



Queensland

Gambling Legislation Amendment Act 2004

Act No. 21 of 2004

Queensland



GAMBLING LEGISLATION AMENDMENT ACT 2004

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Queensland

Gambling Legislation Amendment Act 2004

Act No. 21 of 2004

An Act to amend the *Casino Control Act 1982, Charitable and Non-Profit Gaming Act 1999, Gaming Machine Act 1991, Interactive Gambling (Player Protection) Act 1998, Keno Act 1996, Lotteries Act 1997, TAB Queensland Limited Privatisation Act 1999, and Wagering Act 1998, and for another purpose*

[Assented to 13 September 2004]

The Parliament of Queensland enacts—

PART 1—PRELIMINARY

1 Short title

This Act may be cited as the *Gambling Legislation Amendment Act 2004*.

2 Commencement

This Act, other than sections 4A, 4B, 5A and 18(4) to (7), commences on a day to be fixed by proclamation.

PART 2—AMENDMENT OF CASINO CONTROL ACT 1982

3 Act amended in pt 2

This part amends the *Casino Control Act 1982*.

4 Replacement of s 14 (Secrecy)

Section 14—

omit, insert—

‘14 Confidentiality of information

‘(1) A person who is, or was, an inspector or an officer of the department must not disclose confidential information gained by the person in performing functions under this Act.

Maximum penalty—200 penalty units or 2 years imprisonment.

‘(2) However, the person may disclose confidential information if—

(a) the disclosure is for a purpose under this Act or a gaming Act; or

- (b) the disclosure is otherwise required or permitted by law; or
- (c) the chief executive approves the disclosure under this section.

‘(3) The chief executive may approve a disclosure of confidential information to—

- (a) an entity prescribed under a regulation; or
- (b) an officer, employee or member of the entity; or
- (c) a stated department, person or other entity.

‘(4) Before giving an approval for subsection (3)(c), the chief executive must—

- (a) give written notice of the proposed approval to each person whom the chief executive considers is likely to be affected adversely by the disclosure; and
- (b) give the person the opportunity to make a submission about the proposed approval within the period, of at least 14 days, stated in the notice.

‘(5) If confidential information is disclosed to an entity or person under an approval given by the chief executive, the entity or person, and any employee or other person under the control of the entity or person, are taken to be persons to whom subsection (1) applies and to have gained the information in performing functions under this Act.

‘(6) In this section—

“**confidential information**” means information, other than information that is publicly available, about—

- (a) a person’s personal affairs, business affairs or reputation, character, criminal history, current financial position or financial background; or
- (b) a person making an application under this Act.’.

4A Insertion of new s 29A

After section 29—

insert—

‘29A Notice of particular change under casino management agreement

‘(1) This section applies if, under a casino management agreement, a person who is, or may be, the casino operator under the agreement may, from time to time—

- (a) stop being the casino operator; or
- (b) become the casino operator.

‘(2) At least 60 days before the person is to stop being or is to become the casino operator, the relevant person for the casino management agreement must give written notice of the proposed change to the chief executive.

Maximum penalty—40 penalty units.

‘(3) In this section—

“**relevant person**” means—

- (a) for a casino management agreement entered into by a casino licensee, or a casino licensee and a lessee under a casino lease—the casino licensee; or
- (b) for another casino management agreement—the lessee under a casino lease who entered into the agreement.’.

4B Amendment of s 31 (Cancellation or suspension of casino licences and letters of censure)

Section 31(1), from ‘who has entered’ to ‘lease’—

omit, insert—

‘under the agreement’.

5 Replacement of pt 4, div 5 (Suspension and cancellation of casino key employee and casino employee licences)

Part 4, division 5—

omit, insert—

‘Division 5—Suspension and cancellation of casino key employee and casino employee licences, and other action by chief executive

‘Subdivision 1—Suspension and cancellation

‘44 Grounds

‘(1) Each of the following is a ground for suspending or cancelling a casino key employee licence or a casino employee licence—

- (a) the holder of the licence—
 - (i) is not a suitable person to hold the licence; or
 - (ii) acts in a way that is inappropriate for casino operations; or
 - (iii) contravenes a provision of this Act, other than a provision a contravention of which is an offence against this Act; or
 - (iv) contravenes a condition of the licence;
- (b) the holder of the licence has a conviction, other than a spent conviction, for—
 - (i) an offence against this Act or a gaming Act; or
 - (ii) an indictable offence;
- (c) the licence was issued because of a materially false or misleading representation or document.

‘(2) For forming a belief that the ground mentioned in subsection (1)(a)(i) exists, the chief executive may have regard to the same matters the chief executive may make an assessment of under section 37(1)(c)¹ in considering an application for a casino key employee licence or a casino employee licence.

‘(3) For subsection (1)(a)(ii), the holder of a licence acts in a way that is inappropriate for casino operations if the holder does, or omits to do, an act that results in—

- (a) the operation of the casino at which the holder is employed not being conducted under the system of internal controls and

¹ Section 37 (Consideration of application)

administrative and accounting procedures approved by the chief executive under section 75² for the casino; and

- (b) the integrity of the operations of the casino being jeopardised.

‘(4) In this section—

“**spent conviction**” means a conviction—

- (a) for which the rehabilitation period under the *Criminal Law (Rehabilitation of Offenders) Act 1986* has expired under that Act; and
- (b) that is not revived as prescribed by section 11³ of that Act.

‘45 Show cause notice

‘(1) If the chief executive believes a ground exists to suspend or cancel a casino key employee licence or a casino employee licence, the chief executive must before taking action to suspend or cancel the licence give the holder of the licence a written notice (a “**show cause notice**”).

‘(2) The show cause notice must state the following—

- (a) the action the chief executive proposes taking under this subdivision (the “**proposed action**”);
- (b) the grounds for the proposed action;
- (c) an outline of the facts and circumstances forming the basis for the grounds;
- (d) if the proposed action is suspension of the licence—the proposed suspension period;
- (e) that the holder of the licence may, within a stated period (the “**show cause period**”), make written representations to the chief executive to show why the proposed action should not be taken.

‘(3) The show cause period must end at least 21 days after the holder of the licence is given the show cause notice.

