machine licence), 60 (Investigation of licensees and associates), 72ZC (Conducting investigations), 79 (Consideration of applications) and 90A (Conducting investigations of licensed persons and associates)

asking officials administering police services in other Australian jurisdictions; and

- (c) other relevant information to which the commissioner has access.’.

Amendment of s 38 (Gaming lawful and does not constitute nuisance)

11. Section 38(1)(a), ‘the recommendation’—

omit, insert—

‘any recommendation’.

Amendment of s 39 (Application for gaming machine licences)

12.(1) Section 39(1)—

insert—

‘(f) a subsidiary operator.’.

(2) Section 39(2)—

insert—

‘(c) if the application is made by an applicant mentioned in subsection (1)(f)—the part of special facility premises for which the applicant is a subsidiary operator.’.

(3) Section 39—

insert—

‘**(2A)** An application for a gaming machine licence made by a body corporate that holds, or has applied to become the holder of, a club liquor licence may relate to 2 or more premises.

‘**(2B)** Except as provided under subsection (2A), an application for a gaming machine licence may only relate to single premises.’.

(4) Section 39(3)(b) and (c)—

omit, insert—

‘(b) for an application by an individual—must be signed by the

applicant; and

- (c) for an application by a body corporate—must be signed in the appropriate way; and’.

(5) Section 39(3)(d)(i), ‘a natural person’—

omit, insert—

‘an individual’.

(6) Section 39(3)(e)(iii), before ‘a copy of’—

insert—

‘unless the body corporate is a company that has only 1 director—’.

(7) Section 39(3)(g)(i), ‘subsection (1)(a), (b) or (c)’—

omit, insert—

‘subsection (1)(a), (b), (c) or (f)’.

(8) Section 39(3)(k)—

omit, insert—

‘(k) is to specify—

- (i) the number of gaming machines for which the licence is sought; and
- (ii) if the application relates to 2 or more premises—the number of gaming machines sought for each of the premises; and’.

(9) Section 39—

insert—

(4) In subsection (2)(c), a reference to the part of special facility premises for which an applicant for a gaming machine licence mentioned in subsection (1)(f) is a subsidiary operator is a reference to—

- (a) the part of special facility premises the holder of the special facility liquor licence for the premises has, with the approval of the relevant chief executive, let or sublet to the applicant; or
- (b) the part of special facility premises in relation to which the holder of the special facility liquor licence for the premises has, with the

approval of the relevant chief executive, entered into a franchise or management agreement with the applicant.

‘(5) For subsection (3)(c), an application for a gaming machine licence made by a body corporate is signed in the appropriate way—

- (a) if it is signed—
 - (i) by at least 2 of its executive officers authorised to sign by the body corporate; or
 - (ii) if there is only 1 executive officer of the body corporate—by the officer; or
- (b) if the chief executive considers, for a body corporate having at least 2 executive officers, that paragraph (a) can not reasonably be complied with—if it is signed in the way the chief executive considers appropriate.

‘(6) In this section—

“**relevant chief executive**” means the chief executive of the department in which the *Liquor Act 1992* is administered.

“**special facility liquor licence**” means a licence mentioned in the *Liquor Act 1992*, section 58(1)(f).

“**special facility premises**” means premises to which a special facility liquor licence relates.

“**subsidiary operator**” means—

- (a) an individual or body corporate to which the holder of a special facility liquor licence has, with the approval of the relevant chief executive—
 - (i) let or sublet part of the special facility premises; and
 - (ii) let or sublet the right to sell liquor; or
- (b) an individual or body corporate with which the holder of a special facility liquor licence has, with the approval of the relevant chief executive—
 - (i) entered into a franchise or management agreement for part

- of the special facility premises; and
(ii) let or sublet the right to sell liquor.’.

Replacement of ss 40 and 41

13. Sections 40 and 41—

omit, insert—

‘Recommendation by chief executive about application for gaming machine licence

‘40.(1) The chief executive must—

- (a) consider an application for a gaming machine licence received by the chief executive; and
- (b) after considering the application—make a recommendation to the commission that a gaming machine licence be granted or refused.

‘(2) In considering the application, the chief executive—

- (a) must conduct investigations the chief executive considers are necessary and reasonable to help the chief executive make a recommendation; and
- (b) may, by written notice given to the applicant or an associate of the applicant, require the applicant or associate, within a reasonable time stated in the notice, to give the chief executive further information or a document that is necessary and reasonable to help the chief executive make a recommendation.

‘(3) Also, in considering the application, the chief executive must assess—

- (a) the suitability of the premises to which the application relates (the **“subject premises”**) for the installation and use of gaming machines, having regard to the size and layout of, and facilities on, the premises; and
- (b) if the applicant is an individual—the financial stability, general reputation and character of the applicant; and
- (c) if the applicant is a body corporate—

-
- (i) the financial stability and business reputation of the body corporate; and
 - (ii) the general reputation and character of the secretary and each executive officer of the body corporate; and
 - (d) the suitability of the applicant to be a licensee; and
 - (e) if a person is stated in an affidavit under section 59⁵ as being a person who satisfies a description mentioned in subsection (4)(a) or (b) of that section—the suitability of the person to be an associate of the applicant; and
 - (f) if the chief executive considers it appropriate—the suitability of any other associate of the applicant to be an associate of the applicant.

‘(4) For an application by an individual, the chief executive may, with the applicant’s agreement, cause the applicant’s fingerprints to be taken.

‘(5) Despite subsection (1)(a), if the applicant is an individual, the chief executive is required to consider the application only if the applicant agrees to having the applicant’s fingerprints taken.

‘(6) If the chief executive considers a proposed location for the installation of gaming machines (as shown on the plan of the subject premises accompanying the application, or that plan as amended and resubmitted, or as last amended and resubmitted, under this subsection) is unsuitable, the chief executive must—

- (a) by written notice, advise the applicant accordingly; and
- (b) return the plan to the applicant; and
- (c) ask the applicant to amend, or further amend, and resubmit, the plan within the time stated in the notice.

‘(7) In making a recommendation, the chief executive must have regard to any supporting material for the application.

‘(8) The chief executive must recommend that a gaming machine licence be refused if—

⁵ Section 59 (Disclosure of influential or benefiting parties)

- (a) for an application by an individual—
 - (i) the applicant is not 18; or
 - (ii) the applicant's fingerprints have not been taken under subsection (4) because of the applicant's failure to agree to the action being taken; or
- (b) for an application by a body corporate—the secretary or an executive officer of the body corporate is not 18; or
- (c) the chief executive considers the installation and use of gaming machines on the subject premises is likely to affect adversely—
 - (i) the nature or character of the premises; or
 - (ii) the general use of the premises or the enjoyment of persons using the premises; or
- (d) the applicant fails to comply with a request of the chief executive under subsection (6)(c) without a reasonable excuse.

‘(9) The chief executive may recommend that a gaming machine licence be refused if the applicant, or an associate of the applicant, fails to comply with a requirement of the chief executive under subsection (2)(b) without a reasonable excuse.

‘(10) If the chief executive recommends the grant of a gaming machine licence, the chief executive must advise the commission of the number of gaming machines the chief executive considers are appropriate for the subject premises, or each of the subject premises.⁶

‘(11) If the commission has, for an application for a gaming machine licence, delegated its powers to decide the application to the chief executive, the chief executive—

- (a) is not required to make a recommendation about the application under this section, or give advice under subsection (9); but
- (b) must take the action mentioned in subsection (2)(a) and (3) and, if appropriate, subsection (6), and may take the action mentioned in

⁶ Section 40C sets out matters to which the chief executive must, or may, have regard in giving advice for section 40(8).

subsection (4), as if the chief executive were dealing with the application for making a recommendation under this section.

‘Decision on application for gaming machine licence

‘40A.(1) Before making a decision to grant, or to refuse to grant, a gaming machine licence, the commission may, by written notice given to the applicant for the licence or an associate of the applicant, require the applicant or associate, within a reasonable time stated in the notice, to give the commission further information or a document that is necessary and reasonable to help the commission make the decision.

‘(2) In making its decision, the commission must have regard to any supporting material for the application.

‘(3) The commission may refuse to grant a gaming machine licence if—

- (a) the applicant, without a reasonable excuse, fails to comply with—
 - (i) a requirement of the chief executive under section 40(2)(b);
or
 - (ii) a requirement of the commission under subsection (1); or
- (b) an associate of the applicant, without a reasonable excuse, fails to comply with—
 - (i) a requirement of the chief executive under section 40(2)(b);
or
 - (ii) a requirement of the commission under subsection (1).

‘(4) For an application by a club, the commission must refuse to grant a gaming machine licence if the commission considers—

- (a) that the club, including a voluntary association of persons from which it was formed—
 - (i) has not been operating for at least 2 years before the application was made; or
 - (ii) has not, during the entire period, been pursuing its objects or purposes in good faith; or
- (b) that payments for the rental or lease of the club’s licensed

- premises are unreasonable; or
- (c) if a lease, agreement or arrangement made by the club provides that a person or voluntary association of persons is entitled to receive, or may receive, a payment, benefit or advantage during, or at the end of, the lease, agreement or arrangement—that the provision is unreasonable; or
 - (d) if the election of all or any of the members of the club's management committee or board is or may be decided, or controlled or influenced in a significant way or to a significant degree, by persons who are not voting members of the club or by only some voting members of the club—that this is not in the best interests of the club or its members; or
 - (e) if the voting members of the club, taken as a group, do not, for any reason, have complete and sole control over the election of all members of the club's management committee or board—that this is not in the best interests of the club or its members; or
 - (f) if the voting members of the club do not have an equal right to elect persons, and to nominate or otherwise choose persons for election, to the club's management committee or board—that this is not in the best interests of the club or its members; or
 - (g) if the club does not own its licensed premises and an executive officer or employee of the club is also the club's lessor, or an associate of the club's lessor—that this is not in the best interests of the club or its members; or
 - (h) if an executive officer or employee of the club is a creditor, or an associate of a creditor, of the club—that this is not in the best interests of the club or its members; or
 - (i) if the club's management committee or board does not, for any reason, have complete and sole control over the club's business or operations, or a significant aspect of the club's business or operations—that this is not in the best interests of the club or its members; or
 - (j) that the club is being, or may be, used as a device for individual gain or commercial gain by a person other than the club; or

(k) that the grant of the licence would not be in the public interest.

‘(5) Despite subsection (4)(a), the commission may grant a gaming machine licence to a club if the commission considers the grant—

- (a) is reasonable because of the club’s contractual commitments made in pursuing its objects or purposes; and
- (b) is necessary to meet the reasonable gaming requirements of the club’s members; and
- (c) is in the public interest.

‘(6) For subsection (4)(j), a club is not taken to be used as a device for individual or commercial gain merely because it enters into an agreement or arrangement with a person for the supply of goods or services by the person to the club, if the agreement or arrangement—

- (a) is entered into on reasonable terms; and
- (b) is in the best interests of the club and its members.

‘(7) If the commission grants a gaming machine licence, the gaming machine areas for the premises to which the licence relates are the locations on the premises shown on—

- (a) the plan of the premises that accompanied the application for the licence; or
- (b) the plan mentioned in paragraph (a), as amended and resubmitted, or as last amended and resubmitted, under section 40(6).

‘(8) If, for an application by an individual, the commission refuses to grant a gaming machine licence, the chief executive must have any fingerprints of the applicant taken for the application destroyed as soon as practicable.

‘(9) If the commission grants a gaming machine licence, the chief executive must immediately give written notice of the decision to the applicant.

‘(10) If the commission refuses to grant a gaming machine licence, the chief executive must immediately give the applicant an information notice for the decision.

‘(11) In this section—

“**election**”, of a member of a club’s management committee, includes a matter relating to the election of a member, including, for example, the nomination of a person for election as a member.

‘Fixing number of gaming machines

‘**40B.(1)** This section applies if the commission decides to grant a gaming machine licence.

‘(2) The commission must—

- (a) if the application relates to single premises only—fix the number of gaming machines that may, for the licence, be installed on the premises; or
- (b) if the application relates to 2 or more premises—fix, for each of the premises, the number of gaming machines that may, for the licence, be installed on the premises.⁷

‘(3) If the gaming machine licence is to relate to single premises only (the “**subject premises**”), the number of gaming machines fixed under subsection (2) must not be greater than—

- (a) the number sought in the application; or
- (b) the maximum number prescribed under a regulation for the category of licensed premises to which the subject premises will belong.

‘(4) If the gaming machine licence is to relate to 2 or more premises—

- (a) the number of gaming machines fixed under subsection (2) for particular premises must not be greater than the number sought in the application for the premises; and
- (b) the total number of gaming machines fixed for both or all the premises must not be greater than the maximum number prescribed under a regulation for category 2 licensed premises.

‘(5) If the number of gaming machines fixed for premises is equal to the

⁷ Section 40C sets out matters to which the commission must, or may, have regard in fixing a number of gaming machines for licensed premises.

number sought in the application for the premises, the chief executive must immediately give written notice of the decision to the applicant.

‘(6) If the number of gaming machines fixed for premises is less than the number sought in the application for the premises, the chief executive must immediately give the applicant an information notice for the decision.

‘Matters to be taken into account for advising on or fixing number of gaming machines

‘40C.(1) This section applies to the chief executive in giving advice to the commission under section 40(9).

‘(2) This section also applies to the commission in fixing, under section 40B, the number of gaming machines that may, for a gaming machine licence, be installed on premises.

‘(3) The commission or chief executive must have regard to—

- (a) the number of gaming machines sought in the application for the gaming machine licence; and
- (b) any supporting material for the application.

‘(4) The commission or chief executive also may have regard to—

- (a) the liquor consumption on the premises to which the application relates; and
- (b) the hours and days when the premises are open for the sale of liquor; and
- (c) the size and layout of, and facilities on, the premises; and
- (d) the size and layout of the proposed gaming machine areas for the premises; and
- (e) the anticipated level of gaming on the premises; and
- (f) for an application by a club—the number of members of the club; and
- (g) any other matters the commission or chief executive considers relevant.

‘Application by clubs for additional licensed premises

‘41.(1) A club that is a licensee may apply for approval of premises, additional to its existing licensed premises, as premises to which the club’s gaming machine licence relates.

‘(2) The application for approval may be made only for—

- (a) premises to which a club liquor licence held by the applicant relates; or
- (b) if the applicant has made an application for a club liquor licence and the application has not been decided—the premises to which the application for the club liquor licence relates.

‘(3) The application for approval must—

- (a) be in the approved form; and
- (b) be given to the chief executive; and
- (c) be signed in the appropriate way; and
- (d) state the full name, address and date of birth of the secretary and each executive officer of the applicant; and
- (e) give full particulars of the ownership, and any intended ownership, of the premises to which the application relates (the **“additional premises”**); and
- (f) state the number of gaming machines intended to be installed on the additional premises; and
- (g) be accompanied by—
 - (i) the required material for the application; and
 - (ii) any fee prescribed under a regulation for the application.

‘(4) For subsection (3)(c), the application is signed in the appropriate way—

- (a) if it is signed by at least 2 executive officers of the applicant authorised to sign by the applicant; or
- (b) if the chief executive considers that paragraph (a) can not reasonably be complied with—if it is signed in the way the chief executive considers appropriate.

- ‘(5) For subsection (3)(g)(i), the required material for the application is—
- (a) a copy of the resolution or minute of the proceedings of the governing body of the applicant by which approval was given to the making of the application, certified as a true copy by the secretary of the applicant or another person authorised to certify by the applicant; and
 - (b) a statement stating—
 - (i) the number of members in each class of membership of the applicant; and
 - (ii) the hours and days when the additional premises are, or are intended to be, open for the sale of liquor; and
 - (c) a statutory declaration by the principal executive officer of the applicant that the rules or by-laws of the applicant—
 - (i) have been complied with in making the application; and
 - (ii) do not prohibit the playing of gaming machines on the additional premises; and
 - (d) one of the following—
 - (i) evidence, satisfactory to the chief executive, that the applicant is the holder of a club liquor licence for the additional premises;
 - (ii) a copy of an application for a club liquor licence for the additional premises made by the applicant; and
 - (e) a plan of the additional premises showing the proposed locations for gaming machines intended to be installed on the premises; and
 - (f) an affidavit under section 59;⁸ and
 - (g) any other documents the chief executive considers necessary and reasonable to enable the application to be decided.

⁸ Section 59 (Disclosure of influential or benefiting parties)

‘Recommendation by chief executive about additional premises application

‘41A.(1) The chief executive must—

- (a) consider an additional premises application received by the chief executive; and
- (b) after considering the application—make a recommendation to the commission that approval of the additional premises, as premises to which the applicant’s gaming machine licence relates, be given or refused.

‘(2) In considering the application, the chief executive—

- (a) must conduct investigations the chief executive considers are necessary and reasonable to help the chief executive make a recommendation; and
- (b) may, by written notice given to the applicant or an associate of the applicant, require the applicant or associate, within a reasonable time stated in the notice, to give the chief executive further information or a document that is necessary and reasonable to help the chief executive make a recommendation.

‘(3) Also, in considering the application, the chief executive must assess—

- (a) the suitability of the additional premises for the installation and use of gaming machines, having regard to the size and layout of, and facilities on, the premises; and
- (b) the financial stability and business reputation of the applicant; and
- (c) the general reputation and character of the secretary and each executive officer of the applicant; and
- (d) if a person is stated in an affidavit under section 59⁹ as being a person who satisfies a description mentioned in subsection (4)(a) or (b) of that section—the suitability of the person to be an associate of the applicant; and
- (e) if the chief executive considers it appropriate—the suitability of

⁹ Section 59 (Disclosure of influential or benefiting parties)

any other associate of the applicant to be an associate of the applicant.

‘(4) If the chief executive considers a proposed location for the installation of gaming machines (as shown on the plan of the additional premises accompanying the application, or that plan as amended and resubmitted, or as last amended and resubmitted, under this subsection) is unsuitable, the chief executive must—

- (a) by written notice, advise the applicant accordingly; and
- (b) return the plan to the applicant; and
- (c) ask the applicant to amend, or further amend, and resubmit, the plan within the time stated in the notice.

‘(5) In making a recommendation, the chief executive must have regard to any supporting material for the application.

‘(6) The chief executive must recommend that approval be refused if—

- (a) the chief executive considers the installation and use of gaming machines on the additional premises is likely to affect adversely—
 - (i) the nature or character of the premises; or
 - (ii) the general use of the premises or the enjoyment of persons using the premises; or
- (b) the applicant fails to comply with a request of the chief executive under subsection (4)(c) without a reasonable excuse.