‘(4) Subsection (5) applies if the chief executive believes—

- (a) the holder of the licence is an employee of a casino operator; and

² Section 75 (Chief executive’s approval)

³ *Criminal Law (Rehabilitation of Offenders) Act 1986*, section 11 (Revival of convictions)

- (b) the existence of the grounds for the proposed action is likely to adversely affect the conduct of the operations of the casino.

‘(5) The chief executive must immediately give a copy of the show cause notice to the casino operator.

‘(6) The casino operator may make written representations about the show cause notice to the chief executive in the show cause period.

‘45A Consideration of representations

‘The chief executive must consider all written representations (the “**accepted representations**”) made under section 45(2)(e) or (6).

‘45B Immediate suspension

‘(1) The chief executive may suspend a casino key employee licence or a casino employee licence immediately if the chief executive believes—

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

‘(2) The suspension—

- (a) can be effected only by the chief executive giving the holder of the licence an information notice for the decision to suspend it, together with a show cause notice; and
- (b) operates immediately the information notice is given to the holder; and
- (c) continues to operate until the show cause notice is finally dealt with.

‘(3) If the chief executive believes the holder of the licence is an employee of a casino operator, the chief executive must immediately give written notice of the suspension to the casino operator.

‘45C Suspension and cancellation of licence after show cause process

‘(1) This section applies if—

- (a) there are no accepted representations for a show cause notice; or
- (b) after considering the accepted representations for a show cause notice, the chief executive—
 - (i) still believes a ground exists to suspend or cancel a casino key employee licence or a casino employee licence; and
 - (ii) believes suspension or cancellation of the licence is warranted.

‘(2) This section also applies if a holder of a casino key employee licence or a casino employee licence contravenes a direction given to the holder under section 45F.⁴

‘(3) The chief executive may—

- (a) if the proposed action was to suspend the licence—suspend the licence for not longer than the proposed suspension period; or
- (b) if the proposed action was to cancel the licence—cancel the licence or suspend it for a period.

‘(4) If the chief executive decides to take action under subsection (3), the chief executive must immediately—

- (a) give an information notice for the decision to the holder of the licence; and
- (b) if the chief executive believes the holder is an employee of a casino operator—give written notice of the suspension or cancellation to the casino operator.

‘(5) The decision takes effect on the later of the following—

- (a) the day the information notice is given to the holder of the licence;
- (b) the day of effect stated in the information notice.

‘(6) If the chief executive cancels the licence, the holder must give the licence to the chief executive within 14 days after the cancellation takes effect.

Maximum penalty for subsection (6)—40 penalty units.

4 Section 45F (Direction to rectify matter after show cause process)

‘Subdivision 2—Other action by chief executive

‘45D Ending show cause process without further action

‘(1) This section applies if, after considering the accepted representations for a show cause notice, the chief executive no longer believes a ground exists to suspend or cancel a casino key employee licence or a casino employee licence.

‘(2) The chief executive—

- (a) must not take any further action about the show cause notice; and
- (b) must give each of the following a written notice stating that no further action is to be taken—
 - (i) the holder of the licence;
 - (ii) a casino operator to whom a copy of the show cause notice was given under section 45(5).

‘45E Censuring holder of licence

‘(1) The chief executive may censure a holder of a casino key employee licence or a casino employee licence for a matter relating to a ground for suspension or cancellation if the chief executive—

- (a) believes a ground exists to suspend or cancel the licence but does not believe that giving a show cause notice to the holder is warranted; or
- (b) after considering the accepted representations for a show cause notice, still believes a ground exists to suspend or cancel the licence but does not believe suspension or cancellation of the licence is warranted.

‘(2) The censure can be effected only by the chief executive giving the holder of the licence an information notice for the decision to censure the holder.

‘(3) If the chief executive believes the holder of the licence is an employee of a casino operator, the chief executive must immediately give written notice of the censure to the casino operator.

‘45F Direction to rectify matter after show cause process

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

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

‘(2) The chief executive may direct the holder of the licence to rectify the matter.

‘(3) If the chief executive decides to give the holder of a licence a direction under this section, the direction can be effected only by the chief executive giving the holder an information notice for the decision.

‘(4) The information notice must state the period for rectifying the matter.

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

‘(6) If the chief executive gave a copy of the show cause notice to a casino operator under section 45(5), the chief executive must give written notice of the direction to the casino operator immediately after giving the information notice to the holder of the licence.

‘45G Cancellation or reduction of period of suspension

‘(1) If the chief executive suspends a casino key employee licence or a casino employee licence, the chief executive may, for any remaining period of suspension and at any time the suspension is in force—

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

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

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

- (a) the holder of the licence; and

- (b) if the chief executive believed the holder was an employee of a casino operator when the licence was suspended—the casino operator.

‘(4) Subsection (1) does not apply to an immediate suspension.’.

5A Amendment of s 57 (Liability for fees, taxes and levies)

(1) Section 57(2), ‘Where’—

omit, insert—

‘If’.

(2) Section 57(3)—

omit, insert—

‘(3) If—

- (a) the casino operator is not the casino licensee or a lessee under a casino lease and there is no casino lease, the casino operator and the casino licensee; or
- (b) the casino operator is not the casino licensee or a lessee under a casino lease and there is a casino lease, the casino operator, casino licensee and lessee under the lease;

are jointly and severally liable for all fees, taxes and levies payable in accordance with this part.’.

6 Amendment of s 74 (Content of submission)

Section 74—

insert—

‘(2) However, a casino operator’s submission need not include particular information mentioned in subsection (1) if the chief executive is satisfied, having regard to the nature of the operations of the casino, that the information is not necessary for the chief executive’s proper consideration of the submission under section 75.’.

7 Amendment of s 91A (Who may appeal)

Section 91A(e), (f) and (g)—

omit, insert—

- (e) a decision, under section 45B, immediately suspending the licence;
- (f) a decision, under section 45C, suspending or cancelling the licence;
- (g) a decision, under section 45E, censuring the holder of the licence;
- (h) a decision, under section 45F, directing the holder of the licence to rectify a matter.’.

8 Replacement of s 91G (Appeals to District Court)

Section 91G—

omit, insert—

‘91G Notice of decision

‘The gaming commission must, as soon as practicable after deciding an appeal, give each party to the appeal written notice of its decision and the reasons for the decision.’.

9 Insertion of new pt 9A, divs 2 and 3

Part 9A, after section 91G—

insert—

‘Division 2—Appeals to Magistrates Court

‘91H Who may appeal

‘A person may appeal to a Magistrates Court against the following decisions—

- (a) a decision of a casino operator or a casino manager, under section 93A, to give the person an exclusion direction;
- (b) a decision of a casino operator, under section 99, refusing to revoke an exclusion direction given to the person.

‘91I Starting appeal

‘(1) An appeal is started by—

- (a) filing a notice of appeal with the clerk of a Magistrates Court; and
- (b) serving a copy of the notice on the casino operator or casino manager who made the decision; and
- (c) complying with rules of court applicable to the appeal.

‘(2) The notice of appeal must be filed within 28 days after the person is given the information notice for the decision.

‘(3) However, the court may, at any time, extend the time for filing the notice of appeal.

‘(4) The notice of appeal must state fully the grounds of appeal.

‘91J Stay of operation of decision

‘(1) The Magistrates Court may grant a stay of the decision to secure the effectiveness of the appeal.

‘(2) A stay—

- (a) may be given on the conditions the court considers appropriate; and
- (b) operates for the period fixed by the court; and
- (c) may be amended or cancelled by the court.

‘(3) The period of a stay under this section must not extend past the time when the court decides the appeal.

‘(4) The appeal affects the decision, or carrying out of the decision, only if it is stayed.

‘91K Hearing procedures

‘(1) In deciding an appeal, the Magistrates Court—

- (a) is not bound by the rules of evidence; and
- (b) must comply with natural justice.

‘(2) An appeal is by way of rehearing, unaffected by the decision appealed against, on the material before the casino operator or casino manager who made the decision and any further evidence allowed by the court.

‘91L Court’s powers on appeal

‘(1) In deciding an appeal, the Magistrates Court may—

- (a) confirm the decision appealed against; or
- (b) set aside the decision and substitute another decision; or
- (c) set aside the decision and return the matter to the casino operator or casino manager with directions the court considers appropriate.

‘(2) If the court substitutes another decision, the substituted decision is, for this Act, other than this division, taken to be the decision of the casino operator or casino manager.

‘Division 3—Appeals to District Court**‘91M Appeal to District Court**

‘An appeal lies to the District Court against a decision of the gaming commission or a Magistrates Court under this part but only on a question of law.’.

10 Insertion of new pt 10, div 1, sdiv 1

Part 10, division 1, before section 92—

insert—

‘Subdivision 1—Provisions about self-exclusion**‘91N Self-exclusion notice**

‘(1) A person may give to a casino operator a notice in the approved form (a “**self-exclusion notice**”) asking the casino operator to prohibit the person from entering or remaining in the casino.

‘(2) The notice must be accompanied by a recent photo of the person.

‘(3) If a casino operator operates more than 1 casino, a self-exclusion notice may relate to a stated casino or all casinos operated by the casino operator.

‘91O Self-exclusion order

‘(1) If a person gives a casino operator a self-exclusion notice under section 91N, the casino operator must as soon as practicable give to the person—

- (a) a notice in the approved form (a “**self-exclusion order**”) prohibiting the person from entering or remaining in the casino; and
- (b) details, including the name and address, of at least 1 entity that provides counselling services for problem gamblers.

Maximum penalty—50 penalty units.

‘(2) A self-exclusion order has effect for the period—

- (a) starting when it is given to the person; and
- (b) ending on the earlier of the following—
 - (i) when a revocation notice for the order takes effect under section 91P(3);
 - (ii) the day that is 5 years after the day the order is given to the person.

‘(3) If a casino operator gives a person a self-exclusion order, the operator must as soon as practicable give to the chief executive a copy of—

- (a) the order; and
- (b) the self-exclusion notice relating to the order.

‘91P Revoking self-exclusion order

‘(1) A person who is given a self-exclusion order may, by notice in the approved form (a “**revocation notice**”) given to the casino operator for the casino to which the order relates, revoke the order.

‘(2) However, the person may revoke the order only—

- (a) within 24 hours after the person receives it; or
- (b) after 1 year after the person receives it.

‘(3) A revocation notice takes effect—

- (a) if the notice is given to the casino operator under subsection (2)(a)—when it is given to the operator; or

(b) otherwise—28 days after the day it is given to the operator.

‘(4) The casino operator must, as soon as practicable after receiving a revocation notice, give the chief executive written notice of the revocation.’.

11 Amendment of s 92 (Entry to and exclusion of entry from casino)

(1) Section 92, heading, after ‘casino’—

insert—

‘—generally’.

(2) Section 92(3), after ‘direction’—

insert—

‘under subsection (2)’.

(3) Section 92(5)—

omit.

12 Insertion of new s 93A

After section 93—

insert—

‘93A Exclusion direction for problem gambler

‘(1) This section applies if a casino operator or a casino manager believes on reasonable grounds a person is a problem gambler.

‘(2) The casino operator or casino manager may give the person a notice in the approved form (an “**exclusion direction**”) prohibiting the person from entering or remaining in the casino.

‘(3) If a casino operator operates more than 1 casino, an exclusion direction may relate to a stated casino or all casinos operated by the casino operator.

‘(4) If a casino operator or a casino manager decides to give a person an exclusion direction, the direction must be accompanied by an information notice for the decision.’.

13 Amendment of s 95 (Copy of direction to chief executive)

(1) Section 95, ‘section 92 or 94’—

omit, insert—

‘section 92, 93A or 94’.

(2) Section 95, after ‘section 92’, second mention—

insert—

‘or 93A’.

14 Amendment of s 96 (Duration of direction)

(1) Section 96, heading, after ‘**direction**’—

insert—

‘**under s 92 or 94**’.

(2) Section 96—

insert—

‘(2) If a casino operator or the commissioner of the police service revokes a direction given to a person under section 92 or 94, the casino operator or commissioner must as soon as practicable—

- (a) give the person written notice of the revocation; and
- (b) give the chief executive a copy of the notice.’.