‘(7) The chief executive may recommend that approval be refused if the applicant, or an associate of the applicant, fails to comply with a requirement of the chief executive under subsection (2)(b) without reasonable excuse.

‘(8) If the chief executive recommends that approval of the additional premises be given, the chief executive must advise the commission of the number of gaming machines the chief executive considers are appropriate for the premises.

‘(9) For giving advise for subsection (8), the chief executive—

- (a) must have regard to the number of gaming machines sought in

the application for the additional premises; and

- (b) must have regard to any supporting material for the application; and
- (c) may have regard to the same matters, in relation to the additional premises, as the chief executive may, in giving advice for section 40(9), have regard to under section 40C(4), in relation to premises to which an application for a gaming machine licence relates.

‘(10) If the commission has, in relation to an additional premises application, delegated its powers to decide the application to the chief executive, the chief executive—

- (a) is not required to make a recommendation about the application under this section, or give advice under subsection (8); but
- (b) must take the action mentioned in subsection (2)(a) and (3) and, if appropriate, subsection (4), as if the chief executive were dealing with the application for making a recommendation under this section.

‘Decision on additional premises application

‘41B.(1) The commission may, in relation to an additional premises application, approve or refuse to approve the additional premises as premises to which the applicant’s gaming machine licence relates.

‘(2) Before making its decision, the commission may, by written notice given to the applicant or an associate of the applicant, require the applicant or associate, within a reasonable time stated in the notice, to give the commission further information or a document that is necessary and reasonable to help the commission make the decision.

‘(3) In making its decision, the commission—

- (a) must have regard to any recommendation of the chief executive about the application; and
- (b) must have regard to any supporting material for the application; and
- (c) may have regard to the benefits to be offered to members of the

applicant at the additional premises and, in particular, whether the benefits are distinct in nature to the benefits offered to the members at the applicant's existing licensed premises (the **“existing premises”**); and

(d) may have regard to any other issues the commission considers relevant.

‘(4) The commission may approve the additional premises only if—

(a) the additional premises are near the existing premises; and

(b) the commission is satisfied that—

(i) it is in the best interests of the applicant's members that the approval be given; and

(ii) the giving of the approval is not contrary to the public interest.

‘(5) The commission may refuse to approve the additional premises if—

(a) the applicant, without a reasonable excuse, fails to comply with—

(i) a requirement of the chief executive under section 41A(2)(b); or

(ii) a requirement of the commission under subsection (2); or

(b) an associate of the applicant, without a reasonable excuse, fails to comply with—

(i) a requirement of the chief executive under section 41A(2)(b); or

(ii) a requirement of the commission under subsection (2).

‘(6) If the commission approves the additional premises, the chief executive must immediately give written notice of the decision to the applicant.

‘(7) If the commission refuses to approve the additional premises, the chief executive must immediately give the applicant an information notice for the decision.

‘Fixing number of gaming machines for additional premises

‘41C.(1) This section applies if the commission decides to approve additional premises as premises to which the applicant’s gaming machine licence (the **“existing licence”**) relates.

‘(2) The commission must fix the number of gaming machines that may, for the existing licence, be installed on the additional premises.

‘(3) The number of gaming machines fixed under subsection (2)—

- (a) must not be greater than the number sought in the application; and
- (b) must be a number that, when added to the approved number, or total approved number, of gaming machines for the existing premises, does not result in a total number of gaming machines that is greater than the maximum number prescribed under a regulation for category 2 licensed premises.

‘(4) In fixing the number of gaming machines under subsection (2), the commission—

- (a) must have regard to any supporting material for the application; and
- (b) may have regard to the same matters, in relation to the additional premises, as the commission may, in fixing a number of gaming machines for section 40B, have regard to under section 40C(4), in relation to premises to which an application for a gaming machine licence relates.

‘(5) If the number of gaming machines fixed for the additional premises is equal to the number sought in the additional premises application, the chief executive must immediately give written notice of the decision to the applicant.

‘(6) If the number of gaming machines fixed for the additional premises is less than the number sought in the additional premises application, the chief executive must immediately give the applicant an information notice for the decision.

‘Application of gaming machine licence to additional premises

‘41D.(1) This section applies if the commission decides to approve additional premises as premises to which the applicant’s existing licence relates.

‘(2) On return of the existing licence to the chief executive, the chief executive must—

- (a) amend the licence to cover the additional premises and return the amended licence to the licensee; or
- (b) if the chief executive does not consider it practicable to amend the licence—issue a replacement gaming machine licence, incorporating the additional premises, to the licensee.

‘(3) On action being taken by the chief executive under subsection (2)—

- (a) the gaming machine licence relates to the additional premises for the number of gaming machines decided by the commission for the premises; and
- (b) the gaming machine areas for the additional premises are the locations on the premises shown on—
 - (i) the plan of the additional premises that accompanied the additional premises application; or
 - (ii) the plan mentioned in subparagraph (i), as amended and resubmitted, or as last amended and resubmitted, under section 41A(4); and
- (c) the gaming machine licence continues to have effect in relation to the existing premises in the way the licence had effect in relation to the premises immediately before the action was taken.’.

Amendment of s 42 (Changes in circumstances of applicants for and holders of licences)

14.(1) Section 42, heading—

omit, insert—

‘Changes in circumstances of applicants for gaming machine licences and licensees generally’.

(2) Section 42(3)(b)(iii)—

omit, insert—

‘(iii) if the holder is a body corporate—is affected by control action under the Corporations Law; or’.

Insertion of new s 42A

15. After section 42—

insert—

‘Changes in circumstances of licensees of category 2 licensed premises

‘42A.(1) This section applies to a licensee of category 2 licensed premises, in relation to the premises, if—

- (a) a lease, agreement or arrangement made by the licensee about the premises was in existence at the relevant time; and
- (b) the lease, agreement or arrangement—
 - (i) provided for payments for the rental or lease of the premises; or
 - (ii) provided that a person was entitled to receive, or may receive, a payment of another kind, or a benefit or advantage; and
- (c) there is a material change affecting the provisions mentioned in paragraph (b).

‘(2) The licensee must, within 7 days after the change, give written notice of the change to the chief executive.

Maximum penalty—40 penalty units.

‘(3) For subsection (1)(a), the relevant time, for the licensee of the category 2 licensed premises, is—

- (a) the time the licensee became the licensee of the premises; or
- (b) if appropriate, the time the gaming machine licence held by the

licensee for the premises was renewed, or last renewed.

‘(4) For subsection (1)(c), there is a material change affecting the lease, agreement or arrangement mentioned in the subsection if—

- (a) if subsection (1)(b)(i) applies—
 - (i) a change happens affecting the amount or frequency of the payments or the period for which the payments are required to be made; or
 - (ii) the person entitled to receive the payments changes; or
- (b) if subsection (1)(b)(ii) applies—
 - (i) a change happens affecting the amount of the payment, or the nature or extent of the benefit or advantage; or
 - (ii) the person entitled to receive, or who may receive, the payment, benefit or advantage changes.’.

Amendment of s 43 (Issue of gaming machine licences)

16.(1) Section 43, heading, after ‘**licences**’—

insert—

‘**generally**’.

(2) Section 43(2)—

omit, insert—

‘(2) The gaming machine licence must be in the approved form, which must provide for the inclusion of the following particulars—

- (a) the name of the licensee;
- (b) the location of the premises, or each of the premises, to which the licence relates;
- (c) the expiry date of the licence;
- (d) any conditions of the licence imposed under section 48(1)(b).’.

Insertion of new s 44

17. After section 43—

insert—

‘Issue of amalgamated gaming machine licences to clubs

‘44.(1) This section applies if, at its commencement, a club holds more than 1 gaming machine licence, each for separate premises.

‘(2) Within 1 month after the commencement, the chief executive must issue a single, fresh gaming machine licence (an “**amalgamated licence**”) to the licensee to replace the gaming machine licences held by the licensee at the commencement (the “**superseded licences**”).

‘(3) The amalgamated licence—

- (a) is to relate to each of the premises that, at the commencement, were licensed premises of the licensee; and
- (b) for its application to particular premises—has the same effect for all purposes as the superseded licence had for the premises.

‘(4) The amalgamated licence must be in the approved form, which must provide for the inclusion of the following particulars—

- (a) the name of the licensee;
- (b) the location of each of the premises to which the licence relates;
- (c) the date of issue of the licence;
- (d) the expiry date of the licence;
- (e) any conditions of the licence (other than conditions applying because of section 48(1)(a)).

‘(5) Despite subsection (3)(b), the date to be stated in the amalgamated licence as the expiry date is the date that is the later or latest superseded expiry date.

‘(6) A condition to be stated in the amalgamated licence must be a condition to the same effect as a condition stated in a superseded licence.

‘(7) On the issue of the amalgamated licence to the licensee, each superseded licence held by the licensee is cancelled.

‘(8) Within 14 days after receiving the amalgamated licence, the licensee must return each superseded licence in the licensee’s possession to the chief executive.

Maximum penalty—40 penalty units.

‘(9) In this section—

“**superseded expiry date**” means the date stated in a superseded licence as the expiry date of the licence.’.

Amendment of s 45 (Gaming machine licences to be displayed)

18.(1) Section 45, from ‘A licensee’ to ‘machine licence’—

omit, insert—

‘If a licensee’s gaming machine licence relates to single premises only, the licensee must display the licensee’s licence’.

(2) Section 45—

insert—

‘(2) If a licensee’s gaming machine licence relates to 2 or more premises, the licensee must display a copy of the licence in a conspicuous position in each of the premises.

Maximum penalty—40 penalty units.’.

Amendment of s 47 (Term of gaming machine licences)

19. Section 47(1), ‘2 years’—

omit, insert—

‘5 years’.

Amendment of s 51 (Renewal and continuance of gaming machine licences)

20. Section 51(5) and (6)—

omit, insert—

‘(5) If a licensee complies with this section, the chief executive must renew the licence for 5 years starting on—

- (a) if an extension was not given under subsection (3)—the day after its last expiry; or
- (b) if an extension was given under subsection (3)—the day after the day it would have last expired apart from the extension.

‘(6) If an application under subsection (1) is refused, the chief executive must immediately give the applicant written notice of, and the reasons for, the decision.

‘(7) If a gaming machine licence is not renewed, the chief executive must, as soon as practicable after the expiry of the licence, give written notice of the expiry to any licensed operator the chief executive believes was, immediately before the expiry, supplying basic monitoring services to the person who held the licence.

‘(8) Subsection (7) applies to a non-renewal whether or not it follows the making of an application for renewal.’

Replacement of ss 55–57

21. Sections 55 to 57—

omit, insert—

‘Removal of rented gaming machines

‘**55.(1)** This section applies to gaming machines on licensed premises only if the gaming machines are rented gaming machines.

‘(2) The chief executive may at any time remove from licensed premises any or all of the gaming machines on the premises and provide the licensee with another gaming machine or other gaming machines.

‘(3) If the commission approves a decrease in the approved number of gaming machines for licensed premises, the chief executive must remove from the premises the number of gaming machines stated for the decrease.

‘(4) If a gaming machine licence is cancelled, or is not renewed, the chief executive must remove the gaming machines from the premises to which the licence related.

‘(5) Subsection (4) applies to a non-renewal whether or not it follows the making of an application for renewal.

‘(6) For removing gaming machines from premises under subsection (2), (3) or (4), or providing gaming machines to a licensee under subsection (2), the chief executive may decide the gaming machine type, game, gaming token denomination and betting unit for the machines.

‘Directions to licensees about authorised gaming machines

‘55A.(1) The chief executive may direct a licensee to alter an authorised gaming machine of the licensee to change the game that may be played on the machine.

‘(2) However, the chief executive may give a direction about a gaming machine only if—

- (a) the chief executive reasonably believes—
 - (i) the machine malfunctions when it is being used; and
 - (ii) the making of the proposed alteration will stop the malfunctioning; and
 - (iii) that, if the proposed alteration is not made, the continued use of the machine may compromise proper standards of integrity affecting gaming or adversely affect the public interest in some other way; or
- (b) the game that may be played on the machine is not a game approved under section 146.¹⁰

‘(3) A direction must—

- (a) be in writing; and
- (b) state the grounds on which it is given; and
- (c) state when the licensee to whom it is given is required to comply with the direction.

‘(4) A licensee to whom a direction is given must comply with the

¹⁰ Section 146 (Acceptance by chief executive of gaming machines and games for evaluation)

direction, unless the licensee has a reasonable excuse.

Maximum penalty for subsection (4)—200 penalty units.

‘Application to increase approved number of gaming machines

‘56.(1) A licensee may apply to have the approved number of gaming machines for licensed premises of the licensee increased.

‘(2) An application must—

- (a) be in the approved form; and
- (b) be given to the chief executive; and
- (c) be signed in the same way an application for a gaming machine licence is required to be signed;¹¹ and
- (d) if the licensee’s gaming machine licence relates to 2 or more premises—state the premises to which the application relates; and
- (e) state the number of gaming machines sought under the increase; and
- (f) state the approved number of gaming machines that would apply to the licensed premises if the increase were to be approved; and
- (g) if appropriate, be accompanied by an application under section 58; and
- (h) be accompanied by any fee prescribed under a regulation for the application.

‘Recommendation by chief executive about increase application

‘56A.(1) The chief executive must—

- (a) consider an increase application received by the chief executive; and
- (b) after considering the application—make a recommendation to the

¹¹ See section 39(3)(b) and (c) and (5).

commission about the application.¹²

‘(2) The recommendation must be a recommendation that—

- (a) approval for the increase sought in the application be given; or
- (b) approval be given for an increase that is less than the increase sought in the application; or
- (c) approval for an increase be refused.

‘(3) In considering an increase application, the chief executive may, by written notice given to the applicant, require the applicant, within a reasonable time stated in the notice, to give the chief executive further information or a document that is necessary and reasonable to help the chief executive make a recommendation.

‘(4) The chief executive may recommend that approval for an increase be refused if the applicant fails to comply with a requirement of the chief executive under subsection (3) without a reasonable excuse.

‘(5) The chief executive is not required to make a recommendation about an increase application under this section if the commission has delegated its powers under section 56B in relation to the application to the chief executive.

‘Decision on increase application

‘**56B.(1)** The commission may, in relation to an increase application—

- (a) approve, by a stated number, an increase in the approved number of gaming machines for the licensed premises of the licensee; or
- (b) refuse to approve an increase in the approved number.

‘(2) Before making its decision, the commission may, by written notice given to the applicant, require the applicant, within a reasonable time stated in the notice, to give the commission further information or a document that is necessary and reasonable to help the commission make the decision.

‘(3) In making its decision, the commission must have regard to any

¹² Section 56C sets out matters to which the chief executive must, or may, have regard in making a recommendation about an increase application.

recommendation of the chief executive about the application.¹³

‘(4) The commission may refuse to approve an increase if the applicant, without a reasonable excuse, fails to comply with—

- (a) a requirement of the chief executive under section 56A(3); or
- (b) a requirement of the commission under subsection (2).

‘(5) If the commission approves an increase that is equal to the increase sought in the application, the chief executive must immediately give written notice of the decision to the licensee.

‘(6) If the commission refuses to approve an increase, or approves an increase that is less than the increase sought in the application, the chief executive must immediately give the licensee an information notice for the decision.

‘Matters to be taken into account for increase application

‘56C.(1) This section applies to the chief executive in making a recommendation to the commission about an increase application.

‘(2) This section also applies to the commission in deciding an increase application.

‘(3) The commission or chief executive must have regard to—

- (a) the increased number of gaming machines sought in the application; and
- (b) any supporting material for the application.

‘(4) The commission or chief executive also may have regard to—

- (a) the liquor consumption on the premises to which the application relates; and
- (b) the monthly taxable metered win of gaming machines currently operated on the premises; and
- (c) the hours and days when the premises are open for the sale of

¹³ Section 56C sets out other matters to which the commission must, or may, have regard in deciding an increase application.

liquor; and

- (d) the size and layout of, and facilities on, the premises, together with any proposed changes to, or relocation of, the gaming machine areas of the premises; and
- (e) any other matters the commission or chief executive considers relevant.

‘Fixing increase number of gaming machines

‘56D.(1) This section applies for the giving of an approval by the commission under section 56B(1) for an increase in the approved number of gaming machines for licensed premises of a licensee.

‘(2) The number (the **“increase number”**) fixed by the commission as the number by which the approved number is to be increased must not be greater than the number of gaming machines sought in the relevant application.

‘(3) Also, if the licensee’s gaming machine licence relates to single premises only (the **“licensee’s premises”**), the increase number must be a number that, when added to the current approved number of gaming machines for the premises, does not result in a total number of gaming machines that is greater than the maximum number prescribed under a regulation for the category of licensed premises to which the licensee’s premises belong.

‘(4) Also, if the licensee’s gaming machine licence relates to 2 or more premises, the increase number must be a number that, when added to the current, total approved number of gaming machines for both or all the premises, does not result in a total number of gaming machines that is greater than the maximum number prescribed under a regulation for category 2 licensed premises.

‘Proposals to decrease approved number of gaming machines

‘57.(1) A licensee may apply to have the approved number of gaming machines for licensed premises of the licensee decreased.

‘(2) An approved authority may request that the approved number of

gaming machines for licensed premises of a licensee be decreased.

‘(3) An inspector may make a report—

- (a) relating to a material change affecting a licensee that has happened since the licensee was granted a gaming machine licence; and
- (b) recommending that the approved number of gaming machines for the licensee’s licensed premises be decreased.

‘(4) An application, request or report must—

- (a) be in writing; and
- (b) be given to the chief executive; and
- (c) state, by reference to a number, the decrease applied for, requested or recommended; and
- (d) state the approved number of gaming machines that would apply to the licensed premises if the decrease were to be approved; and
- (e) for an application—if appropriate, be accompanied by an application under section 58.

‘(5) For subsection (3), a change is a material change affecting a licensee if the change is—

- (a) a general change of conditions in the neighbourhood in which the licensee’s licensed premises are situated; or
- (b) a change in the licensee’s circumstances; or
- (c) a change in any of the matters mentioned in section 40C(4)¹⁴ relating to the licensee or licensee’s licensed premises.

‘Recommendation by chief executive about decrease proposal

‘57A.(1) The chief executive must—

- (a) consider a decrease proposal received by the chief executive; and
- (b) after considering the proposal—make a recommendation to the

¹⁴ Section 40C (Matters to be taken into account for advising on or fixing number of gaming machines)

commission about the proposal.¹⁵

‘(2) The recommendation must be a recommendation that—

- (a) approval for the decrease sought or recommended in the proposal be given; or
- (b) approval be given for a decrease that is less than the decrease sought or recommended in the proposal; or
- (c) approval for a decrease be refused.

‘(3) If the decrease proposal is a request or report, the chief executive must, before making a recommendation—

- (a) by written notice given to the licensee affected by the proposal, advise the licensee of the relevant details of the proposal; and
- (b) by the notice, invite the licensee to make a written submission about the proposal within a reasonable time stated in the notice; and
- (c) consider any written submission of the licensee received by the chief executive within the time stated in the notice.

‘(4) The chief executive’s recommendation must be accompanied by any submission required to be considered by the chief executive under subsection (3)(c).

‘(5) If the commission has delegated its powers under section 57B in relation to a decrease proposal to the chief executive, the chief executive—

- (a) is not required to make a recommendation about the proposal under this section; but
- (b) must take the action mentioned in subsection (3) as if the chief executive were dealing with the proposal for making a recommendation under this section.

¹⁵ Section 57C sets out the matters to which the chief executive must, or may, have regard in making a recommendation about a decrease proposal.

‘Decision on decrease proposal

‘57B.(1) The commission may, in relation to a decrease proposal—

- (a) approve, by a stated number, a decrease in the approved number of gaming machines for the licensed premises of the licensee; or
- (b) refuse to approve a decrease in the approved number.

‘(2) In making its decision, the commission must have regard to—

- (a) any recommendation of the chief executive about the proposal; and
- (b) any submission accompanying the recommendation.¹⁶

‘(3) If the decrease proposal is an application, the commission—

- (a) must not refuse to approve a decrease if the refusal is likely to impose an unreasonable financial burden on the licensee; and
- (b) may not approve a decrease that is greater than the decrease sought in the application.

‘(4) If the decrease proposal is a request or report, the commission may not approve a decrease if the approval is likely to impose an unreasonable financial burden on the licensee.

‘(5) If the commission approves a decrease in the approved number of gaming machines for licensed premises of a licensee and the gaming machines on the licensed premises are privately acquired gaming machines, the chief executive must approve the way in which the gaming machines the subject of the decrease may be disposed of.

‘(6) An approval under subsection (5) may provide for the disposal of the gaming machines either—

- (a) by the sale of the machines to—
 - (i) another licensee; or
 - (ii) a licensed operator, approved financier, licensed service contractor, licensed repairer or gaming trainer; or

¹⁶ Section 57C sets out other matters to which the commission must, or may, have regard in deciding a decrease proposal.

(b) by the destruction of the machines.

‘(7) The chief executive must immediately give written notice of a decision of the commission under subsection (1) to the licensee if—

- (a) the decision relates to an application and is a decision approving a decrease that is equal to the decrease sought in the application; or
- (b) the decision relates to a request or report and is a decision refusing to approve a decrease.

‘(8) The chief executive must immediately give the licensee an information notice for a decision of the commission under subsection (1) if—

- (a) the decision relates to an application and is a decision—
 - (i) refusing to approve a decrease; or
 - (ii) approving a decrease that is less than the decrease sought in the application; or
- (b) the decision relates to a request or report and is a decision approving a decrease.

‘(9) A notice under subsection (7) or (8) must include notice of, or be accompanied by written notice of, any relevant approval of the chief executive under subsection (5).

‘Matters to be taken into account for decrease proposal

‘57C.(1) This section applies to the chief executive in making a recommendation to the commission about a decrease proposal.

‘(2) This section also applies to the commission in deciding a decrease proposal.

‘(3) The commission or chief executive must have regard to the decrease sought or recommended in the proposal.

‘(4) The commission or chief executive also may have regard to the following matters—

- (a) the public interest;
- (b) whether or not there are any other licensed premises in close

proximity to the licensed premises to which the decrease proposal relates (the “**subject premises**”);

- (c) the interests of persons using the subject premises;
- (d) if the licensee of the subject premises is a club—
 - (i) the interests of the members of the club; and
 - (ii) whether or not the members have indicated support for a decrease in the approved number of gaming machines for the premises.

‘Surrender or disposal of gaming machines on approval of decrease

‘**57D.(1)** This section applies if the commission approves a decrease in the approved number of gaming machines for licensed premises.

‘**(2)** If the gaming machines on the licensed premises are rented gaming machines, the licensee must, within the required time, surrender the number of gaming machines stated for the decrease—

- (a) to the chief executive; or
- (b) if the chief executive, by written notice given to the licensee, designates another person as the person to whom the gaming machines are to be surrendered—to the other person.

Maximum penalty—200 penalty units.

‘**(3)** If the gaming machines on the licensed premises are privately acquired gaming machines, the licensee must, within the required time, dispose of the number of gaming machines stated for the decrease.¹⁷

Maximum penalty—200 penalty units.

‘**(4)** For subsections (2) and (3), the required time for taking action under the relevant subsection is—

- (a) the period ending 1 month after the licensee receives notice of the

¹⁷ Section 57D(3) does not deal with the issue of the disposal of privately acquired gaming machines contrary to an approval. However, in this regard, see sections 135 (Manufacture, sale, supply, obtaining or possession of gaming machines) and 142A (Destruction of gaming machines).

decision approving the decrease; or

- (b) if the chief executive extends, or further extends, the period for taking the action, by written notice given to the licensee in the period or extended period—the period as extended.

‘(5) The chief executive may give an extension for subsection (4)(b) only if the chief executive considers it is appropriate to take the action in the circumstances of the particular case.’.

Amendment of s 58 (Relocation of gaming machine areas)

22. Section 58(4)(a)—

omit, insert—

- ‘(a) the commission approves a decrease in the approved number of gaming machines for licensed premises; or’.

Amendment of s 59 (Disclosure of influential or benefiting parties)

23.(1) Section 59(1)—

omit, insert—

‘(1) An applicant for a gaming machine licence, or a licensee who applies for a renewal of a gaming machine licence or makes an additional premises application, must, at the time of making the application, give the chief executive an affidavit under this section.’.

(2) Section 59(3)(a)—

omit, insert—

- ‘(a) if the applicant or licensee is an individual—the applicant; or’.

(3) Section 59(3)(b), words before subparagraph (i)—

omit, insert—

- ‘(b) if the applicant or licensee is a body corporate—’.

(4) Section 59(4)(a)(i) and (ii)—

omit, insert—

- ‘(i) if the applicant or licensee is an individual—by the applicant;
or
- (ii) if the applicant or licensee is a body corporate—by the body corporate, or the secretary or an executive officer of the body corporate;’.

(5) Section 59(4)(c)(i), ‘a natural person’—
omit, insert—
‘an individual’.

Amendment of s 62 (Surrender of gaming machine licences)

24.(1) Section 62(2), ‘or executed’—
omit.

(2) Section 62(5) and (6)—
omit, insert—

‘(5) As soon as practicable after receiving the documents mentioned in subsection (1), the chief executive must—

- (a) if the gaming machines on the licensee’s licensed premises are rented gaming machines—remove the gaming machines from the premises; or
- (b) if the gaming machines on the licensee’s licensed premises are privately acquired gaming machines—by written notice given to the licensee, approve the way in which the gaming machines may be disposed of.

‘(6) Also, the chief executive must, as soon as practicable after receiving the documents mentioned in subsection (1), give written notice of the notification of surrender to any licensed operator the chief executive believes is supplying basic monitoring services to the licensee.

‘(7) An approval under subsection (5)(b) may provide for the disposal of the gaming machines either—

- (a) by the sale of the machines to—
 - (i) another licensee; or

(ii) a licensed operator, approved financier, licensed service contractor, licensed repairer or gaming trainer; or

(b) by the destruction of the machines.

‘(8) A licensee to whom notice of an approval is given under subsection (5)(b) must dispose of the gaming machines on the licensee’s licensed premises—

(a) within 1 month after receiving the notice; or

(b) if the chief executive extends, or further extends, the period for the disposal, by written notice given to the licensee in the period or extended period—within the period as extended.¹⁸

Maximum penalty—200 penalty units.

‘(9) The chief executive may give an extension for subsection (8)(b) only if the chief executive considers it is appropriate to take the action in the circumstances of the particular case.

‘(10) The surrender of the gaming machine licence takes effect on the later of the following—

(a) the nominated day for the surrender of the licence;

(b) the day immediately after the day that is the clearance day for the surrender of the licence.

‘(11) In this section—

“**clearance day**”, for the surrender of a gaming machine licence, means—

(a) if the gaming machines on the licensee’s licensed premises are rented gaming machines—the day the chief executive removes the gaming machines from the premises for the surrender; or

(b) if the gaming machines on the licensee’s licensed premises are privately acquired gaming machines—the day on which the chief executive becomes satisfied the licensee has disposed of the gaming machines for the surrender.

¹⁸ Section 62(8) does not deal with the issue of the disposal of privately acquired gaming machines contrary to an approval. However, in this regard, see sections 135 (Manufacture, sale, supply, obtaining or possession of gaming machines) and 142A (Destruction of gaming machines).

“nominated day”, for the surrender of a gaming machine licence, means—

- (a) if paragraph (b) or (c) does not apply—the day (the **“set day”**) that is 3 months after the notification of surrender is given; or
- (b) if a day of effect that is later than the set day is stated in the notification of surrender—the day stated in the notification; or
- (c) if, at the request of the licensee, the chief executive, by written notice, approves a day of effect that is earlier than the set day—the day approved by the chief executive.’.

Replacement of s 63 (Cancellation or suspension of gaming machine licences in certain circumstances)

25. Section 63—

omit, insert—

‘Action affecting gaming machine licences based on action affecting liquor licences

‘63.(1) If a liquor licence is cancelled, transferred or surrendered, any associated gaming licence is cancelled.

‘(2) If a liquor licence is suspended, any associated gaming licence is suspended for the same period as the liquor licence is suspended.

‘(3) However, if an associated gaming licence relates to 2 or more premises, subsections (1) and (2) apply to the licence only to the extent it relates to the premises to which the liquor licence relates or related.

‘(4) If the premises to which a liquor licence relates (the **“subject premises”**) are taken to be unlicensed premises under the *Liquor Act 1992* and there is an associated gaming licence for the liquor licence, the premises, or the part of the premises to which the associated gaming licence relates, are taken not to be licensed premises under this Act for the same period as the subject premises are taken to unlicensed premises under the *Liquor Act 1992*.

‘(5) In this section—

“associated gaming licence”, for a liquor licence, means a gaming

machine licence for the premises, or a part of the premises, to which the liquor licence relates.’.

Amendment of s 64 (Cancellation or suspension of gaming machine licences and letters of censure)

26.(1) Section 64(1)(a)—

insert—

‘(vii) fails to take all reasonable steps to establish and maintain satisfactory controls, and administrative and accounting procedures, for the conduct of gaming in carrying on the licensee’s operations; or’.

(2) Section 64(1)(b)(iii)—

omit, insert—

‘(iii) is affected by control action under the Corporations Law; or’.

(3) Section 64(1)(b)—

insert—

‘(vii) contravenes a provision of this Act (not being a provision a contravention of which is an offence against this Act, or a provision imposing a requirement of a kind mentioned in subparagraph (v) or (vi)); or’.

(4) Section 64(1)(c)(iv), ‘section 40(2)’—

omit, insert—

‘section 40(1)’.

(5) Section 64(1)(c)(v)(C) to (G)—

omit, insert—

‘(C) that the club has not been pursuing its objects or purposes in good faith; or’.

(6) Section 64(1)(c)(v)—

insert—

‘(L) that a matter mentioned in a paragraph of section 40A(4)¹⁹ (other than paragraph (a)) exists in relation to the club.’.

(7) Section 64(3)—

omit, insert—

‘**(3)** The chief executive must give a copy of the notice to show cause to each person the chief executive believes is an interested person of the licensee.

‘**(3A)** Also, the chief executive may, by the notice to show cause—

- (a) require the licensee, within the period stated in the notice, to give a copy of the notice to each interested person of the licensee (other than an interested person to whom a copy of the notice is given under subsection (3)); and
- (b) if the chief executive considers it appropriate—require the licensee to give the copy in the way the chief executive considers appropriate.’.

(8) Section 64(4) and (5), after ‘notice’—

insert—

‘to show cause’.

(9) Section 64—

insert—

‘**(5A)** If the chief executive makes a requirement of the licensee under subsection (3A)(a) about an indirectly interested person of the licensee, the chief executive may, at the licensee’s request, by written notice given to the licensee, designate the person to be an excluded interested person for the licensee.

‘**(5B)** However, the chief executive may designate a person to be an excluded interested person for the licensee only if the chief executive considers it would not be appropriate, or would be unreasonable, in the circumstances to require the licensee to give a copy of the notice to show

¹⁹ Section 40A (Decision on application for gaming machine licence)

cause to the person, having regard to the following issues—

- (a) the nature of the person's interest;
- (b) the likelihood of the person's interest not being affected adversely by a suspension or cancellation of the gaming machine licence;
- (c) the likelihood of the licensee's interest being improperly prejudiced;
- (d) another issue the chief executive considers relevant.

(5C) If a requirement is made of the licensee under subsection (3A), the licensee must comply with the requirement, unless—

- (a) the licensee has a reasonable excuse; or
- (b) the interested person to whom the requirement relates is an excluded interested person for the licensee.

Maximum penalty—40 penalty units.’.

(10) Section 64(6), after ‘notice’, first mention—

insert—

‘to show cause’.

(11) Section 64(7), ‘a copy notice is issued under subsection (3)’—

omit, insert—

‘a copy of the notice to show cause is given, or is required to be given, under this section’.

(12) Section 64(8)(a), after ‘to the notice’—

insert—

‘and, by written notice, is to advise the licensee accordingly’.

(13) Section 64—

insert—

(12A) If the commission gives a direction to the licensee under subsection (12)(c) and the licensee fails to comply with the direction within the time stated in the relevant notice, the commission may—

- (a) cancel the gaming machine licence; or

(b) suspend the gaming machine licence for the period the commission considers appropriate.

‘**(12B)** If, under subsection (12), the commission decides to take no action about a gaming machine licence, the chief executive must immediately give the licensee written notice of the decision.’.

(14) Section 64(16), after ‘subsection (12)(d)’—

insert—

‘or (12A)’.

(15) Section 64—

insert—

‘**(17)** In this section—

“**directly interested person**”, for a licensee, means—

- (a) an approved financier with whom the licensee has entered into an agreement or arrangement relating to operations conducted by the licensee under the licensee’s gaming machine licence; or
- (b) a secured creditor of the licensee; or
- (c) if the licensee is a club—a member of the club.

“**excluded interested person**”, for a licensee, means an indirectly interested person of the licensee designated by the chief executive to be an excluded interested person for the licensee.

“**indirectly interested person**”, for a licensee, means a person the licensee knows, or ought reasonably to know, has an interest in the licensee’s gaming machine licence, but does not include a directly interested person of the licensee.

“**interested person**”, for a licensee, means a directly or indirectly interested person of the licensee.’.

Amendment of s 65 (Suspension of gaming machine licence pending decision under s 64)

27.(1) Section 65, heading—

omit, insert—

‘Immediate suspension of gaming machine licence’.

(2) Section 65(1), words after ‘licence’—

omit.

(3) Section 65—

insert—

‘(5) The suspension of a gaming machine licence under this section continues to have effect until the notice to show cause issued to the licensee by the chief executive in complying with subsection (4) is finally dealt with.’.

Insertion of new s 65A

28. After section 65—

insert—

‘Suspension of gaming machine licence for non-payment of monthly fees, gaming tax or penalty

‘65A.(1) This section applies if the amount (the “**required amount**”) a licensee is, under section 170(1),²⁰ required to ensure is received by the chief executive for a month is not received by the chief executive on or before the due date for payment of the amount.

‘(2) This section also applies if the amount of an instalment (also the “**required amount**”) a licensee is, because of a direction given to the licensee under section 170(1A), required to ensure is received by the chief executive is not received by the chief executive on or before the due date for payment of the amount.

‘(3) The chief executive may suspend the licensee’s gaming machine licence.

‘(4) The suspension—

(a) must be effected by written notice (a “**suspension notice**”) given

²⁰ Section 170 (Payment of monthly fees, taxes etc.)

to the licensee with a notice to show cause (an **“associated show cause notice”**) issued to the licensee under section 64(2); and

- (b) operates immediately the suspension notice is given; and
- (c) continues to operate until the associated show cause notice is finally dealt with.

‘(5) The associated show cause notice must be a notice for which the ground for cancellation or suspension on which the notice is based is the ground that the licensee has failed to comply with section 170, and the ground must relate to the same omission as the suspension under subsection (1) relates.

‘(6) Despite subsection (4)(c), if, before the associated show cause notice is finally dealt with, the outstanding amount for the required amount is received by the chief executive, or arrangements for payment of the outstanding amount satisfactory to the chief executive are entered into between the chief executive and licensee, the suspension of the gaming machine licence is cancelled.

‘(7) The cancellation of a suspension under subsection (6) takes effect on receipt by the chief executive of the outstanding amount, or the entering into of the arrangements for payment of the outstanding amount.

‘(8) In this section—

“due date for payment”, for the required amount mentioned in subsection (1), means—

- (a) the day on or before which the amount is, under section 170(1), required to be received by the chief executive; or
- (b) if the chief executive, by written notice given to the licensee before the day mentioned in paragraph (a), fixes a later day—the later day fixed by the chief executive.

“due date for payment”, for the required amount mentioned in subsection (2), means—

- (a) the day on or before which the amount is, under the direction, required to be received by the chief executive; or
- (b) if the chief executive, by written notice given to the licensee before the day mentioned in paragraph (a), fixes a later day—the

later day fixed by the chief executive.

“**outstanding amount**”, for the required amount, means the difference between the required amount and any amount received under section 170(1) by the chief executive, on or before the due date for payment of the required amount.’.

Amendment of s 66 (Effect of suspension of licence)

29. Section 66, after ‘64(12)’—

insert—

‘or (12A)’.

Insertion of new s 66A

30. After section 66—

insert—

‘Notices to interested persons

‘**66A.(1)** This section applies if the chief executive—

- (a) is required, under section 64(8)(a), not to take any action or any further action about a notice to show cause issued to a licensee under section 64(2); or
- (b) issues a letter of censure to a licensee under section 64(8)(b); or
- (c) gives directions to a licensee under section 64(8)(c); or
- (d) suspends a gaming machine licence under section 65A(3).