15 Replacement of ss 97–100

Sections 97 to 100—

omit insert—

‘97 Duration of exclusion direction

‘An exclusion direction has effect for the period—

- (a) starting when it is given to the person concerned; and
- (b) ending on the earlier of the following—
 - (i) if the decision to give the direction is set aside on appeal under part 9A—when the decision is set aside;

- (ii) if a revocation notice for the direction takes effect under section 99(6)—when the notice takes effect;
- (iii) if a decision, under section 99, refusing to revoke the direction is set aside on appeal under part 9A—when the decision is set aside;
- (iv) the day that is 5 years after the day the direction is given to the person.

‘98 Application to revoke exclusion direction

‘(1) A person who is prohibited from entering or remaining in a casino under an exclusion direction may apply to the casino operator for the casino to which the direction relates for revocation of the direction.

‘(2) The application may only be made at least 1 year after the day the person is given the direction.

‘(3) The application must be—

- (a) in the approved form; and
- (b) supported by enough information to enable the casino operator to decide the application.

‘(4) A person may apply under this section only once each year commencing on the anniversary of the day the person was given the direction.

‘99 Deciding application to revoke exclusion direction

‘(1) This section applies to an application under section 98 for revocation of an exclusion direction.

‘(2) The casino operator must consider the application and, within 28 days after receiving it, decide to revoke or refuse to revoke the direction.

‘(3) If the casino operator fails to decide the application within 28 days after its receipt, the failure is taken to be a decision by the operator to refuse to revoke the direction.

‘(4) In considering the application, the casino operator may have regard to the information supporting the application and any information the operator considers relevant, including, for example, a report of a psychologist.

‘(5) If the casino operator decides to revoke the direction, the operator must as soon as practicable—

- (a) give the applicant notice of the revocation in the approved form (a “**revocation notice**”); and
- (b) give the chief executive a copy of the revocation notice.

‘(6) A revocation notice takes effect when it is given to the applicant.

‘(7) If the casino operator decides to refuse to revoke the direction, the operator must as soon as practicable give the applicant an information notice for the decision.

‘Subdivision 3—Other provisions

‘100 Particular persons not to enter or remain in casino

‘A person who is prohibited from entering or remaining in a casino under a self-exclusion order, an exclusion direction or a direction under section 92 or 94 must not enter or remain in the casino.

Maximum penalty—40 penalty units.

‘100A Counselling

‘(1) This section applies if a court finds a person (the “**defendant**”) guilty of, or accepts a person’s plea of guilty for, an offence against section 100.

‘(2) The court may, if satisfied the defendant is a problem gambler, postpone its decision on penalty on condition that the defendant agrees to attend counselling on a basis decided by the court.

‘(3) The agreement—

- (a) must provide for counselling of a kind that may, in the court’s opinion, be beneficial in helping to overcome harmful behaviour related to gambling; and
- (b) must provide for counselling over a period, of not more than 12 months, fixed by the court; and
- (c) must allow the counsellor a discretion to disclose to the court information about the defendant’s participation in the counselling if the counsellor believes the disclosure will help the

court to exercise its powers and discretions in an appropriate way under this section; and

- (d) must provide that the counsellor is to report to the court a failure by the defendant to attend counselling under the agreement.

‘(4) To decide whether the defendant is a problem gambler and, if so, whether counselling of an appropriate kind is available, the court may have regard to any information the court considers relevant, including, for example, a report of a psychiatrist or a psychologist.

‘(5) If the court postpones a decision on penalty under this section, the court must proceed to make a decision on penalty—

- (a) as soon as practicable after the end of the period fixed for the counselling; or
- (b) if, during the period fixed for the counselling, the defendant advises the court that he or she does not want to continue with the counselling—as soon as practicable after the court receives the advice; or
- (c) if, during the period fixed for the counselling, the counsellor reports to the court that the defendant has failed to attend counselling under the agreement or to participate satisfactorily in the counselling—as soon as practicable after the court receives the report.

‘(6) In making its decision on penalty after a postponement under this section, the court—

- (a) must consider whether and, if so, to what extent, the defendant has made a genuine attempt to overcome harmful behaviour related to gambling; and
- (b) may, for considering the matters mentioned in paragraph (a), have regard to the report of a counsellor appointed to counsel the defendant under an agreement under this section.

‘100B Obligation to prevent persons from entering or remaining in casino

‘(1) This section applies to a casino operator, or an employee or an agent of the casino operator, if the casino operator, employee or agent knows that a person is prohibited from entering or remaining in the casino under—

- (a) a self-exclusion order; or

- (b) an exclusion direction; or
- (c) a direction under section 92 or 94.

‘(2) The casino operator, employee or agent must take reasonable steps to prevent the person from entering or remaining in the casino.

Maximum penalty—

- (a) for a casino operator—250 penalty units; or
- (b) for another person—40 penalty units.

‘(3) It is lawful for the casino operator, employee or agent to use necessary and reasonable force to prevent the person from entering or remaining in the casino.

‘(4) The force that may be used does not include force that is likely to cause bodily harm to the person.

‘(5) Subsection (2) must not be construed as requiring a casino operator, an employee or an agent to use reasonable force to prevent a person from entering or remaining in the casino.

‘(6) In this section—

“**bodily harm**” means any bodily injury that interferes with health or comfort.

‘100C Register

‘(1) A casino operator must keep a register, in the approved form, of persons who are prohibited from entering or remaining in the casino under—

- (a) a self-exclusion order; or
- (b) an exclusion direction; or
- (c) a direction under section 92 or 94.

Maximum penalty—40 penalty units.

‘(2) The casino operator must keep the register available for inspection by an inspector.

‘100D Notice of contravention of order or direction

‘(1) This section applies if, under section 100B, a casino operator or an employee or an agent of a casino operator prevents a person from entering or remaining in the casino.

‘(2) The casino operator must immediately give the chief executive notice, in the approved form, of the prevention.

Maximum penalty—40 penalty units.’.

16 Insertion of new s 110A

After section 110—

insert—

‘110A Offence about keeping particular benefit

‘(1) This section applies to a person who knows he or she has obtained a benefit—

- (a) by playing a game in a casino in contravention of the rules made under section 63(1); or
- (b) because of an error or oversight in the conduct of a game.

‘(2) The person must not dishonestly keep the benefit.

Maximum penalty—200 penalty units.

‘(3) Subsection (2) applies even if the benefit was originally obtained by the person without any dishonest intent.

‘(4) In this section—

“**benefit**” includes money, chips, advantage, valuable consideration and security.’.

17 Insertion of new pt 11, div 4

Part 11, after section 133—

insert—

***‘Division 4—Transitional provisions for Gambling Legislation
Amendment Act 2004***

‘134 Definitions for div 4

‘In this division—

“commencement” means the day this division commences.

“pre-amended Act” means this Act as in force before the commencement of the *Gambling Legislation Amendment Act 2004*, part 2.

‘135 Dealing with show cause notice

‘(1) This section applies if—

- (a) under the pre-amended Act, section 44A or 44G, the chief executive has given a show cause notice to the holder of a casino key employee licence or a casino employee licence; and
- (b) the show cause notice has not been finally dealt with before the commencement.

‘(2) For dealing with the show cause notice, the pre-amended Act continues to apply as if the *Gambling Legislation Amendment Act 2004*, part 2, had not commenced.

‘(3) Subsection (4) applies if, under the pre-amended Act, a person could appeal to the gaming commission against a decision of the chief executive relating to the show cause notice.

‘(4) The person may appeal, and the gaming commission may hear and decide the appeal, under the pre-amended Act.

‘136 Transitional provision about immediate suspension of licence

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

- (a) has suspended a casino key employee licence or a casino employee licence under the pre-amended Act, section 44G; and
- (b) has not given the holder of the licence a show cause notice as required under that section before the commencement.

‘(2) The chief executive must, within 7 days after suspending the licence, give the holder of the licence a show cause notice under the pre-amended Act, section 44A.

‘(3) The suspension of the licence continues until the show cause notice is finally dealt with.

‘(4) For giving and dealing with the show cause notice, the pre-amended Act continues to apply as if the *Gambling Legislation Amendment Act 2004*, part 2, had not commenced.

‘(5) Subsection (6) applies if, under the pre-amended Act, a person could appeal to the gaming commission against a decision of the chief executive relating to the show cause notice.

‘(6) The person may appeal, and the gaming commission may hear and decide the appeal, under the pre-amended Act.

‘137 Direction to rectify under pre-amended Act

‘(1) Subsection (2) applies to a direction to rectify a matter given to a casino key employee or a casino employee under the pre-amended Act, section 44E, if—

- (a) the chief executive gave the direction to the employee after considering, under the pre-amended Act, the accepted representations for a show cause notice; and
- (b) before the commencement—
 - (i) the period for rectifying the matter under that Act has not ended; or
 - (ii) the period for rectifying the matter under that Act has ended and action has not been taken under section 44F of that Act in relation to a failure to comply with the direction.

‘(2) A failure to comply with the direction may be dealt with under the pre-amended Act as if the *Gambling Legislation Amendment Act 2004*, part 2, had not commenced.

‘(3) Subsection (4) applies to a direction to rectify a matter given to a casino key employee or a casino employee under the pre-amended Act, section 44E, if—

- (a) the chief executive gave the direction to the employee without a show cause notice; and
- (b) before the commencement—
 - (i) the period for rectifying the matter under that Act has not ended; or

- (ii) the period for rectifying the matter under that Act has ended and action has not been taken under that Act in relation to a failure to comply with the direction.

‘(4) A failure to comply with the direction is taken to be a contravention of a provision of this Act, other than a provision a contravention of which is an offence against this Act.

‘138 Appeals to gaming commission

‘(1) Subsection (2) applies if—

- (a) a person has appealed to the gaming commission against a decision of the chief executive under a repealed provision; and
- (b) the appeal has not been decided before the commencement.

‘(2) The gaming commission may hear, or continue to hear, and decide the appeal under the pre-amended Act.

‘(3) Subsection (4) applies if—

- (a) immediately before the commencement a person could have appealed to the gaming commission against a decision of the chief executive under a repealed provision; and
- (b) the person has not appealed before the commencement.

‘(4) The person may appeal, and the gaming commission may hear and decide the appeal, under the pre-amended Act.

‘(5) In this section—

“repealed provision” means the pre-amended Act, section 44D or 44F.

‘139 Directions given under particular provision

‘(1) This section applies to a direction given under section 92(2) that—

- (a) is in force immediately before the commencement; and
- (b) was given to a person in relation to a ground stated in the pre-amended Act, section 92(3)(b)(ii).

‘(2) Despite section 96(1), the direction remains in force for 5 years after the commencement unless it is earlier revoked under that subsection.’.

18 Amendment of schedule (Dictionary)

(1) Schedule, definitions “conviction”, “information notice” and “show cause notice”—

omit.

(2) Schedule—

insert—

‘ **“casino manager”**, for a casino, means—

- (a) a person designated as a shift manager for the casino by the casino operator; or
- (b) another person who—
 - (i) occupies a position equivalent, similar or more senior to the position of a person mentioned in paragraph (a); and
 - (ii) is concerned with, or takes part in, managing the operations of the casino.

“commencement”—

- (a) for part 11, division 3—see section 130; and
- (b) for part 11, division 4—see section 134.

“conviction” includes the acceptance of a plea of guilty or a finding of guilt by a court even though a conviction is not recorded.

“exclusion direction” see section 93A(2).

“indictable offence” includes an indictable offence dealt with summarily, whether or not the Criminal Code, section 659,⁵ applies to the indictable offence.

“information notice”, for a decision of the chief executive, a casino operator or a casino manager, means a written notice stating all of the following—

- (a) the decision;
- (b) the reasons for the decision;
- (c) that the person to whom the notice is given may, within 28 days after the person receives the notice, appeal against the decision to—

⁵ Criminal Code, section 659 (Effect of summary conviction for indictable offences)

- (i) for a decision of the chief executive—the gaming commission; or
- (ii) for a decision of a casino operator or a casino manager—a Magistrates Court;
- (d) how the person may appeal to the gaming commission or a Magistrates Court.

“pre-amended Act”, for part 11, division 4, see section 134.