‘**(2)** This section also applies if, under section 64(12), the commission—

- (a) decides to take no action about a gaming machine licence; or
- (b) causes a letter of censure to be issued to a licensee; or
- (c) gives a direction to a licensee; or
- (d) cancels or suspends a gaming machine licence.

‘**(3)** This section also applies if the commission—

- (a) cancels or suspends a gaming machine licence under section 64(12A); or
- (b) suspends a gaming machine licence under section 65(1).

‘(4) As soon as practicable after an event mentioned in subsection (1), (2) or (3) happens, the chief executive must give written notice of the event to each person to whom the chief executive gave a copy of the relevant notice to show cause under section 64(3).

‘(5) Also, the licensee must, within 7 days after receiving a show cause result notice for an event mentioned in subsection (1), (2) or (3), give a copy of the notice to each person to whom the licensee gave, or was required to give, a copy of the relevant notice to show cause because of a requirement under section 64(3A).

Maximum penalty—40 penalty units.

‘(6) For subsections (4) and (5), an event for subsection (1)(a) is taken to be the arising of a requirement mentioned in the paragraph.

‘(7) In this section—

“show cause result notice” means—

- (a) a written notice given by the chief executive advising of—
 - (i) the arising of a requirement mentioned subsection (1)(a); or
 - (ii) the making of a decision mentioned in subsection (2)(a); or
 - (iii) the taking of action mentioned in subsection (1)(d), (2)(d) or (3)(a) or (b); or
- (b) a letter of censure mentioned in subsection (1)(b) or (2)(b); or
- (c) the notice by which a direction mentioned in subsection (1)(c) or (2)(c) is given.’.

Amendment of s 68 (Recovery of gaming machines etc.)

31.(1) Section 68, heading—

omit, insert—

‘Amounts payable under gaming machine licence that ceases to have effect’.

(2) Section 68(2)—

omit.

Insertion of new ss 68A and 68B

32. After section 68—

insert—

‘Recovery or disposal of gaming machines and other property on cancellation or non-renewal of gaming machine licence

‘68A.(1) This section applies if a gaming machine licence—

- (a) is cancelled; or
- (b) is not renewed (whether or not the non-renewal follows the making of an application for renewal).

‘(2) The person who held the licence must give all reasonable help to the chief executive, or any person acting for the chief executive, to enable the removal from the premises to which the licence related of the following—

- (a) any rented gaming machines;
- (b) any other gaming equipment that is the property of the State;
- (c) any ancillary or related property of the State.

Maximum penalty—200 penalty units.

‘(3) If the gaming machines on the premises to which the licence related are privately acquired gaming machines, the chief executive must, by written notice given to the person who held the licence, immediately approve the way in which the gaming machines may be disposed.

‘(4) The approval under subsection (3) may provide for the disposal of the gaming machines either—

- (a) by the sale of the machines to a licensee, licensed operator, approved financier, licensed service contractor, licensed repairer or gaming trainer; or

(b) by the destruction of the machines.

‘(5) The person to whom notice of an approval is given under subsection (3) must dispose of the gaming machines to which the approval relates—

- (a) within 1 month after receiving the notice; or
- (b) if the chief executive extends, or further extends, the period for the disposal, by written notice given to the person in the period or extended period—within the period as extended.²¹

Maximum penalty—200 penalty units.

‘(6) The chief executive may give an extension for subsection (5)(b) only if the chief executive considers it is appropriate to take the action in the circumstances of the particular case.

‘Destruction of fingerprints

‘68B. If a person who is an individual ceases to be a licensee, the chief executive must have any fingerprints of the person taken for the application for the gaming machine licence destroyed as soon as practicable.’.

Amendment of s 69 (Appointment of administrator instead of suspension)

33. Section 69(1), after ‘64(12)’—

insert—

‘or (12A)’.

²¹ Section 68A(5) does not deal with the issue of the disposal of privately acquired gaming machines contrary to an approval. However, in this regard, see sections 135 (Manufacture, sale, supply, obtaining or possession of gaming machines) and 142A (Destruction of gaming machines).

Omission of s 72D (Control action under the Corporations Law)**34.** Section 72D—

omit.

Omission of s 72N (Criminal history reports for investigation)**35.** Section 72N—

omit.

Amendment of s 72O (Recommendation about application)**36.** Section 72O—

insert—

‘(6) If the commission has delegated its powers under section 72P in relation to an application for an operator’s licence to the chief executive, the chief executive—

- (a) is not required to make a recommendation about the application under this section; but
- (b) must have regard to the issues mentioned in subsection (2), and, if appropriate, may have regard to the issue mentioned in subsection (3), as if the chief executive were dealing with the application for making a recommendation under this section.’.

Amendment of s 72ZA (Surrender of licence)**37.** Section 72ZA—

insert—

‘(5) The licensed operator (the “**surrendering operator**”) must give a copy of the notice of surrender to—

- (a) any licensee to whom the operator is supplying basic monitoring services; and
- (b) any other licensed operator using the electronic monitoring system of the surrendering operator, or a part of the system, to

supply basic monitoring services to licensees.

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

Replacement of ss 72ZB–72ZD

38. Sections 72ZB to 72ZD—

omit, insert—

‘Approving audit programs

‘72ZB.(1) The Minister may approve—

- (a) an audit program for investigating licensed operators; and
- (b) an audit program for investigating associates of licensed operators.

‘(2) An audit program approved by the Minister may not provide for the investigation of persons under the program at intervals of less than 2 years.

‘Conducting investigations

‘72ZC.(1) The chief executive may investigate a licensed operator to help the chief executive decide whether the operator is a suitable person to hold an operator’s licence.

‘(2) The chief executive may investigate an associate of a licensed operator to help the chief executive decide whether the associate is a suitable person to be an associate of a licensed operator.

‘(3) However, the chief executive may investigate a licensed operator only if—

- (a) the investigation is conducted under an operators audit program; or
- (b) the chief executive reasonably suspects the operator is not a suitable person to hold an operator’s licence.

‘(4) Also, the chief executive may investigate an associate of a licensed operator only if—

- (a) the investigation is conducted under an associates (operators)

audit program; or

- (b) the chief executive reasonably suspects the associate is not a suitable person to be an associate of the licensed operator; or
- (c) for an associate who became an associate of the licensed operator after the issue of the operator's licence—the associate has not been investigated previously under an associates (operators) audit program.

'(5) The chief executive must ensure the investigation of a person under an operators program or associates (operators) audit program is conducted in compliance with the program.'

Amendment of s 72ZG (Grounds for suspension or cancellation)

39. Section 72ZG(1)—

insert—

- '(g) helps or induces a licensee to do or fail to do something that constitutes a ground for suspending or cancelling the licensee's gaming machine licence.²²'.

Amendment of s 72ZH (Show cause notice)

40. Section 72ZH(2)—

insert—

- '(e) stating any requirements made of the operator by the chief executive under section 72ZI(2).'

Replacement of s 72ZI (Involvement of interested persons in show cause process)

41. Section 72ZI—

omit, insert—

²² See section 64 (Cancellation or suspension of gaming machine licences and letters of censure).

‘Involvement of interested persons in show cause process

‘72ZL.(1) The chief executive must give a copy of the show cause notice to each person the chief executive believes is an interested person of the licensed operator.

‘(2) Also, the chief executive may, by the show cause notice—

- (a) require the licensed operator, within the period stated in the notice, to give a copy of the notice to each interested person of the operator (other than an interested person to whom a copy of the notice is given under subsection (1)); and
- (b) if the chief executive considers it appropriate—require the licensed operator to give the copy in the way the chief executive considers appropriate.

‘(3) If a requirement under subsection (2)(a) relates to an indirectly interested person of the licensed operator, the chief executive may, at the operator’s request, by written notice given to the operator, designate the person to be an excluded interested person for the operator.

‘(4) However, the chief executive may designate a person to be an excluded interested person for the licensed operator only if the chief executive considers it would not be appropriate, or would be unreasonable, in the circumstances to require the licensed operator to give a copy of the show cause notice to the person, having regard to the following issues—

- (a) the nature of the person’s interest;
- (b) the likelihood of the person’s interest not being affected adversely by a suspension or cancellation of the operator’s licence;
- (c) the likelihood of the operator’s interest being improperly prejudiced;
- (d) another issue the chief executive considers relevant.

‘(5) If a requirement is made of the licensed operator under subsection (2), the operator must comply with the requirement, unless—

- (a) the operator has a reasonable excuse; or
- (b) the interested person to whom the requirement relates is an excluded interested person for the operator.

Maximum penalty—40 penalty units.

‘(6) An interested person to whom a copy of the show cause notice is given, or is required to be given, under this section may make written representations about the notice to the chief executive in the show cause period.’.

Amendment of s 72ZJ (Consideration of representations)

42. Section 72ZJ(b)—

omit, insert—

‘(b) an interested person of the licensed operator to whom a copy of the show cause notice is given, or is required to be given.’.

Amendment of s 72ZK (Ending show cause process without further action)

43. Section 72ZK(2), after ‘notice’—

insert—

‘and, by written notice, must advise the licensed operator accordingly’.

Amendment of s 72ZO (Decision of commission)

44.(1) Section 72ZO(1)—

insert—

‘(f) appoint an administrator to conduct the licensed operator’s monitoring operations under the operator’s licence.’.

(2) Section 72ZO(3)—

insert—

‘(c) appoint an administrator to conduct the licensed operator’s monitoring operations under the operator’s licence.’.

(3) Section 72ZO—

insert—

‘(4) If, under subsection (1), the commission decides not to take any action about a licensed operator or operator’s licence, the chief executive must immediately give the licensed operator written notice of the decision.’

Amendment of s 72ZP (Suspension or cancellation)

45.(1) Section 72ZP, heading—

omit, insert—

‘Suspension, cancellation and appointment of administrator’.

(2) Section 72ZP(1), after ‘licence,’—

insert—

‘or to appoint an administrator to conduct a licensed operator’s monitoring operations,’.

Insertion of new s 72ZRA

46. After section 72ZR—

insert—

‘Terms of appointment, and role, of administrator

72ZRA.(1) This section applies if the commission appoints an administrator to conduct a licensed operator’s monitoring operations.

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

‘(3) The administrator—

- (a) has full control of, and responsibility for, the monitoring operations (including operations relating to anything that had been started but not finished at the time of the administrator’s appointment); and
- (b) subject to any directions of the Minister, must conduct the monitoring operations as required by this Act as if the administrator were the licensed operator.

‘(4) The costs of and incidental to the conduct and administration of the

monitoring operations by the administrator (the “**administration costs**”) are payable by the licensed operator.

‘(5) Any profits derived from the conduct of the monitoring operations by the administrator are, after payment of the administration costs, to be paid to the licensed operator.’

Replacement of s 72ZS (Notices to interested persons)

47. Section 72ZS—

omit, insert—

‘Notices to interested persons

‘72ZS.(1) This section applies if the chief executive—

- (a) is required, under section 72ZK(2), not to take further action about a show cause notice given to a licensed operator under section 72ZH(2); or
- (b) censures a licensed operator under section 72ZL(3); or
- (c) directs a licensed operator to rectify a matter under section 72ZM(3).

‘(2) This section also applies if, under section 72ZO(1), the commission—

- (a) decides not to take any action about a licensed operator or operator’s licence; or
- (b) censures a licensed operator; or
- (c) directs a licensed operator to rectify a matter; or
- (d) suspends or cancels an operator’s licence; or
- (e) appoints an administrator to conduct a licensed operator’s monitoring operations.

‘(3) This section also applies if the commission—

- (a) suspends or cancels an operator’s licence under section 72ZO(3); or
- (b) appoints an administrator under section 72ZO(3) to conduct a

licensed operator's monitoring operations; or

(c) suspends an operator's licence under section 72ZQ(1).

'(4) As soon as practicable after an event mentioned in subsection (1), (2) or (3) happens, the chief executive must give written notice of the event to each person to whom the chief executive gave a copy of the relevant show cause notice under section 72ZI(1).

'(5) Also, the licensed operator must, within 7 days after receiving a show cause result notice for an event mentioned in subsection (1), (2) or (3), give a copy of the notice to each person to whom the operator gave, or was required to give, a copy of the relevant show cause notice because of a requirement under section 72ZI(2).

Maximum penalty—40 penalty units.

'(6) For subsections (4) and (5), an event for subsection (1)(a) is taken to be the arising of a requirement mentioned in the paragraph.

'(7) In this section—

“show cause result notice” means—

(a) a written notice given by the chief executive advising of—

(i) the arising of a requirement mentioned in subsection (1)(a);
or

(ii) the making of a decision mentioned in subsection (2)(a); or

(iii) the taking of action mentioned in subsection (2)(d) or (e)
or (3)(a), (b) or (c); or

(b) the notice by which action mentioned in subsection (1)(b) or (c)
or (2)(b) or (c) is taken.'

Insertion of new ss 72ZVA and 72ZVB

48. After section 72ZV—

insert—

‘Notice by licensed operator of failure of licensee to pay certain amounts

‘72ZVA.(1) This section applies if a licensee fails to pay to a licensed operator, on or before the due date for payment—

- (a) a basic monitoring fee payable by the licensee to the operator for basic monitoring services supplied by the operator to the licensee; or
- (b) another amount payable by the licensee to the operator for a matter relating to the operator’s monitoring operations.

‘(2) The licensed operator must give the chief executive a notice as required by this section advising of the licensee’s failure to pay the fee or other amount on or before the due date for payment.

Maximum penalty—40 penalty units.

‘(3) The notice must—

- (a) be in writing; and
- (b) be given to the chief executive within 1 month after the due date for payment of the fee or other amount.

‘(4) The notice must state—

- (a) the matter for which the fee or other amount is payable; and
- (b) the due date for payment; and
- (c) the amount involved; and
- (d) whether or not, when the notice is given, the fee or other amount remains unpaid.

‘(5) If the contract between the licensed operator and licensee under which the fee or other amount is payable does not state a due date for payment of the fee or other amount, a reference in this section to the due date for payment is a reference to the date that is 1 month after the incurring of liability for payment of the amount.

‘(6) In this section, a reference to a basic monitoring fee or other amount includes a reference to a part of a basic monitoring fee or other amount.

‘Storing and handling gaming equipment and other property

‘72ZVB.(1) A licensed operator must not use premises for storing or handling gaming equipment or any ancillary or related property of the operator, unless the premises are approved by the chief executive for the purpose.

Maximum penalty—200 penalty units.

‘(2) An application for the approval of premises must be made in the way prescribed under a regulation.’.

Replacement of s 72ZW (Returns about licensed key monitoring employees)

49. Section 72ZW—

omit, insert—

‘Returns about employees

‘72ZW.(1) A licensed operator must give the chief executive a return as required by this section stating—

- (a) the name and licence number of each person employed by the operator as a licensed key monitoring employee when the return is given; and
- (b) the name of each other person employed by the operator (other than a person employed as a licensed repairer) for the operator’s monitoring operations when the return is given.

Maximum penalty—40 penalty units.

‘(2) The return must be in the approved form.

‘(3) The return must be given—

- (a) within 7 days after the operator’s licence is issued; and
- (b) at other times, within 7 days after being requested by the chief executive to give the return.

‘(4) A request of the chief executive for subsection (3)(b)—

- (a) must be in writing; and

- (b) must not be made within 1 month of—
- (i) the time by which the licensed operator is required to give a return under subsection (3)(a); or
 - (ii) a previous request made to the licensed operator for subsection (3)(b).’.

Insertion of new s 72ZZ

50. Part 3A, division 7, after section 72ZY—

insert—

‘Requirement to end key officer’s role

‘72ZZ.(1) This section applies if—

- (a) a key monitoring employee’s licence held by a key officer for a licensed operator is cancelled or suspended; or
- (b) a key officer for a licensed operator ceases to hold a key monitoring employee’s licence for some other reason.

‘(2) The chief executive may, by written notice given to the licensed operator, require the operator to take any action that is necessary and reasonable to ensure the person ceases to be a key officer for the operator within the time stated in the notice.

‘(3) The licensed operator must comply with the requirement, unless the operator has a reasonable excuse.

Maximum penalty—40 penalty units.

‘(4) This section applies to a licensed operator despite any other Act or law.

‘(5) A licensed operator does not incur any liability because of action taken to comply with a requirement under this section.’.

Insertion of new pt 3A, div 7A—

51. Part 3A—

insert—

Division 7A—Compliance requirements

Subdivision 1—Control systems

‘Approved control system for licensed operator’s monitoring operations

‘72ZZA.(1) A licensed operator must not conduct the operator’s monitoring operations unless—

- (a) the operator has an approved control system for the operations; and
- (b) the operations are conducted under the system.

Maximum penalty—200 penalty units.

‘(2) A licensed operator must not change the operator’s approved control system except in accordance with a direction or approval of the chief executive.

Maximum penalty for subsection (2)—200 penalty units.

‘Control system submission

‘72ZZB.(1) A licensed operator may make a submission (a **“control system submission”**) to the chief executive for approval of the operator’s proposed control system.

‘(2) A control system submission must be in writing and be made—

- (a) at least 90 days before the licensed operator proposes to start conducting the operator’s monitoring operations; or
- (b) if the chief executive considers it appropriate to allow a submission to be made at a later time—by the time allowed by the chief executive.

‘(3) A control system submission must describe and explain the licensed operator’s proposed control system.

‘(4) In particular, a control system submission for the licensed operator’s monitoring operations must include information about—

- (a) the following things to be used for the monitoring operations—
 - (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 monitoring operations; and
- (c) the procedures and standards for the maintenance, security, storage and transportation of equipment to be used for the monitoring operations; and
- (d) 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

‘72ZZC.(1) A licensed operator may make a submission (a “**control system (change) submission**”) to the chief executive for approval to change the operator’s approved control system.

‘(2) A control system (change) submission must be in writing and be made—

- (a) at least 90 days before the licensed operator proposes to put the proposed changes into effect; or
- (b) if the chief executive considers it appropriate to allow a submission to be made at a later time—by the time allowed by the chief executive.

‘(3) A control system (change) submission must contain particulars of the proposed changes of the licensed operator’s approved control system.

‘Dealing with submissions

‘72ZZD.(1) This section applies to a control system submission or control system (change) submission made to the chief executive by a

licensed operator.

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

‘(3) In considering the submission, the chief executive may, by written notice given to the licensed operator, require the operator, within a reasonable time stated in the notice, to give the chief executive further information 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 subdivision for the submission;
- (b) whether the licensed operator’s proposed control system, or approved control system as proposed to be changed, is capable of providing satisfactory and effective control over the operator’s monitoring operations.