“problem gambler” means a person whose behaviour indicates a compulsion to gamble, an addiction to gambling, or an inability or disinclination to make rational judgments about gambling.

“proposed action” see section 45(2)(a).

“revocation notice”—

- (a) for part 10, division 1, subdivision 1—see section 91P(1); and
- (b) for part 10, division 1, subdivision 2—see section 99(5)(a).

“self-exclusion notice” see section 91N(1).

“self-exclusion order” see section 91O(1)(a).

“show cause notice” see section 45(1).’.

(3) Schedule, definition “accepted representations”, ‘44B’—

omit, insert—

‘45A’.

(4) Schedule, definition “casino management agreement”, ‘the other’—

omit, insert—

‘another’.

(5) Schedule, definition “casino operator”, paragraphs (a) and (b), ‘where’—

omit, insert—

‘if’.

(6) Schedule, definition “casino operator”, paragraph (c)—

omit, insert—

‘(c) if there is a casino management agreement—

- (i) for any period in which a person is, for the time being under the agreement, responsible for the management of the casino—that person; or
- (ii) for another period—
 - (A) if there is no casino lease, or there is a casino lease and the lessee under the lease has not entered into the agreement—the casino licensee who entered into the agreement; or
 - (B) if there is a casino lease and the lessee under the lease has entered into the agreement—the lessee;’.

(7) Schedule, definition “casino operator”, paragraph (f), after ‘licensee’, second mention—

insert—

‘, but does not include the person during any period after the grant of the licence in which the person is not responsible for the management of the casino’.

PART 3—AMENDMENT OF CHARITABLE AND NON-PROFIT GAMING ACT 1999

19 Act amended in pt 3

This part amends the *Charitable and Non-Profit Gaming Act 1999*.

20 Amendment of s 9 (Meaning of “calcutta sweep”)

(1) Section 9(1), ‘racing venue’—

omit, insert—

‘licensed venue’.

(2) Section 9(3), definition “racing venue”, ‘**racing**’—

omit, insert—

‘**licensed**’.

21 Amendment of s 22 (Restriction on persons conducting category 2 or 3 games)

Section 22(a)—

omit, insert—

‘(a) keeps its general gaming records at any of the following places—

- (i) its principal place of business in Queensland;
- (ii) if the eligible association is a corporation whose registered office, under the Corporations Act, is in Queensland—its registered office;
- (iii) another place approved by the chief executive; and’.

22 Amendment of s 56 (Changing conditions of general licence)

(1) Section 56(2)(a)—

omit, insert—

‘(a) notice of the changed conditions; and’.

(2) Section 56(3)—

renumber as section 56(4).

(3) Section 56—

insert—

‘(3) A change of conditions takes effect on—

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

23 Insertion of new s 56A

After section 56—

insert—

‘56A Recording change of conditions

‘(1) If a general licensee receives an information notice under section 56(2), the licensee must return the licence to the chief executive within 7 days after receiving the notice, unless the licensee has a reasonable excuse.

Maximum penalty—40 penalty units.

‘(2) On receiving the licence, the chief executive must—

- (a) amend the licence to include the changed conditions and return it to the licensee; or
- (b) give the licensee a replacement licence showing the changed conditions.’.

24 Amendment of s 74 (Keeping general gaming records—eligible associations)

(1) Section 74, heading ‘—eligible associations’—

omit, insert—

‘—category 2 or 3 games’.

(2) Section 74(2)—

omit, insert—

‘(2) The person must keep the records at one of the following places—

- (a) the person’s principal place of business in Queensland;
- (b) if the person is a corporation whose registered office, under the Corporations Act, is in Queensland—its registered office;
- (c) another place approved by the chief executive.

Maximum penalty—40 penalty units.’.

25 Amendment of s 100B (Offences about using or modifying regulated general gaming equipment)

Section 100B(1) and (2), penalties, ‘40’—

omit, insert—

‘200’.

26 Amendment of s 110 (Participation by minors)

(1) Section 110(1), ‘includes liquor’—

omit, insert—

‘is or includes liquor or a gaming product’.

(2) Section 110(3)—

insert—

‘**“gaming product”** means—

- (a) a voucher or other acknowledgment for playing—
 - (i) a game under the *Casino Control Act 1982*; or
 - (ii) a gaming machine under the *Gaming Machine Act 1991*; or
 - (iii) an approved keno game under the *Keno Act 1996*; or
- (b) a ticket in a game of lucky envelopes or a promotional game that is scratched to reveal numbers, letters or symbols that may entitle the player of the game to a prize; or
- (c) a lottery ticket under the *Lotteries Act 1997*; or
- (d) a ticket or other acknowledgment for a bet under the *Wagering Act 1998*.’.

27 Insertion of new s 180A

After section 180—

insert—

‘180A Notice of decision

‘The Gaming Commission must, as soon as practicable after deciding an appeal, give each party to the appeal notice of its decision and the reasons for the decision.’.

28 Amendment of s 183 (Confidentiality of information)

(1) Section 183(1), from ‘has been’ to ‘information’—

omit, insert—

‘was, an inspector, or officer or employee of the department, must not disclose confidential information’.

(2) Section 183(2) and (3), before ‘information’—

insert—

‘confidential’.

(3) Section 183(5), before ‘information’, first mention—

insert—

‘confidential’.

(4) Section 183—

insert—

‘(6) In this section—

“**confidential information**” means information, other than information that is publicly available, about—

- (a) a person’s personal affairs, business affairs or reputation, character, criminal history, current financial position or financial background; or
- (b) a person making an application under this Act.’.

29 Amendment of sch 2 (Dictionary)

Schedule 2, definition “conviction”—

omit, insert—

‘ “**conviction**” includes the acceptance of a plea of guilty or a finding of guilt by a court even though a conviction is not recorded.’.

PART 4—AMENDMENT OF GAMING MACHINE ACT 1991

30 Act amended in pt 4

This part amends the *Gaming Machine Act 1991*.

31 Amendment of s 8 (Meaning of “information notice”)

Section 8(1), after ‘executive’—

insert—

‘, a licensee’.