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

‘(6) The chief executive must immediately give the licensed operator written notice of the chief executive’s decision about the submission.

‘(7) If the chief executive refuses to give an approval, the notice of the decision—

- (a) must state the reasons for the decision; and
- (b) if the chief executive believes the submission can easily be changed to enable the chief executive to give an approval—must also—
 - (i) explain how the submission may be changed; and
 - (ii) invite the licensed operator to resubmit the submission after making the appropriate changes.

‘Direction to change approved control system

‘72ZZE.(1) The chief executive may, by written notice given to a licensed operator, direct the operator to change the operator’s approved control system within the time, and in the way, stated in the notice.

‘(2) The licensed operator must comply with the direction.

‘(3) If the licensed operator does not comply with the direction, at the end of the time stated in the notice for compliance, the operator’s approved control system is taken to have been changed in the way stated in the notice.

‘Subdivision 2—Monitoring records**‘Notices about keeping monitoring records**

‘72ZZF.(1) The chief executive may, by written notice given to a licensed operator—

- (a) approve a place (the **“approved place”**) nominated by the operator as the place where the operator is required to keep the operator’s monitoring records; or
- (b) specify a monitoring record of the operator (an **“exempt monitoring record”**) that is not required to be kept at the approved place; or
- (c) specify a monitoring record of the operator 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 monitoring record in a way different from the way the information was kept when the record was being used by the operator; or
- (e) approve the destruction of a monitoring record the chief executive considers need not be kept.

‘(2) The chief executive may specify a monitoring 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.

‘(3) A monitoring record mentioned in subsection (1)(c) is also an “**exempt monitoring record**”—

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

‘(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 monitoring record.

‘Monitoring records to be kept at certain place

‘**72ZZG.(1)** A licensed operator must keep the operator’s monitoring records at—

- (a) the operator’s principal place of business in the State or, if the operator is a corporation and has its registered office in the State, its registered office; or
- (b) an approved place for the records.

Maximum penalty—40 penalty units.

‘(2) Subsection (1) does not apply to an exempt monitoring record.

‘Monitoring records to be kept for required period

‘**72ZZH.(1)** A licensed operator must keep a monitoring record 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 monitoring record if—

- (a) the information previously contained in the record is kept in another way under an approval of the chief executive; or
- (b) the record has been destroyed under an approval of the chief executive.

‘(3) Subsection (1) has effect subject to any other law about the retention or destruction of the monitoring record.

‘Subdivision 3—Financial accounts, statements and reports

‘Keeping of accounts

‘72ZZI. A licensed operator must—

- (a) keep accounting records that correctly record and explain the transactions and financial position for the operator’s monitoring operations; 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—100 penalty units.

‘Preparation of financial statements and accounts

‘72ZZJ.(1) A licensed operator must prepare financial statements and accounts as required by this section giving a true and fair view of the financial operations of the operator conducted under the operator’s licence.

Maximum penalty—100 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

‘72ZZK.(1) A licensed operator must give reports to the chief executive as required by this section about the operator’s monitoring operations.

Maximum penalty—100 penalty units.

‘(2) The reports must be given at the times stated in a written notice

given to the licensed operator by the chief executive.

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

‘(4) The chief executive may, by written notice given to a licensed operator, require the operator to give the chief executive further information about a report within a reasonable time stated in the notice to help the chief executive acquire a proper appreciation of the operator’s monitoring operations.

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

Maximum penalty—100 penalty units.

‘(6) A licensed operator must not give the chief executive a report containing information, or further information about a report, the operator knows to be false, misleading or incomplete in a material particular.

Maximum penalty—200 penalty units.

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

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

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

‘Subdivision 4—Financial institution accounts

‘Keeping of accounts

‘7ZZL. A licensed operator 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 operator's monitoring operations.

Maximum penalty—40 penalty units.

'Use of accounts

'72ZZM. A licensed operator 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.

'Subdivision 5—Audit

'Audit guidelines

'72ZZN.(1) The chief executive may prepare guidelines (“**audit guidelines**”) for the carrying out of audits under this subdivision.

'(2) The chief executive must keep copies of the audit guidelines available for inspection and permit a person—

- (a) to inspect the guidelines without fee; and
- (b) to take extracts from the guidelines without fee.

'(3) Also, the chief executive must keep copies of the audit guidelines available for supply to persons and permit a person to obtain a copy of the guidelines, or a part of the guidelines, without fee.

'(4) For subsection (2)—

- (a) copies of the audit guidelines—
 - (i) must be kept at the head office and any regional office of the department; and
 - (ii) may be kept at any other place the chief executive considers appropriate; and
- (b) the copies of the guidelines kept at a place must be available for inspection during office hours on business days for the place.

‘Audit of monitoring operations

‘7ZZZO. As soon as practicable after the end of a financial year, a licensed operator must, at the operator’s own expense, cause the operator’s books, accounts and financial statements for the operator’s monitoring operations for the financial year to be audited by a registered company auditor approved by the chief executive.

Maximum penalty—200 penalty units.

‘Carrying out of audit

‘7ZZZP.(1) The auditor must—

- (a) to the extent it is reasonably practicable, comply with any audit guidelines in carrying out the audit; and
- (b) complete the audit within 3 months after the end of the financial year; and
- (c) immediately after completing the audit, give a copy of the audit report to the licensed operator.

Maximum penalty—40 penalty units.

‘(2) Subsection (1)(b) does not apply to the auditor if—

- (a) in the circumstances, it would be unreasonable to require the auditor to comply with the paragraph; and
- (b) the auditor completes the audit as soon as practicable.

‘Licensed operator to give documents about audit to chief executive

‘7ZZZQ.(1) Within 14 days after the licensed operator receives a copy of the audit report, the operator must give a copy of the report to the chief executive, together with—

- (a) a copy of the audited financial statements for the operator’s monitoring operations for the relevant financial year; and
- (b) to the extent to which the audited financial statements do not contain the required details of revenue and expenditure—a copy of a profit and loss statement containing the required details of

revenue and expenditure for the operator's monitoring operations for the relevant financial year; and

- (c) if an entity is a parent entity of the licensed operator—a copy of the consolidated financial statements for the parent entity.

Maximum penalty—200 penalty units.

‘(2) On receiving a document under subsection (1), the chief executive may, by written notice given to the licensed operator, require the operator to give the chief executive, within a reasonable time stated in the notice, further information about a matter relating to the operator's monitoring operations mentioned in the document.

‘(3) The licensed operator must comply with a requirement under subsection (2) within the time stated in the notice, unless the operator has a reasonable excuse.

Maximum penalty—200 penalty units.

‘(4) In this section—

“required details of expenditure”, for a licensed operator's monitoring operations for a financial year, means details of expenditure incurred by the operator for the year for a matter in carrying on the monitoring operations, including, for example—

- (a) the payment of wages; and
- (b) the payment of consultancy fees; and
- (c) the supply of gaming equipment, or ancillary or related equipment; and
- (d) the acquisition, supply, maintenance or use of information technology (whether or not, in the case of maintenance, it is being used by the operator or someone else, or, in the case of use, it is the operator's or someone else's technology).

“required details of revenue”, for a licensed operator's monitoring operations for a financial year, means details of revenue received by the operator for the year for a matter in carrying on the monitoring operations, including, for example—

- (a) the supply of basic monitoring services; and

- (b) the supply of information technology for use for supplying basic monitoring services; and
- (c) the supply of gaming equipment, or ancillary or related equipment; and
- (d) the supply of services relating to any of the following matters (whether or not the services are associated with the supply of equipment)—
 - (i) training;
 - (ii) marketing;
 - (iii) linked jackpot arrangements;
 - (iv) the giving of advice about management.’.

Amendment of s 72ZZ (Disclosure affidavits about persons having influence or receiving benefits)

52. Part 3A, division 8, section 72ZZ—
renumber as section 72ZZR.

Amendment of pt 4 hdg (Licensing of repairers, service contractors, machine managers and key monitoring employees)

53. Part 4, heading, ‘MACHINE MANAGERS’—
omit, insert—

‘GAMING NOMINEES, GAMING EMPLOYEES’.

Insertion of new ss 72ZZS and 72ZZT

54. Part 4, before section 73—
insert—

‘Meaning of key monitoring employee

‘72ZZS.(1) A person employed by a licensed operator for the operator’s monitoring operations is a **“key monitoring employee”** of the operator if

the person—

- (a) occupies or acts in a managerial position, or carries out managerial functions, in relation to the operations; or
- (b) is in a position to affect or significantly influence the operations; or
- (c) occupies or acts in a position designated in the operator's approved control system as a key position.

'(2) Subsection (1)(a) applies to a position only if the position is designated by the chief executive as a key position.

'(3) Subsection (1)(a) applies to functions only if the functions are designated by the chief executive as key functions.

'(4) Subsection (1)(b) applies to an employee of a licensed operator only if the employee is designated by the chief executive as being in a key position.

'(5) A designation of the chief executive for subsection (2), (3) or (4) must be made by written notice given to the licensed operator.

'Meaning of key officer

'72ZZT. A person is a **"key officer"** of a licensed operator if the person is a person (other than a person employed by the operator) who—

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

Amendment of s 74 (Unlicensed persons not to be service contractors)

55. Section 74(1), 'a licensee, a person on behalf of a licensee'—

omit, insert—

‘a licensed operator’.

Replacement of s 75 (Unlicensed persons not to be machine managers)

56. Section 75—

omit, insert—

‘Licensing requirements for carrying out gaming duties on licensed premises

‘75.(1) A person must not carry out gaming duties on licensed premises unless the person is—

- (a) an appropriately licensed person employed by the licensee under subsection (3), (4) or (5) to carry out the duties for the premises; or
- (b) an applicant for an appropriate licence employed by the licensee under subsection (4) or (6) to carry out the duties for the premises; or
- (c) a person employed by the licensee under subsection (9) to carry out the duties for the premises; or
- (d) an eligible licensee for the premises; or
- (e) a nominee of the licensee for the premises.

Maximum penalty—200 penalty units.

‘(2) A person must not employ or allow, or cause another person to employ or allow, a person (the **“employee”**) to carry out gaming duties on licensed premises unless the employee is—

- (a) an appropriately licensed person employed under subsection (3), (4) or (5) to carry out the duties for the premises; or
- (b) an applicant for an appropriate licence employed under subsection (4) or (6) to carry out the duties for the premises; or
- (c) a person employed under subsection (9) to carry out the duties.

Maximum penalty—200 penalty units.

‘(3) A licensee who is not an eligible licensee must at all times have in the licensee’s employ, for the licensee’s licensed premises, or each of the licensee’s licensed premises, at least 2 appropriately licensed persons to carry out gaming duties for the premises.

Maximum penalty—200 penalty units.

‘(4) Subsection (3) does not apply to a licensee for licensed premises if the licensee, with the chief executive’s approval, has in the licensee’s employ, for carrying out gaming duties for the premises—

- (a) at least 1 person who is an appropriately licensed person and at least 1 person who is an applicant for an appropriate licence; or
- (b) at least 2 persons who are applicants for an appropriate licence.

‘(5) An eligible licensee must at all times have in the licensee’s employ, for the licensee’s licensed premises, at least 1 licensed gaming employee to carry out gaming duties for the premises.

Maximum penalty—200 penalty units.

‘(6) Subsection (5) does not apply to an eligible licensee for licensed premises if the licensee, with the chief executive’s approval, has in the licensee’s employ, for carrying out gaming duties for the premises, at least 1 person who is an applicant for a gaming employee’s licence.

‘(7) A licensee who is not an eligible licensee must ensure that, when licensed premises of the licensee are open for the conduct of gaming, at least 1 of the persons employed by the licensee under subsection (3) or (4) for carrying out gaming duties for the premises is present on the premises, or is readily available for carrying out the duties for the premises.

Maximum penalty—200 penalty units.

‘(8) An eligible licensee must ensure that, when the licensee’s licensed premises are open for the conduct of gaming, the licensee or a person employed by the licensee under subsection (5) or (6) is present on the premises, or is readily available for carrying out gaming duties for the premises.

Maximum penalty—200 penalty units.

‘(9) Subsection (7) does not apply to a licensee for licensed premises of the licensee, and subsection (8) does not apply to an eligible licensee for the

licensee's licensed premises, if there is present on the premises, or readily available for carrying out gaming duties for the premises, a person—

- (a) employed, with the chief executive's approval, by the licensee for carrying out gaming duties for the premises; and
- (b) whose period of employment in the capacity mentioned in paragraph (a) is not longer than 7 days.

‘(10) A licensee must give an identity card to—

- (a) each applicant for an appropriate licence employed by the licensee under subsection (4) or (6); or
- (b) a person employed by the licensee under subsection (9).

‘(11) Despite subsection (10), a licensee is not required to give an identity card to a person employed by the licensee under subsection (9) if—

- (a) the person is a nominee of the licensee under section 76B(4); and
- (b) the licensee has given an identity card to the person under section 76C(1).

‘(12) An identity card must comply with the requirements prescribed under a regulation.

‘(13) A person to whom an identity card is given must return the card to the licensee on the day the person ceases to be employed by the licensee under subsection (4), (6) or (9).

Maximum penalty—20 penalty units.

‘(14) For subsections (3) and (4), a nominee of a licensee in the licensee's employ is taken to be a person in the licensee's employ for carrying out gaming duties for the premises for which the person is the licensee's nominee.

‘(15) In this section—

“applicant”, for an appropriate licence, means—

- (a) an applicant for a gaming employee's licence; or
- (b) an applicant for a gaming nominee's licence.

“appropriately licensed person” means—

- (a) a licensed gaming employee; or
- (b) a licensed gaming nominee.

“eligible licensee”, for licensed premises, means the licensee for the premises if the licensee—

- (a) is an individual; and
- (b) is the holder of only 1 gaming machine licence; and
- (c) is ordinarily present on the premises when the premises are open for the conduct of gaming.’.

Amendment of s 76 (Certain persons must apply for machine manager’s licence)

57.(1) Section 76, heading, ‘**machine manager’s**’—

omit, insert—

‘**gaming employee’s**’.

(2) Section 76(1)(b), ‘licensed machine manager’—

omit, insert—

‘licensed gaming employee’.

(3) Section 76(1), ‘machine manager’s licence’—

omit, insert—

‘gaming employee’s licence’.

Insertion of new ss 76B–76F

58. After section 76A—

insert—

‘Meaning of nominee

‘76B.(1) A person is a nominee of a licensee for premises if the person—

- (a) is a licensed gaming nominee; and

(b) is designated by the licensee to be the licensee's nominee for the premises.

‘(2) A person is a nominee of a licensee for premises if—

(a) the person is a licensed gaming employee employed by the licensee; and

(b) the person—

(i) is designated by the licensee to be the licensee's nominee for the premises for a period of not more than 1 month (the “**designated period**”); or

(ii) is, with the chief executive's approval, designated by the licensee to be the licensee's nominee for the premises for a period longer than 1 month (also the “**designated period**”); and

(c) the designated period has not ended.

‘(3) A person is a nominee of a licensee for premises if the person—

(a) is an applicant for a gaming nominee's licence; and

(b) is, with the chief executive's approval, designated by the licensee to be the licensee's nominee for the premises.

‘(4) A person is a nominee of a licensee for premises if—

(a) the person is, with the chief executive's approval, designated by the licensee to be the licensee's nominee for the premises for a period of not more than 7 days; and

(b) the period mentioned in paragraph (a) has not ended.

‘(5) However, a person is a licensee's nominee only if—

(a) the designation by the licensee of the person as the licensee's nominee is done with the person's agreement; and

(b) the designation and agreement are in force.

‘Identity cards for certain nominees

‘76C.(1) A licensee must give an identity card to a person who is a

nominee of the licensee under section 76B(3) or (4).

‘(2) An identity card must comply with the requirements prescribed under a regulation.

‘(3) A person to whom an identity card is given must return the card to the licensee on the day the person ceases to be the licensee’s nominee.

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

‘Nominees of licensees

‘76D.(1) A licensee that is a body corporate must at all times have a nominee for licensed premises of the licensee.

Maximum penalty—200 penalty units.

‘(2) A licensee who is an individual holding more than 1 gaming machine licence must at all times have a nominee for licensed premises of the licensee if, under the *Liquor Act 1992*, there is a nominee, or an individual is required to be nominated as a nominee, for the liquor licence for the premises.

Maximum penalty—200 penalty units.

‘(3) A licensee’s nominee must, for the licensed premises for which the nominee is the licensee’s nominee, ensure gaming is conducted only in accordance with the authority conferred by the licensee’s gaming machine licence.

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

‘Application for gaming nominee’s licence by licensed gaming employee

‘76E.(1) A licensed gaming employee may apply for a gaming nominee’s licence under this section.

‘(2) The application must—

- (a) be made to the chief executive; and
- (b) be in the approved form; and
- (c) be accompanied by a notice in the approved form from a licensee

nominating the applicant to be the licensee's nominee for licensed premises of the licensee; and

- (d) be accompanied by any fee prescribed under a regulation for the application.

'(3) If the applicant's fingerprints were not taken for the application for the gaming employee's licence held by the applicant, the chief executive may, with the applicant's agreement, cause the applicant's fingerprints to be taken for the application under this section.

'(4) Except as provided in subsection (5), the chief executive must grant an application for a gaming nominee's licence made by a licensed gaming employee if the application complies with subsection (2).

'(5) The chief executive may refuse to grant the application if the applicant's fingerprints have not been taken under subsection (3) because of the applicant's failure to agree to the action being taken.

'(6) If the chief executive grants the application, the chief executive must immediately issue a gaming nominee's licence to the applicant.

'(7) If the chief executive refuses to grant the application, the chief executive must—

- (a) immediately give the applicant an information notice for the decision; and
- (b) have any fingerprints of the applicant taken for the application destroyed as soon as practicable.

'(8) On the issue of a gaming nominee's licence to a person under subsection (6), the gaming employee's licence held by the person is (if still in force) cancelled.

'(9) Within 14 days after the person receives the gaming nominee's licence, the person must return the gaming employee's licence held by the person to the chief executive.

Maximum penalty for subsection (9)—40 penalty units.

‘Application for gaming employee’s licence by licensed gaming nominee

‘**76F.(1)** A licensed gaming nominee may apply for a gaming employee’s licence under this section.

‘(2) The application must—

- (a) be made to the chief executive; and
- (b) be in the approved form; and
- (c) be accompanied by any fee prescribed under a regulation for the application.

‘(3) The chief executive must grant an application for a gaming employee’s licence made by a licensed gaming nominee if the application complies with subsection (2).