32 Amendment of s 31 (Appeals to Magistrates Court)

(1) Section 31(1) and (2), after ‘appeal’—

insert—

‘to a Magistrates Court’.

(2) Section 31—

insert—

‘(2A) A person may appeal to a Magistrates Court against the following decisions—

- (a) a decision of a licensee, under section 261C, to give the person an exclusion direction;
- (b) a decision of a licensee, under section 261F, refusing to revoke an exclusion direction given to the person.⁶’

(3) Section 31(3), ‘The appeal’—

omit, insert—

‘For subsections (1) and (2), the appeal’.

(4) Section 31(2A) and (3)—

renumber as section 31(3) and (4).

33 Amendment of s 32 (Appeals to commission)

Section 32(1A)(h), (i) and (j)—

omit, insert—

- ‘(h) a decision, under section 214D, immediately suspending the licence;
- (i) a decision, under section 214E, suspending or cancelling the licence;
- (j) a decision, under section 214G, censuring the holder of the licence;
- (k) a decision, under section 214H, directing the holder of the licence to rectify a matter.’

6 Sections 261C (Exclusion direction) and 261F (Deciding application to revoke exclusion direction)

34 Amendment of s 33 (Starting appeal)

(1) Section 33(1), ‘the Magistrates Court’, first mention—

omit, insert—

‘a Magistrates Court’.

(2) Section 33(1)(b)—

omit, insert—

‘(b) serving a copy of the notice on—

(i) for an appeal against a decision mentioned in section 31(1) or (2)—the commission; or

(ii) for an appeal against a decision mentioned in section 31(3)—the licensee who made the decision; and

(c) complying with rules of court applicable to the appeal.’.

35 Amendment of s 37 (Powers of appeal authority)

Section 37(3), from ‘immediately’—

omit, insert—

‘, as soon as practicable after deciding the appeal, give each party to the appeal written notice of its decision and the reasons for the decision.’.

36 Amendment of s 53 (Criminal history reports for investigations)

(1) Section 53, heading, ‘**for investigations**’—

omit.

(2) Section 53(1), before ‘the investigation’—

insert—

‘an inquiry about a person under section 18(7)⁷ or’.

7 Section 18 (Commissioners)

37 Replacement of s 54 (Secrecy)

Section 54—

omit, insert—

‘54 Confidentiality of information

‘(1) A person who is, or was, a commissioner must not disclose confidential information gained by the person or commission in performing a function or exercising a power under this Act or another Act.

Maximum penalty—200 penalty units or 2 years imprisonment.

‘(2) However, the person may disclose confidential information if—

- (a) the disclosure is for a purpose under this Act or another Act; or
- (b) the disclosure is otherwise required or permitted by law.

‘(3) A person who is, or was, a departmental officer or an inspector must not disclose confidential information gained by the person in performing functions under this Act.

Maximum penalty—200 penalty units or 2 years imprisonment.

‘(4) A person who is, or was, a licensed monitoring operator must not disclose information about a licensee’s operations gained by the person in carrying out the person’s operations as a licensed monitoring operator.

Maximum penalty—200 penalty units or 2 years imprisonment.

‘(5) A person who is, or was, employed by a licensed monitoring operator in any capacity must not disclose information about a licensee’s operations gained by the person in carrying out the person’s functions in that capacity.

Maximum penalty—200 penalty units or 2 years imprisonment.

‘(6) However, a person mentioned in subsection (3), (4) or (5) may disclose confidential or other information if—

- (a) the disclosure is for a purpose under this Act or a gaming Act; or
- (b) the disclosure is otherwise required or permitted by law; or
- (c) the chief executive approves the disclosure under this section.

‘(7) The chief executive may approve a disclosure of confidential or other information by a person mentioned in subsection (3), (4) or (5) to—

- (a) an entity prescribed under a regulation; or

- (b) an officer, employee or member of the entity; or
- (c) a stated department, person or other entity.

‘(8) Before giving an approval for subsection (6)(c), the chief executive must—

- (a) give written notice of the proposed approval to each person whom the chief executive considers is likely to be affected adversely by the disclosure; and
- (b) give the person the opportunity to make a submission about the proposed approval within the period, of at least 14 days, stated in the notice.

‘(9) If, under an approval given by the chief executive, a person mentioned in subsection (3), (4) or (5) discloses confidential or other information to an entity or person, the entity or person, and any employee or other person under the control of the entity or person, are taken to be persons to whom the subsection applies and to have gained the confidential or other information in the way mentioned in the subsection.

‘(10) In this section—

“**confidential information**” means information, other than information that is publicly available, about—

- (a) a person’s personal affairs, business affairs or reputation, character, criminal history, current financial position or financial background; or
- (b) a person making an application under this Act.’.

38 Amendment of s 67 (Changes in circumstances of category 2 licensees)

(1) Section 67(1)(c), ‘there is a material change affecting the provisions’—

omit, insert—

‘the licensee intends to materially change a provision’.

(2) Section 67(2)—

omit, insert—

‘(2) This section also applies to a category 2 licensee, in relation to the category 2 licensed premises, if the licensee intends—

- (a) to enter into a management agreement for the licensee's business or operations; or
- (b) to change a management agreement for the licensee's business or operations into which the licensee has entered.

‘(2A) The licensee must, at least 28 days before the proposed material change happens, or the licensee enters into the proposed management agreement or changes the management agreement, give to the chief executive a written notice including full details of the proposed material change, management agreement or change to the management agreement.

Maximum penalty—100 penalty units.’

(3) Section 67(4), ‘there is a material change affecting’—

omit, insert—

‘a licensee intends to materially change’.

(4) Section 67(4)(a)(i) and (b)(i), ‘a change happens affecting’—

omit, insert—

‘the proposed change will likely affect’.

(5) Section 67(4)(a)(ii) and (b)(ii), ‘changes’—

omit, insert—

‘will likely change’.

(6) Section 67—

insert—

‘(5) The licensee must, within 7 days after the material change happens, or the licensee enters into the management agreement or changes the management agreement, give to the chief executive a written notice including full details of the material change, management agreement or change to the management agreement.

Maximum penalty—100 penalty units.