‘(4) If the chief executive grants the application, the chief executive must immediately issue a gaming employee’s licence to the applicant.

‘(5) If the chief executive refuses to grant the application, the chief executive must immediately give the applicant an information notice for the decision.

‘(6) On the issue of a gaming employee’s licence to a person under subsection (4), the gaming nominee’s licence held by the person is (if still in force) cancelled.

‘(7) Within 14 days after the person receives the gaming employee’s licence, the person must return the gaming nominee’s licence held by the person to the chief executive.

Maximum penalty for subsection (7)—40 penalty units.’.

Replacement of s 77 (Applications for licences under this part)

59. Section 77—

omit, insert—

‘Applications for licences under this part

‘**77.(1)** This section deals with applications for repairers’, service contractors’, gaming nominees’, gaming employees’ and key monitoring

employees' licences.

'(2) An application for a repairer's, gaming nominee's, gaming employee's or key monitoring employee's licence may only be made by an individual.

'(3) An application for a service contractor's licence may be made by an individual or body corporate.

'(4) An application under this part—

- (a) is to be made in the approved form; and
- (b) in the case of an application by an individual—must be signed by the applicant; and
- (c) in the case of an application by a body corporate—must be signed in the appropriate way; and
- (d) is to state the full name, address and date of birth—
 - (i) in the case of an application by an individual—of the applicant; and
 - (ii) in the case of an application by a body corporate—of the secretary and each executive officer of the body corporate; and
- (e) in the case of an application for a repairer's, gaming nominee's, gaming employee's or key monitoring employee's licence—is to be accompanied by photographs of the applicant, of such type and number as are determined by the chief executive and certified in such way as is so determined; and
- (f) in the case of an application by a body corporate—is to be accompanied by—
 - (i) a copy of the certificate of incorporation of the body corporate; and
 - (ii) a copy of the memorandum and articles of association, rules, constitution or other incorporating documents in force at the time of making the application certified as a true copy by the secretary of the body corporate or other person properly authorised to certify by the body corporate; and

-
- (iii) unless the body corporate is a company that has only 1 director—a copy of the resolution or minute of the proceedings of the governing body of the body corporate by which approval was given to the making of the application, certified as a true copy by the person certifying the copy of the matters referred to in subparagraph (ii); and
 - (iv) a copy of the last audited balance sheet or statement of the financial affairs of the body corporate; and
 - (g) in the case of an application for a repairer’s licence, or an application for a key monitoring employee’s licence made by a person who is not a key officer for a licensed operator—must be accompanied by an employment notice for the application; and
 - (h) in the case of an application for a gaming nominee’s licence—must be accompanied by a notice in the approved form from a licensee nominating the applicant to be the licensee’s nominee for licensed premises of the licensee; and
 - (i) in the case of an application for a repairer’s or service contractor’s licence—is to be accompanied by an affidavit under section 89; and
 - (j) is to contain or be accompanied by such other information, records, reports, documents and writings relating to the application and applicant as are determined by the chief executive; and
 - (k) is to be forwarded to or lodged with the chief executive; and
 - (l) is to be accompanied by the fee prescribed.

‘(5) Subsection (1)(g) does not apply to an application if the applicant intends, on the issue of a repairer’s licence, to carry on the business of a licensed repairer in the applicant’s own right.

‘(6) It is a condition precedent to consideration of an application for a repairer’s, gaming nominee’s, gaming employee’s or key monitoring employee’s licence, or an application for a service contractor’s licence made by an individual, that the applicant is agreeable to the applicant’s fingerprints being taken by or on behalf of the chief executive.

‘(7) For subsection (4)(c), an application for a licence under this part

made by a body corporate is signed in the appropriate way—

- (a) if it is signed—
 - (i) by at least 2 of its executive officers authorised to sign by the body corporate; or
 - (ii) if there is only 1 executive officer of the body corporate—by the officer; or
- (b) if the chief executive considers, for a body corporate having at least 2 executive officers, that paragraph (a) can not reasonably be complied with—if it is signed in the way the chief executive considers appropriate.

‘(8) In this section—

“**employment notice**”, for an application for a key monitoring employee’s licence, means a notice that—

- (a) is in the approved form; and
- (b) is given by a licensed operator; and
- (c) states that the operator intends to employ the applicant as a licensed key monitoring employee, subject to the applicant being issued with a key monitoring employee’s licence.

“**employment notice**”, for an application for a repairer’s licence, means a notice that—

- (a) is in the approved form; and
- (b) is given by a licensed operator, licensed repairer or licensed service contractor; and
- (c) states that the operator, repairer or service contractor intends to employ the applicant as a licensed repairer, subject to the applicant being issued with a repairer’s licence.’.

Amendment of s 78 (Changes in circumstances of applicants for and holders of licences)

60. Section 78(3)(b)(iii)—

omit, insert—

‘(iii) if the holder is a body corporate—is affected by control action under the Corporations Law; or’.

Amendment of s 79 (Consideration of applications)

61.(1) Section 79, heading—

omit, insert—

‘Recommendation by chief executive about applications’.

(2) Section 79(1)(a)—

omit.

(3) Section 79(1)(c)(i), ‘a natural person’—

omit, insert—

‘an individual’.

(4) Section 79—

insert—

‘**(1A)** In considering the application, the chief executive may, by written notice given to the applicant or an associate of the applicant, require the applicant or associate, within a reasonable time stated in the notice, to give the chief executive further information or a document that is necessary and reasonable to help the chief executive make a recommendation.

‘**(1B)** Also, for an application for a repairer’s, gaming nominee’s, gaming employee’s or key monitoring employee’s licence, the chief executive may, with the applicant’s agreement, cause the applicant’s fingerprints to be taken.’.

(5) Section 79—

insert—

‘**(2A)** In making a recommendation, the chief executive must have regard to any supporting material for the application.’.

(6) Section 79(3)(a)(ii)—

omit, insert—

‘(ii) the applicant’s fingerprints have not been taken under

subsection (1A) because of the applicant's failure to agree to the action being taken; or'.

(7) Section 79(3)(c)—

omit.

(8) Section 79(4) to (6)—

omit, insert—

'(4) The chief executive may recommend that a licence be refused if the applicant, or an associate of the applicant, fails to comply with a requirement of the chief executive under subsection (1A) without a reasonable excuse.

'(5) If the commission has delegated its powers under section 80 in relation to an application for a licence under this part to the chief executive, the chief executive—

- (a) is not required to make a recommendation about the application under this section; but
- (b) must take the action mentioned in subsection (1), and may take the action mentioned in subsection (1B), as if the chief executive were dealing with the application for making a recommendation under this section.'

Replacement of s 80 (Commission may grant or refuse to grant licences)

62. Section 80—

omit, insert—

'Decision on applications

'80.(1) The commission may, in relation to an application for a licence under this part, grant, or refuse to grant, the licence.

'(2) Before making its decision, the commission may, by written notice given to the applicant or an associate of the applicant, require the applicant or associate, within a reasonable time stated in the notice, to give the commission further information or a document that is necessary and reasonable to help the commission make the decision.

‘(3) In making its decision, the commission—

- (a) must have regard to any recommendation of the chief executive about the application; and
- (b) must have regard to any supporting material for the application; and
- (c) may have regard to any other issues the commission considers relevant.

‘(4) The commission may grant a licence only if it is satisfied the granting of the licence is not contrary to the public interest.

‘(5) The commission may refuse to grant a licence if—

- (a) the applicant, without a reasonable excuse, fails to comply with—
 - (i) a requirement of the chief executive under section 79(1A); or
 - (ii) a requirement of the commission under subsection (2); or
- (b) an associate of the applicant, without a reasonable excuse, fails to comply with—
 - (i) a requirement of the chief executive under section 79(1A); or
 - (ii) a requirement of the commission under subsection (2).

‘(6) If the commission refuses to grant a repairer’s, gaming nominee’s, gaming employee’s or key monitoring employee’s licence, the chief executive must have any fingerprints of the applicant taken for the application for the licence destroyed as soon as practicable.

‘(7) If the commission grants a licence under this part, the chief executive must immediately give written notice of the decision to the applicant.

‘(8) If the commission refuses to grant a licence under this part, the chief executive must immediately give the applicant an information notice for the decision.

‘(9) If the applicant is a person in relation to whom the chief executive has given an approval to a licensee for section 75(4) or (6),²³ the chief

²³ Section 75 (Licensing requirements for carrying out gaming duties on licensed premises)

executive must give a copy of the notice under subsection (7) or (8) to the licensee.’.

Amendment of s 81 (Issue of licences)

63.(1) Section 81(2)(b), ‘licence, machine manager’s’—

omit, insert—

‘, gaming nominee’s, gaming employee’s’.

(2) Section 81(2)(d)—

omit.

(3) Section 81—

insert—

‘**(3)** If a licence is granted on conditions, the conditions may be stated in the licence.

‘**(4)** If a licence is granted on conditions and the conditions are not stated in the licence, the licence, when issued under subsection (1), must be accompanied by written notice of the conditions.’.

Amendment of s 83 (Term of licences)

64. Section 83(1), ‘2 years’—

omit, insert—

‘5 years’.

Amendment of s 86 (Renewal and continuance of licences)

65.(1) Section 86(2)(b), ‘machine manager’s’—

omit, insert—

‘gaming nominee’s, gaming employee’s’.

(2) Section 86(5)—

omit, insert—

‘(5) If a licensee complies with this section, the chief executive must renew the licence for 5 years starting on—

- (a) if an extension was not given under subsection (3)—the day after its last expiry; or
- (b) if an extension was given under subsection (3)—the day after the day it would have last expired apart from the extension.’.

Amendment of s 88 (Display of certain licences)

66.(1) Section 88, heading, after ‘**licences**’—

insert—

‘, **identity cards and particulars**’.

(2) Section 88(2), penalty—

omit, insert—

‘Maximum penalty—40 penalty units.’.

(3) Section 88, at the end—

insert—

‘(3) If a gaming employee, in carrying out gaming duties for licensed premises, makes a decision affecting a person on the premises, the gaming employee must, if asked by the person affected by the decision, produce for the person’s inspection, the gaming employee’s formal identification card, unless the gaming employee has a reasonable excuse.

Maximum penalty—40 penalty units.

‘(4) If a licensee’s nominee for licensed premises of the licensee, while acting in the capacity of the licensee’s nominee for the premises, makes a decision affecting a person on the premises, the nominee must, if asked by the person affected by the decision, produce for the person’s inspection, the nominee’s formal identification card, unless the nominee has a reasonable excuse.

Maximum penalty—40 penalty units.

‘(5) A licensee who has a nominee for licensed premises of the licensee must display in a conspicuous position inside the premises, and in a way

that is legible from a reasonable distance—

- (a) the nominee’s name; and
- (b) notice that the nominee is the licensee’s nominee for the premises.

Maximum penalty—40 penalty units.

‘(6) In this section—

“formal identification card”, for a gaming employee, means—

- (a) if the gaming employee is a licensed gaming employee employed under section 75(3), (4) or (5)²⁴—the gaming employee’s licence held by the employee; or
- (b) if the gaming employee is a licensed gaming nominee employed under section 75(3) or (4)—the gaming nominee’s licence held by the employee; or
- (c) for another gaming employee—the identity card given to the gaming employee under section 75(10) or 76C(1).

“formal identification card”, for a nominee, means—

- (a) for a nominee mentioned in section 76B(1)²⁵—the gaming nominee’s licence held by the nominee; or
- (b) for a nominee mentioned in section 76B(2)—the gaming employee’s licence held by the nominee; or
- (c) for another nominee—the identity card given to the nominee under section 76C(1).²⁶

Amendment of s 89 (Disclosure of influential or benefiting parties)

67. Section 89(3)(a) and (4)(a)(i) and (c)(i), ‘a natural person’—

²⁴ Section 75 (Licensing requirements for carrying out gaming duties on licensed premises)

²⁵ Section 76B (Meaning of nominee)

²⁶ Section 76C (Identity cards for certain nominees)

omit, insert—

‘an individual’.

Replacement of s 90 (Investigations of holders of licences and associates)

68. Section 90—

omit, insert—

‘Approving audit programs for licensed gaming nominees and associates

‘90.(1) The Minister may approve—

- (a) an audit program for investigating licensed gaming nominees; and
- (b) an audit program for investigating associates of licensed gaming nominees.

‘(2) An audit program approved by the Minister may not provide for the investigation of persons under the program at intervals of less than 2 years.

‘Conducting investigations of licensed persons and associates

‘90A.(1) The chief executive may investigate a licensed person to help the chief executive decide whether the person is a suitable person to hold a licence of the kind held by the person.

‘(2) The chief executive may investigate an associate of a licensed person to help the chief executive decide whether the associate is a suitable person to be an associate of the licensed person.

‘(3) However, the chief executive may investigate a licensed person—

- (a) only if the chief executive reasonably suspects the person is not a suitable person to hold a licence of the kind held by the person; or
- (b) if the licensed person is a licensed gaming nominee—only if the investigation is conducted under a nominees audit program.

‘(4) Also, the chief executive may investigate an associate of a licensed person—

-
- (a) only if the chief executive reasonably suspects the associate is not a suitable person to be an associate of the licensed person; or
 - (b) if the associate is an associate of a licensed gaming nominee—only if—
 - (i) the investigation is conducted under an associates (nominees) audit program; or
 - (ii) for an associate who became an associate of the licensed gaming nominee after the issue of the nominee's licence—the associate has not been investigated previously under an associates (nominees) audit program.

‘(5) The chief executive must ensure the investigation of a person under a nominees audit program or associates (nominees) audit program is conducted in compliance with the program.

‘Requirement to give information or document for investigation

‘90B.(1) In investigating a person under section 90A, 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.

‘Failure to give information or document for investigation

‘90C.(1) A person of whom a requirement is made under section 90B must comply with the requirement, unless the person has a reasonable excuse.

Maximum penalty—200 penalty units.

‘(2) 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.

‘(3) 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.’.

Amendment of s 92 (Notifications re employment and agreements)

69.(1) Section 92, heading—

omit, insert—

‘Returns about employees and agreements’.

(2) Section 92(1), definition “**employer**”, ‘licensee’—

omit, insert—

‘licensed operator’.

(3) Section 92(2) to (7)—

omit, insert—

(2) An employer must give the chief executive a return as required by this section stating the name and licence number of each person employed by the employer as a licensed repairer when the return is given.

Maximum penalty—40 penalty units.

(3) An employer must give the chief executive a return as required by this section stating the name and licence number of each person with whom the employer has a service contract when the return is given.

Maximum penalty—40 penalty units.

(4) A licensee must give the chief executive a return as required by this section stating—

- (a) the name and licence number of each licensed gaming employee employed by the licensee under section 75(3), (4) or (5)²⁷ for licensed premises of the licensee when the return is given; and
- (b) the name of each applicant for a gaming employee’s licence employed by the licensee under section 75(4) or (6) for licensed premises of the licensee when the return is given; and

²⁷ Section 75 (Licensing requirements for carrying out gaming duties on licensed premises)

- (c) the name and licence number of each licensed gaming nominee who is a nominee of the licensee under section 76B(1)²⁸ for licensed premises of the licensee when the return is given; and
- (d) the name and licence number of each licensed gaming employee who is a nominee of the licensee under section 76B(2) for licensed premises of the licensee when the return is given; and
- (e) the name of each applicant for a gaming nominee's licence who is a nominee of the licensee under section 76B(3) for licensed premises of the licensee when the return is given.

Maximum penalty—40 penalty units.

‘(5) A return for subsection (2), (3) or (4) must—

- (a) be in the approved form; and
- (b) be given within 7 days after being requested by the chief executive to give the return.

‘(6) A request made by the chief executive to an employer or licensee for subsection (5)(b)—

- (a) must be in writing; and
- (b) must not be made within 1 month of a previous request made to the employer or licensee for subsection (5)(b).’

(4) Section 92(9), ‘a licensee’—

omit, insert—

‘a licensed operator’.

(5) Section 92(9), ‘or licensee’—

omit, insert—

‘or licensed operator’.

(6) Section 92(10), ‘a licensee’—

omit, insert—

‘a licensed operator’.

²⁸ Section 76B (Meaning of nominee)

(7) Section 92(11)—

omit, insert—

‘(11) A licensee must immediately end the employment of a person employed by the licensee if—

- (a) the person is employed on the basis the person is a licensed gaming employee and the licensee becomes aware the person is not a licensed gaming employee; or
- (b) the person is employed on the basis the person is a licensed gaming nominee and the licensee becomes aware the person is not a licensed gaming nominee; or
- (c) the person is employed under section 75(4)(b) or (6)²⁹ and the licensee becomes aware the application of the person for a gaming employee’s or nominee’s licence has been refused.

Maximum penalty—200 penalty units.

‘(11A) A licensee must immediately take action to stop a person being the licensee’s nominee for licensed premises of the licensee if—

- (a) the licensee designated the person as the licensee’s nominee for the premises on the basis the person was a licensed gaming nominee and the licensee becomes aware the person is not a licensed gaming nominee; or
- (b) the licensee designated the person as the licensee’s nominee for the premises on the basis the person was a licensed gaming employee and the licensee becomes aware the person is not a licensed gaming employee; or
- (c) the person became the licensee’s nominee for the premises under section 76B(3) and the licensee becomes aware the application of the person for a gaming nominee’s licence has been refused.

Maximum penalty—200 penalty units.’

(8) Section 92(12), from ‘or (11)’ to ‘referred to’—

²⁹ Section 75 (Licensing requirements for carrying out gaming duties on licensed premises)

omit, insert—

‘, (11) or (11A) is sufficient authority to take the action mentioned’.

Amendment of s 93 (Surrender of licences)

70. Section 93(2)—

omit, insert—

‘(2) The notification must be signed in the same way an application for a licence under this part is required to be signed.

‘(3) The surrender of the licence takes effect—

- (a) if paragraph (b) or (c) does not apply—on the day (the “**set day**”) that is 14 days after the notification of surrender is given; or
- (b) if a day of effect that is later than the set day is stated in the notification of surrender—on the day stated in the notification; or
- (c) if, at the request of the holder of the licence, the chief executive, by written notice, approves a day of effect that is earlier than the set day—on the day approved by the chief executive.’

Amendment of s 94 (Cancellation or suspension of licences under this part)

71.(1) Section 94(1)(b)—

insert—

‘(ia) contravenes a provision of this Act (being a provision a contravention of which is not an offence against this Act); or’.

(2) Section 94(1)(b)(iii)—

omit, insert—

‘(iii) is affected by control action under the Corporations Law; or’.

(3) Section 94(3)—

omit, insert—

‘(3) The chief executive must give a copy of the notice to show cause to each person the chief executive believes is an interested person of the holder of the licence.

‘(3A) Also, the chief executive may, by the notice to show cause—

- (a) require the holder of the licence, within the period stated in the notice, to give a copy of the notice to each interested person of the holder (other than an interested person to whom a copy of the notice is given under subsection (3)); and
- (b) if the chief executive considers it appropriate—require the holder to give the copy in the way the chief executive considers appropriate.’

(4) Section 94(4) and (5), after ‘notice’—

insert—

‘to show cause’.

(5) Section 94—

insert—

‘(5A) If the chief executive makes a requirement of the holder of the licence under subsection (3A)(a) about an interested person of the holder, the chief executive may, at the holder’s request, by written notice given to the holder, designate the person to be an excluded interested person for the holder.

‘(5B) However, the chief executive may designate a person to be an excluded interested person for the holder only if the chief executive considers it would not be appropriate, or would be unreasonable, in the circumstances to require the holder of the licence to give a copy of the notice to show cause to the person, having regard to the following issues—

- (a) the nature of the person’s interest;
- (b) the likelihood of the person’s interest not being affected adversely by a suspension or cancellation of the licence;
- (c) the likelihood of the interest of the holder of the licence being improperly prejudiced;
- (d) another issue the chief executive considers relevant.

‘(5C) If a requirement is made of the holder of the licence under subsection (3A), the holder must comply with the requirement, unless—

- (a) the holder has a reasonable excuse; or
- (b) the interested person to whom the requirement relates is an excluded interested person for the holder.

Maximum penalty—40 penalty units.’

(6) Section 94(6), ‘notice is issued’—

omit, insert—

‘notice to show cause is issued’.

(7) Section 94(7), ‘a copy notice is issued under subsection (3)’—

omit, insert—

‘a copy of the notice to show cause is given, or is required to be given, under this section’.

(8) Section 94(8)(a), after ‘to the notice’—

insert—

‘and, by written notice, is to advise the holder of the licence accordingly’.

(9) Section 94—

insert—

‘(12A) If the commission gives a direction to the holder of the licence under subsection (12)(c) and the holder fails to comply with the direction within the time stated in the relevant notice, the commission may—

- (a) cancel the licence; or
- (b) suspend the licence for the period the commission considers appropriate.

‘(12B) If, under subsection (12), the commission decides to take no action about a licence under this part, the chief executive must immediately give the holder of the licence written notice of the decision.’

(10) Section 94(16), after ‘subsection (12)(d)’—

insert—

‘or (12A)’.

(11) Section 94—

insert—

‘(17) In this section—

“**excluded interested person**”, for the holder of a licence under this part, means an interested person of the holder designated by the chief executive to be an excluded interested person for the holder.

“**interested person**”, for the holder of a licence under this part, means a person the holder knows, or ought reasonably to know, has an interest in the licence.’.

Amendment of s 95 (Suspension of licences pending decision under s 94)

72.(1) Section 95, heading—

omit, insert—

‘**Immediate suspension of licences**’.

(2) Section 95(1), words after ‘this part’—

omit.

(3) Section 95—

insert—

‘(5) The suspension of a licence under this section continues to have effect until the notice to show cause issued to the holder of the licence by the chief executive in complying with subsection (4) is finally dealt with.’.

Amendment of s 96 (Effect of suspension of licence)

73. Section 96, after ‘94(12)’—

insert—

‘or (12A)’.

Insertion of new ss 96A and 96B

74. After section 96—

insert—

‘Notices to interested persons

‘96A.(1) This section applies if the chief executive—

- (a) is required, under section 94(8)(a), not to take any action or any further action about a notice to show cause issued to the holder of a licence under section 94(2); or
- (b) issues a letter of censure to the holder of a licence under section 94(8)(b); or
- (c) gives directions to the holder of a licence under section 94(8)(c).

‘(2) This section also applies if, under section 94(12), the commission—

- (a) decides to take no action about a licence; or
- (b) causes a letter of censure to be issued to the holder of a licence; or
- (c) gives a direction to the holder of a licence; or
- (d) cancels or suspends a licence.

‘(3) This section also applies if the commission—

- (a) cancels or suspends a licence under section 94(12A); or
- (b) suspends a licence under section 95(1).

‘(4) As soon as practicable after an event mentioned in subsection (1), (2) or (3) happens, the chief executive must give written notice of the event to each person to whom the chief executive gave a copy of the relevant notice to show cause under section 94(3).

‘(5) Also, the holder of the licence must, within 7 days after receiving a show cause result notice for an event mentioned in subsection (1), (2) or (3), give a copy of the notice to each person to whom the holder gave, or was required to give, a copy of the relevant notice to show cause because of a requirement under section 94(3A).

‘(6) For subsections (4) and (5), an event for subsection (1)(a) is taken to be the arising of a requirement mentioned in the paragraph.

‘(7) In this section—

“**show cause result notice**” means—

- (a) a written notice given by the chief executive advising of—
 - (i) the arising of a requirement mentioned in subsection (1)(a);
or
 - (ii) the making of a decision mentioned in subsection (2)(a); or
 - (iii) the taking of action mentioned in subsection (2)(d) or (3)(a)
or (b); or
- (b) a letter of censure mentioned in subsection (1)(b) or (2)(b); or
- (c) the notice by which a direction mentioned in subsection (1)(c) or (2)(c) is given.

‘**Destruction of fingerprints**

‘**96B.(1)** This section applies if—

- (a) a person ceases to be a licensed repairer, licensed gaming nominee, licensed gaming employee or licensed key monitoring employee; or
- (b) a person who is an individual ceases to be a licensed service contractor.

‘(2) The chief executive must have any fingerprints of the person taken for the application for the licence held by the person destroyed as soon as practicable.’.

Amendment of s 97 (Provisional licences)

75. Section 97(4)(a) and (7), ‘machine manager’s’—
omit, insert—

‘gaming nominee’s licence, gaming employee’s licence’.

Amendment of s 98 (Installation and storage of gaming machines by licensees)

76.(1) Section 98(1), from ‘a gaming machine provided’ to ‘section 55’—

omit, insert—

‘each authorised gaming machine of the licensee’.

(2) Section 98(2)—

omit, insert—

(2) A licensee must cause an authorised gaming machine of the licensee that is not installed in a gaming machine area on the licensee’s licensed premises—

(a) to be stored on premises approved by the chief executive; and

(b) to be secured in the way approved by the chief executive.

Maximum penalty—200 penalty units.’.

Amendment of s 98A (Licensee’s register of gaming machines)

77.(1) Section 98A(1), ‘must’—

omit, insert—

‘must, at each of the licensee’s licensed premises,’.

(2) Section 98A(1), ‘licensee’s licensed’—

omit.

Amendment of s 99 (Gaming machines not to be played if not installed in gaming machine area)

78.(1) Section 99(1)(a)—

omit, insert—

‘(a) that is an authorised gaming machine of a licensee; and’.

(2) Section 99(2)(a)—

omit, insert—

‘(a) that is an authorised gaming machine of a licensee; and’.

Amendment of s 106 (Licensees not to extend credit)

79.(1) Section 106, heading, after ‘**Licensees**’—

insert—

‘**or employees**’.

(2) Section 106—

insert—

‘**(2)** An employee of a licensee must not, in the course of the employee’s employment, make a loan or extend credit in any form to any person, including the employee, to enable the person or another person to play a gaming machine on the licensee’s licensed premises.

Maximum penalty—200 penalty units.’.

Insertion of new s 110A

80. After section 110—

insert—

‘Unclaimed payments

‘**110A.(1)** If the person entitled to a non-monetary payment in relation to playing a gaming machine does not collect the payment within 3 months after the person becomes entitled to the payment, the relevant person may—

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

‘**(2)** Also, the relevant person must deal with any amount remaining from the proceeds of sale as required under subsection (4).

Maximum penalty—100 penalty units.

‘**(3)** If a person is entitled to a monetary payment in relation to playing a

gaming machine and the amount is not paid within 3 months after the person becomes entitled to the payment, the relevant person must, within 14 days after the end of the 3 months, deal with the amount as required under subsection (4).

Maximum penalty—100 penalty units.

‘(4) The relevant person must, for an amount mentioned in subsection (2) or (3)—

- (a) if the relevant person knows who is entitled to receive the amount and the person’s whereabouts—pay the amount to the person; or
- (b) if the relevant person knows who is entitled to receive the amount, but the relevant person does not know the person’s whereabouts—pay the amount into the designated departmental account; or
- (c) if the relevant person does not know who is entitled to receive the amount—pay the amount into the designated departmental account.

‘(5) In this section—

“**designated departmental account**” means an account at the department designated under a regulation as the account to which payments are to be made under subsection (4)(b) or (c).

“**payment**” does not include promotions.

“**relevant person**” means—

- (a) for a multiple site linked jackpot arrangement—the licensed operator; or
- (b) otherwise—the licensee.’.

Amendment of s 111 (Malfunction of gaming machines)

81.(1) Section 111(1), ‘machine manager may’—

omit, insert—

‘gaming employee may’.

(2) Section 111(1), from ‘in respect of which’ to ‘machine manager

is’—

omit, insert—

‘for which the gaming employee is employed to carry out gaming duties, if the gaming employee is’.

(3) Section 111(3), ‘machine manager’—

omit, insert—

‘gaming employee’.

Amendment of s 112 (Defective gaming machines not allowed)

82. Section 112(1), definition “**licensee**”, paragraph (a), ‘machine manager’—

omit, insert—

‘gaming employee’.

Amendment of s 114 (Certain persons only to have access etc. to gaming machines)

83.(1) Section 114(g), ‘machine manager’—

omit, insert—

‘gaming employee’.

(2) Section 114(k)—

omit.

Omission of ss 115 and 116

84. Sections 115 and 116—

omit.

Amendment of s 123 (Ascertainment of age)

85. Section 123(3), definition “**authorised person**”—

omit, insert—

‘**“authorised person”**, for licensed premises means—

- (a) the licensee of the premises; or
- (b) a gaming employee for the premises; or
- (c) another employee of the licensee of the premises; or
- (d) an inspector; or
- (e) a police officer.’.

Amendment of s 129 (Obstruction generally)

86. Section 129, ‘machine manager’—

omit, insert—

‘gaming employee’.

Amendment of s 140 (Possession etc. of gaming machines and restricted components by licensees)

87.(1) Section 140(1)(a)—

omit, insert—

‘(a) be in possession of—

- (i) the licensee’s authorised gaming machines; and
- (ii) linked jackpot equipment for a linked jackpot arrangement involving the licensee’s authorised gaming machines; and’.

(2) Section 140(2)(a) and (b)—

omit, insert—

- ‘(a) a gaming machine that is not an authorised gaming machine of the licensee; or
- (b) an authorised gaming machine of the licensee the game for which is not—
 - (i) if the game has not been changed under this Act—the game

approved for the machine by the chief executive; or

- (ii) if the game has been changed under this Act—the game as changed, or last changed.’.

Amendment of s 141 (Possession etc. of gaming machines etc. by other persons)

88. Section 141(3)(a), ‘ or an approved financier’—

omit, insert—

‘, an approved financier, a licensee or another gaming trainer’.

Amendment of s 145 (Procedure for determination of tenders)

89. Section 145(1)(d)(i), ‘a natural person’—

omit, insert—

‘an individual’.

Replacement of s 146A (Changes to approved games)

90. Section 146A—

omit, insert—

‘Replacing approved games

‘146A.(1) This section applies if—

- (a) a licensed operator or licensee replaces, or causes to be replaced, an approved game (the “**old game**”) with another approved game (the “**new game**”); and
- (b) the percentage return to players for the new game is different from the percentage return to players for the old game.

‘(2) The licensed operator or licensee must not replace, or cause to be replaced, the new game with another game having a different percentage return to players—

- (a) if paragraph (b) does not apply—within 1 month after the old

game was replaced; or

- (b) if a shorter period is approved by the chief executive—within the shorter period.

Maximum penalty—200 penalty units.

‘(3) In this section—

“**approved game**” means a game approved by the chief executive under section 146.

‘Changes to percentage returns

‘**146B.(1)** A licensed operator or licensee may change, or cause to be changed, the percentage return to players for a game for a gaming machine on licensed premises.

‘(2) Unless the chief executive, by written notice given to the licensed operator or licensee, approves otherwise, the change must be applied to each gaming machine that—

- (a) is not part of a linked jackpot arrangement; and
(b) has the same game and betting unit; and
(c) is installed at the licensed premises to which the change relates.

‘(3) A person must not make, or cause to be made, a change mentioned in subsection (1) (a “**return change**”) in the period prescribed under a regulation (the “**restricted period**”).

Maximum penalty—200 penalty units.

‘(4) A person does not commit an offence against subsection (3) if—

- (a) ownership of a gaming machine mentioned in subsection (2) changes in the restricted period; and
(b) a return change is made in the period but—
(i) only after the change of ownership; and
(ii) only once in the period.’.

Insertion of new s 148A

91. After section 148—

insert—

‘Inducing the acquisition of gaming equipment or ancillary or related equipment

‘148A.(1) A person (the **“offerer”**) must not offer another person (the **“negotiator”**), or give to the negotiator, an inducement for the negotiator to induce a third person, who is an acquirer, to acquire equipment or a service.

Maximum penalty—1 000 penalty units or 5 years imprisonment.

‘(2) A negotiator must not accept an inducement for the acquisition by an acquirer of equipment or a service.

Maximum penalty—1 000 penalty units or 5 years imprisonment.

‘(3) A person does not commit an offence against subsection (1) or (2) if the inducement consists of only reasonable food or refreshment offered or given by the offerer, or out-of-pocket expenses reasonably incurred by the negotiator, in the course of negotiating the acquisition of the equipment or service.

‘(4) In this section—

“acquirer” means an approved financier, gaming trainer, licensed operator, licensed repairer, licensed service contractor or licensee.

“equipment” means gaming equipment or ancillary or related equipment.

“inducement” means a direct or indirect payment, benefit or advantage.

Example of what is an “inducement”—

A pre-paid holiday trip.

“service” includes the provision of any of the following—

- finance
- adjustment, alteration, installation, maintenance or repair of gaming equipment
- linked jackpots
- management advice

- marketing
- training.’.

Amendment of s 151 (Gaming prohibited on unprotected devices)

92.(1) Section 151(3)(a), ‘repairs’—

omit, insert—

‘installation, alteration, adjustment, maintenance or repair’.

(2) Section 151(3)(b)—

omit, insert—

‘(b) an alteration to effect a change of game directed by the chief executive under section 55A(1).³⁰’.

Amendment of s 152 (Unlawful interference with gaming equipment)

93. Section 152(2)(c)—

omit, insert—

‘(c) an alteration to a gaming machine to effect a change of game directed by the chief executive under section 55A(1); or’.

Amendment of s 153 (Protection of sensitive areas of gaming equipment)

94.(1) Section 153(2), from ‘subsection (1)(a)’—

omit, insert—

‘subsection (1) if the licensed repairer does not, without the licensed operator’s approval—

- (a) break a seal securing a computer cabinet; or
- (b) fix a seal to a computer cabinet; or
- (c) remove or interfere with a mark or seal fixed to gaming

³⁰ Section 55A (Directions to licensees about authorised gaming machines)

equipment to preserve the integrity of the equipment's operation;
or

- (d) fix a mark or seal to gaming equipment to preserve the integrity of the equipment's operation.'.

(2) Section 153(5)—

omit.

Amendment of s 155 (Use of gaming machines not provided to licensees)

95.(1) Section 155, heading—

omit, insert—

'Use of unauthorised gaming machines'.

(2) Section 155(1), 'provided by the chief executive to a licensee'—

omit, insert—

'a licensee's authorised gaming machine'.

Amendment of s 158 (Accounts and analyses)

96.(1) Section 158(1), 'must'—

omit, insert—

'must, for each of the licensee's licensed premises,'.

(2) Section 158(1), 'on the licensee's licensed premises'—

omit, insert—

'on the premises'.

(3) Section 158(1A)—

omit.

(4) Section 158(2), 'or licensed monitoring operator'—

omit.

Amendment of s 159 (Monthly gaming machine reconciliation reports to be submitted)

97.(1) Section 159, heading, ‘to be submitted’—

omit.

(2) Section 159(1)—

omit, insert—

‘159.(1) A licensee of category 1 or 2 licensed premises must, for each of the licensee’s licensed premises—

- (a) by the day prescribed under a regulation for each month, prepare a monthly gaming machine reconciliation report for the premises; and
- (b) keep a hard copy of the report on the premises.’.

Amendment of s 161 (Audit of accounts of licensee)

98. Section 161(1)(d)—

omit, insert—

‘(d) a member of the National Institute of Accountants who—

- (i) holds a current public practice certificate issued by the institute; and
- (ii) has satisfactorily completed an auditing component of a course of study in accountancy at a tertiary level conducted by an institution prescribed under the Corporations Law, section 1280(2);³¹ or

‘(e) a person approved by the chief executive as having the necessary experience or qualifications to be an accountant for this section.’.

³¹ Corporations Law, section 1280 (Registration of auditors)

Omission of s 161A (Audit of accounts of licensed operators)

99. Section 161A—

omit.

Amendment of s 163 (Monthly taxable metered win)

100.(1) Section 163(1), after ‘each licensed premises’—

omit.

(2) Section 163—

insert—

‘**(1A)** Subject to subsection (1B) and section 175, the monthly taxable metered win of a licensed premises is taken to be, for the preceding month—

- (a) for category 1 licensed premises—the monthly taxable metered win of the premises; or
- (b) for category 2 licensed premises—
 - (i) if the gaming machine licence for the premises is for a single premises—the monthly taxable metered win of the premises; or
 - (ii) if the gaming machine licence for the premises is for multiple premises—the combined monthly taxable metered win for all the premises.

‘**(1B)** For licensed premises mentioned in subsection (1A)(b)(ii), a gaming machine tax or penalty payable under this part is payable on the combined monthly taxable metered win for all the premises as if the multiple premises were a single premises.

‘**(3)** If the electronic monitoring system malfunctions in a way that affects the assessment, the chief executive must ensure the assessment is made in another way decided by the chief executive.’

Amendment of s 170 (Payment of monthly fees, taxes etc.)

101.(1) Section 170(1), ‘A licensee’—

omit, insert—

‘Subject to subsections (1A) and (1B) and section 163(1B), a’.

(2) Section 170—

insert—

‘**(1A)** The chief executive may, by written notice given to a licensee, direct the licensee to pay an amount mentioned in subsection (1) by instalments.

‘**(1B)** The licensee must comply with the direction.

Maximum penalty—200 penalty units.’.

(3) Section 170(2), ‘Payments’—

omit, insert—

‘Subject to section 163(1B), payments’.

Insertion of new s 170A

102. After section 170—

insert—

‘Adjustment of gaming machine tax

‘**170A.(1)** Subsection (2) applies to a licensee if the gaming machine tax payable by the licensee for a month (the “**reference month**”) is a negative amount (a “**tax credit**”).

‘**(2)** In working out the gaming machine tax payable for the month after the reference month (the “**first adjustment month**”), the tax credit for the reference month is, to the extent possible, to be set off against the gaming machine tax that, apart from this section, would be payable for the first adjustment month.

‘**(3)** Subsection (4) applies if—

- (a) without applying subsection (2), the gaming machine tax for the first adjustment month is a negative amount; or

- (b) after applying subsection (2), part of the tax credit (the “**tax credit balance**”) for the reference month has not been set off against gaming machine tax for the first adjustment month.

‘(4) In working out the gaming machine tax payable for the month after the first adjustment month (the “**second adjustment month**”), the tax credit, or tax credit balance, for the reference month, is, to the extent possible, to be set off against the gaming machine tax that, apart from this subsection, would be payable for the second adjustment month.’.

Amendment of s 171 (Penalty for late payment)

103. Section 171(1), ‘Where’—

omit, insert—

‘Subject to section 163(1B), if’.

Replacement of s 173 (Statement and report by the chief executive)

104. Section 173—

omit, insert—

‘Licensed operator’s financial statement

‘**173.(1)** A licensed operator who supplies basic monitoring services for a licensee’s licensed premises must, as required under subsection (2), give the licensee a financial statement for the premises.

Maximum penalty—100 penalty units.

‘(2) The financial statement must—

- (a) be given to the licensee as soon as practicable after the end of the assessment period for the premises; and
- (b) contain, for each of the licensee’s licensed premises, the particulars the chief executive considers appropriate for the premises.

‘(3) The chief executive may, by written notice given to a licensed operator, require the licensed operator to give the chief executive a written explanation about any matter contained in the financial statement.

‘(4) The licensed operator must comply with a requirement under subsection (3), unless the operator has a reasonable excuse.

Maximum penalty—100 penalty units.

‘(5) The licensed operator must not give the chief executive an explanation the operator knows is false, misleading or incomplete in a material particular.

Maximum penalty—200 penalty units.

‘(6) Subsection (5) does not apply to a licensed operator if the operator, when giving the explanation, informs the chief executive in writing, to the best of the operator’s ability, how the explanation is false, misleading or incomplete.

‘(7) It is enough for a complaint for an offence against subsection (5) to state that the explanation was false, misleading or incomplete to the dependant’s knowledge.’.

Amendment of s 174 (Disposition of fees etc.)

105. Section 174(3), ‘section 173(1)(a)’—

omit, insert—

‘section 173(1)’.

Amendment of s 176 (Recovery of fees and taxes)

106.(1) Section 176(1), from ‘payable by the licensee’—

omit, insert—

‘payable to the State—

(a) by the licensee; or

(b) if the licensee is a body corporate that holds a category 1 licence—jointly and severally, by each person who is or was a director of the body corporate when the amount becomes or became payable.’.

(2) Section 176—

insert—

‘(1A) It is a defence in an action to recover an amount mentioned in subsection (1), that is a penalty payable under section 171, from a person mentioned in paragraph (b) of the subsection for the person to prove—

- (a) if the person was in a position to influence the conduct of the body corporate in relation to the matter from which the liability to pay the amount arose—the person exercised reasonable diligence to ensure the body corporate did not become liable to pay the amount; or
- (b) the person was not in a position to influence the conduct of the body corporate in relation to the matter.’.

(3) Section 176(2), ‘under to’—

omit, insert—

‘under’.

Replacement of s 177 (Offences relating to revenue)

107. Section 177—

omit, insert—

‘Offences relating to revenue

‘177. A licensee must not wilfully evade the payment, in whole or part, of—

- (a) a monthly fee or gaming machine tax payable under this part; or
- (b) a penalty payable under section 171.

Maximum penalty—400 penalty units or 2 years imprisonment.’.

Omission of s 178 (Offences relating to explanations)

108. Section 178—

omit.

Amendment of s 186 (Certain persons not to play gaming machines)

109. Section 186(2)—

omit, insert—

‘(2) A person who is a licensee or gaming employee must not play gaming machines installed on the licensed premises of which the person is the licensee, or for which the person is employed to carry out gaming duties as a gaming employee—

- (a) during the period the person is the licensee of, or a gaming employee for, the licensed premises, except to the extent it is necessary for carrying out duties as the licensee or a gaming employee; and
- (b) for 30 days after the person ceases to be the licensee of, or a gaming employee for, the licensed premises.

Maximum penalty—40 penalty units.’.

Amendment of s 187 (Officers of division may be prohibited from playing gaming machines)

110. Section 187(1), ‘gaming machines provided to a licensee’—

omit, insert—

‘authorised gaming machines of a licensee’.

Amendment of s 188 (Prohibition on control of applications by clubs)

111. Section 188(a)—

omit, insert—

- ‘(a) control over, or the ability to control, an application or the content of an application by a club under part 3, whether or not the club makes an application under the part; or’.

Insertion of new s 188A

112. After section 188—

insert—

‘Prohibition on control of gaming at clubs

‘188A. A person must not have or gain control over, or the ability to control, the conduct of gaming at a club unless the person is the secretary, an executive officer or a member of the club carrying out or exercising the person’s rights as secretary, executive officer or member.

Maximum penalty—200 penalty units.’.

Amendment of s 189 (Restriction on certain agreements)

113. Section 189(6)—

omit, insert—

‘(6) This section does not apply to an agreement entered into between a licensee and a licensed operator for electronically monitoring the licensee’s gaming machines in conjunction with the supply of services relating to the installation or operation of a linked jackpot arrangement on the licensee’s licensed premises.’.

Amendment of s 195 (Reporting of accounting discrepancies and criminal activity)

114. Section 195, ‘machine manager’—

omit, insert—

‘gaming employee’.

Amendment of s 196 (Cheating)

115. Section 196(3), definition **“licensee”**, paragraph (a), ‘machine manager’—

omit, insert—

‘gaming employee’.

Amendment of s 206 (Proceedings for offences)

116.(1) Section 206(3), (4) and (7), before ‘151(1)’—

insert—

‘148A(1) or (2),’.

(2) Section 206(3), (4) and (7), ‘178,’—

omit.

Amendment of s 212 (Disclosure of criminal history)

117. Section 212(f), from ‘40(8)’ to ‘90(2)’—

omit, insert—

‘40(2), 40A(1), 60(2), 79(1A), 80(2), 90B(1)’.

Amendment of s 215 (Regulation making power)

118. Section 215(2)(a)—

omit, insert—

‘(a) arrangements and procedures for the taking of fingerprints of an individual who is an applicant for a gaming machine, service contractor’s, repairer’s gaming nominee’s, gaming employee’s or key monitoring employee’s licence; and’.

Omission of s 217 (Approval of chief executive may be conditional)

119. Section 217—

omit.

Insertion of new pt 11, div 1 hdg

120. Part 11, before section 218—

insert—

‘*Division 1—Provisions for Gaming Machine Amendment Act 1997*’.

Amendment of s 218 (Chief executive to supply gaming machines etc. until there is a licensed operator)

121. Section 218(2), after ‘56(5)’—

insert—

‘as in force at the commencement of this section’.

Insertion of new pt 11, div 2

122. Part 11, after section 222—

insert—

***‘Division 2—Provisions for Gaming Machine and Other Legislation
Amendment Act 1999***

‘Definitions

‘223. In this part—

“application period” means the period of 2 months starting on the commencement day.

“commencement day” means the day on which the provision in which the term is used commences.

“existing control system”, for an existing operator, means the system of internal controls and administrative and accounting procedures used, immediately before the commencement day, by the operator for the operator’s monitoring operations.

“existing operator” means a person who—

- (a) immediately before the commencement day was a licensed operator; and
- (b) on the commencement day is a licensed operator.

“part 4 licence” means any of the following licences—

- repairer’s licence
- service contractor’s licence

-
- gaming employee’s licence
 - key monitoring employee’s licence.

“**submission period**” means the period of 1 month starting on the commencement day.

“**unresolved nominee’s application**”, for a licensee’s licensed premises, means an application for a gaming nominee’s licence that—

- (a) is made (whether under section 76E or 77) in the application period; and
- (b) is made by a person who, for the application, is nominated by the licensee to be the licensee’s nominee for the premises; and
- (c) is not decided before the end of the application period.

‘Term of gaming machine licences

‘**224.(1)** Section 47, as amended by the *Gaming Machine and Other Legislation Amendment Act 1999*, applies only to a gaming machine licence issued on or after the commencement day.

‘**(2)** Section 47, as in force immediately before the commencement day, continues to apply to a gaming machine licence issued before, and in force on, the commencement day.

‘Approved control systems for existing operators

‘**225.** An existing operator’s existing control system is, with any necessary modifications, taken to be the operator’s approved control system until—

- (a) if paragraph (b) does not apply—the end of the submission period; or
- (b) if, during the submission period, the existing operator makes a control system submission to the chief executive—the chief executive makes a decision under section 72ZZD³² approving, or

³² Section 72ZZD (Dealing with submissions)

refusing to approve, the control system to which the submission relates.

‘Nominees of licensees

‘**226.** Section 76D³³ does not apply to a licensee for licensed premises of the licensee—

- (a) until the end of the application period; or
- (b) if, at the end of the application period, there is an unresolved nominee’s application for the premises—until the application is decided.

‘Application for gaming nominees’ licences

‘**227.(1)** This section applies if, in the application period, an application for a gaming nominee’s licence is made by a licensed gaming employee under section 76E.³⁴

‘**(2)** The application is taken to be accompanied by the prescribed fee for the application if it is accompanied by a fee for an amount equal to the prescribed fee less the discount amount.

‘**(3)** In this section—

“**discount amount**” means the amount calculated using the formula—

$$\frac{M \times PF}{60}$$

where—

“**M**” means the number of whole months remaining in the unexpired period of the applicant’s gaming employee’s licence;

“**PF**” means the prescribed fee.

³³ Section 76D (Nominees of licensees)

³⁴ Section 76E (Application for gaming nominee’s licence by licensed gaming employee)

‘Applications for machine managers’ licences

‘**228.(1)** This section applies if an application for a machine manager’s licence was made, but not decided or withdrawn, before the commencement day.

‘(2) The application is taken to be an application for a gaming employee’s licence.

‘Machine managers’ licences

‘**229.** A machine manager’s licence in force immediately before the commencement day is taken to be a gaming employee’s licence until—

- (a) the term for which the licence was issued, or renewed or last renewed, expires; or
- (b) the licence otherwise ceases to be in force.

‘Licensed machine managers

‘**230.** A person who, immediately before the commencement day, was a licensed machine manager is taken to be a licensed gaming employee until—

- (a) the term for which the person’s licence was issued, or renewed or last renewed, expires; or
- (b) the person’s licence otherwise ceases to be in force.

‘Term of part 4 licences

‘**231.(1)** Section 83, as amended by the *Gaming Machine and Other Legislation Amendment Act 1999*, applies only to a part 4 licence issued on or after the commencement day.

‘(2) Section 83, as in force immediately before the commencement day, continues to apply to a part 4 licence issued before, and in force on, the commencement day.

‘Continuation of certain agreements for stated period

‘232.(1) This section applies despite the amendment of section 189(6) by the *Gaming Machine and Other Legislation Amendment Act 1999*, section 113 (the **“amending provision”**).

‘(2) Section 189(6), as in force immediately before the commencement of the amending provision, continues to apply to an agreement of a kind mentioned in the subsection if—

- (a) the agreement was entered into before 20 November 1998; and
- (b) the person with whom the licensed operator entered into the agreement is, and, at the time the agreement was entered into, was, a licensee; and
- (c) the premises to which the agreement relates are, and, at the time the agreement was entered into, were, licensed premises of the licensee.

‘(3) However, subsection (2) applies only for—

- (a) if the agreement’s initial term is not longer than 5 years—the agreement’s initial term; or
- (b) if the agreement’s initial term is longer than 5 years—the period of 5 years starting on the day the agreement’s initial term started.

‘(4) Also, subsection (2) applies to the agreement only for the licensed premises to which the agreement related at the time the agreement was entered into.’.

**PART 3—AMENDMENT OF CASINO CONTROL ACT
1982****Act amended in pt 3**

123. This part amends the *Casino Control Act 1982*.

Insertion of new s 71A

124. After section 71—

insert—

‘Unclaimed winnings and prizes

‘71A.(1) If a non-monetary prize for a game conducted in a casino is not collected within 3 months after the game is conducted, the casino operator may—

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

‘(2) Also, the casino operator must deal with any amount remaining from the proceeds of sale as required by this section.

Maximum penalty—100 penalty units.

‘(3) If an amount for winnings for a game conducted in a casino is not paid within 3 months after the game is conducted, the casino operator must, within 14 days after the end of the 3 months, deal with the amount as required by this section.

Maximum penalty—100 penalty units.

‘(4) The casino operator must, for an amount mentioned in subsection (2) or (3)—

- (a) if the casino operator knows who is entitled to receive the amount and the person has a current deposit advance account with the casino operator—pay the amount into the account; or
- (b) if the casino operator knows who is entitled to receive the amount and the person’s whereabouts, and the person does not have a current deposit advance account with the casino operator—pay the amount to the person; or
- (c) if the casino operator knows who is entitled to receive the amount, but the casino operator does not know the person’s whereabouts and the person does not have a current deposit advance account with the casino operator—pay the amount into the designated departmental account; or

- (d) if the casino operator does not know who is entitled to receive the amount—pay the amount into the designated departmental account.

‘(5) In this section—

“**designated departmental account**” means an account at the department designated under a regulation as the account to which payments are to be made under subsection (4)(c) or (d).’.

PART 4—AMENDMENT OF INTERACTIVE GAMBLING (PLAYER PROTECTION) ACT 1998

Act amended in pt 4

125. This part amends the *Interactive Gambling (Player Protection) Act 1998*.

Amendment of s 135 (Inactive players accounts)

126. Section 135, after ‘players account’—

insert—

‘with a licensed provider’.

Amendment of s 137 (Prohibition of interactive gambling)

127. Section 137(8), ‘(1)(a)’—

omit, insert—

‘(1)(b)’.

Amendment of s 162 (Approval of regulated interactive gambling equipment)

128.(1) Section 162(1), ‘A licensed provider’—

omit, insert—

‘A person’.

(2) Section 162(1), ‘the licensed provider’—

omit, insert—

‘a licensed provider’.

(3) Section 162(4), ‘licensed provider’—

omit, insert—

‘person’.

(4) Section 162—

insert—

‘(4A) The chief executive may impose conditions on the approval.’.

PART 5—AMENDMENT OF KENO ACT 1996

Act amended in pt 5

129. This part amends the *Keno Act 1996*.

Amendment of s 148 (Extending credit)

130.(1) Section 148, ‘a person’—

omit, insert—

‘any person, including the operator,’.

(2) Section 148—

insert—

‘(2) An employee of an authorised keno operator must not, in the course of the employee’s employment, make a loan or extend credit in any form to any person, including the employee, to enable the person or another person to take part in an approved keno game.’

Maximum penalty—200 penalty units or 2 years imprisonment.

‘(3) An authorised keno operator must refuse to pay a prize for an approved keno game if the operator reasonably believes that the prize was obtained because of a contravention of subsection (1) or (2).

‘(4) In this section—

“**employee**”, of an authorised keno operator, means a person employed or engaged by the operator (whether or not for fee or reward) in functions relating to the conduct of keno gaming.’.

Replacement of s 152 (Claims for payment)

131. Section 152—

omit, insert—

‘Claims for payment

‘**152.(1)** If a claim for payment of a prize for an approved keno game is made to an authorised keno operator, the operator must immediately try to resolve the claim.

‘(2) If the authorised keno operator reasonably believes the prize was obtained because of a contravention of section 148(1) or (2), the operator must resolve the claim by refusing to pay the prize.

‘(3) If the authorised keno operator resolves the claim in the way mentioned in subsection (2), or is not able to resolve the claim, the operator must immediately give the claimant a written notice (a “**claim result notice**”) stating—

- (a) the decision; and
- (b) that the claimant may, within 10 days after receiving the notice, ask the chief executive to review the decision.

‘(4) If the claim is resolved in the way mentioned in subsection (2), or is not resolved, the claimant may ask the chief executive—

- (a) if the claimant did not receive a claim result notice—to resolve the claim; or
- (b) if the claimant received a claim result notice—to review the

decision of the authorised keno operator.

‘(5) A request to the chief executive under subsection (4)—

- (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.

‘(6) The chief executive must deal with a request under subsection (4) in the way prescribed under a regulation.’.

Insertion of new s 159A

132. After section 159—

insert—

‘Keno gaming by keno agent or keno agent’s employees

‘**159A.(1)** A keno agent or an employee of the agent must not take part in keno gaming at a place where the keno agent conducts keno gaming.

Maximum penalty—40 penalty units.

‘(2) A person is not eligible to win a prize for an approved keno game if the person takes part in the game in contravention of subsection (1).

‘(3) In this section—

“**employee**”, of a keno agent, means a person employed or engaged by the agent (whether or not for fee or reward) in functions relating to the conduct of keno gaming.’.

PART 6—AMENDMENT OF LOTTERIES ACT 1997

Act amended in pt 6

133. This part amends the *Lotteries Act 1997*.

Insertion of new s 132A

134. After section 132—

insert—

‘Relationship of provisions about unclaimed prizes with Public Trustee Act

‘132A. Sections 131 and 132 have effect despite the *Public Trustee Act 1978*, part 8.³⁵’.

PART 7—AMENDMENT OF WAGERING ACT 1998**Act amended in pt 7**

135. This part amends the *Wagering Act 1998*.

Amendment of s 213 (Claims for payment of winning bets)

136. Section 213—

insert—

‘(3) This section has effect despite the *Public Trustee Act 1978*, part 8.³⁶’.

³⁵ *Public Trustee Act 1978*, part 8 (Unclaimed property)

³⁶ *Public Trustee Act 1978*, part 8 (Unclaimed property)