‘(6) In this section—

‘**“management agreement”**, for a licensee's business or operations, means an agreement or arrangement made by the licensee about the management of the licensee's business or operations, other than an agreement or arrangement—

- (a) made by the licensee with an individual who—

- (i) is not a party to an agreement or arrangement about the management of another licensee's business or operations; or
 - (ii) is not an associate of a person who is a party to an agreement or arrangement about the management of another licensee's business or operations; and
- (b) for which the licensee is required, under the *Taxation Administration Act 1953* (Cwlth), schedule 1, part 2–5, division 12, subdivision 12-B, section 12–35,⁸ to withhold an amount from the individual's salary or wages under the agreement or arrangement.'

(7) Section 67(2A) to (6)—

renumber as section 67(3) to (7).

39 Amendment of s 71 (Issue of copy or replacement gaming machine licences)

(1) Section 71, heading, after 'licences'—

insert—

'—generally'.

(2) Section 71(2), after 'licensee' first mention—

insert—

'or a licensee's licensed premises'.

(3) Section 71(2), 'current name'—

omit, insert—

'or licensed premises' current name'.

40 Insertion of new s 71A

After section 71—

insert—

⁸ *Taxation Administration Act 1953* (Cwlth), schedule 1 (Collection and recovery of income tax and other liabilities), part 2-5 (Pay as you go (PAYG) withholding), division 12 (Payments from which amounts must be withheld), subdivision 12-B (Payments for work and services), section 12-35 (Payment to employee)

‘71A Replacement of gaming machine licence for particular changes

‘(1) Subsection (2) applies if—

- (a) under section 80A(2), the number of gaming machines approved for a licensee’s licensed premises is taken to be the number installed by the relevant date under the subsection for the licensee’s gaming machine licence; or
- (b) under section 85AA(3), the number of additional gaming machines approved for a licensee’s licensed premises under an approval mentioned in section 85AA(1) is taken to be the number installed by the relevant date under section 85AA(3) for the approval.

‘(2) The licensee must, within 7 days after the relevant date, give to the chief executive—

- (a) the licensee’s gaming machine licence; and
- (b) the fee prescribed under a regulation.

Maximum penalty—40 penalty units.

‘(3) Subsection (4) applies if a licensee receives a notice under section 83(5) or (6), 85C(5) or (6), 88A(1) or (2) or 90C(5) or (6) relating to a decision approving an increase or a decrease in the approved number of gaming machines, or to the hours of gaming, for the licensee’s licensed premises.

‘(4) The licensee must, within 7 days after receiving the notice, give to the chief executive—

- (a) the licensee’s gaming machine licence; and
- (b) the fee prescribed under a regulation.

Maximum penalty—40 penalty units.

‘(5) If the chief executive receives a licensee’s gaming machine licence under subsection (2) or (4), the chief executive must as soon as practicable—

- (a) replace the licence having regard to the matters mentioned in subsection (1) or (3); and
- (b) give the replacement licence to the licensee.

‘(6) If the replacement licence is for category 1 licensed premises, the replacement licence must include the information mentioned in section 68(2)(d).’

41 Insertion of new s 79

After section 78—

insert—

‘79 Other applications under Liquor Act 1992

‘(1) This section applies if—

- (a) a person makes an approval application; and
- (b) the relevant chief executive approves the application; and
- (c) the chief executive issues a gaming machine licence (a **“new licence”**) to the relevant person for the approval application.

‘(2) All operating authorities, if any, for the part of special facility premises to which the approval application relates are transferred by operation of this subsection to the holder of the new licence.

‘(3) In this section—

“approval application” means an application under the *Liquor Act 1992* for an approval that—

- (a) a part of special facility premises be let or sublet; or
- (b) a franchise or management rights of a similar nature be granted for a part of special facility premises.

“operating authority” does not include an operating authority that must be sold at an authorised sale.

“relevant person”, for an approval application, means the proposed lessee, sublessee, franchisee, or proposed holder of management rights, for the part of special facility premises to which the approval application relates.’.

42 Omission of s 88B (Replacement licence for decrease proposal)

Section 88B—

omit.

43 Amendment of s 127 (Changing conditions of licence)

(1) Section 127(2), from ‘promptly’—

omit, insert—

‘immediately give the licensed supplier—

- (a) written notice of the changed conditions; and
- (b) an information notice for the decision.’.

(2) Section 127(3)(a), before ‘notice’—

insert—

‘information’.

44 Insertion of new pt 5, div 6

After section 214—

insert—

‘Division 6—Suspension and cancellation of licences, and other action by chief executive

‘Subdivision 1—Suspension and cancellation

‘214A Grounds

‘(1) Each of the following is a ground for suspending or cancelling a licence under this part—

- (a) the holder of the licence—
 - (i) is not a suitable person to hold the licence; or
 - (ii) acts in a way that is inappropriate for the conduct of gaming; or
 - (iii) contravenes a provision of this Act, other than a provision a contravention of which is an offence against this Act; or
 - (iv) contravenes a condition of the licence; or
 - (v) contravenes a written direction given to the holder by the chief executive under this Act;
- (b) the holder of the licence or an associate of the holder has a conviction, other than a spent conviction, for—
 - (i) an offence against this Act or a gaming Act; or
 - (ii) an indictable offence;

- (c) the licence was issued because of a materially false or misleading representation or document.

‘(2) Also, each of the following is a ground for suspending or cancelling a licence under this part that is held by a licensed repairer or a licensed service contractor—

- (a) the holder of the licence contravenes section 210(2);⁹
- (b) if the holder or an associate of the holder is an individual—the holder or associate is an insolvent under administration within the meaning of the Corporations Act, section 9;
- (c) if the holder or an associate of the holder is a corporation—the holder or associate is affected by control action under the Corporations Act;
- (d) an associate of the holder—
 - (i) is not a suitable person to be an associate of the holder; or
 - (ii) contravenes a provision of this Act, other than a provision a contravention of which is an offence against this Act; or
 - (iii) contravenes a written direction given to the associate by the chief executive under this Act; or
 - (iv) has a conviction, other than a spent conviction, for an offence against this Act or a gaming Act, or an indictable offence.

‘(3) For forming a belief that the ground mentioned in subsection (1)(a)(i) exists, the chief executive may have regard to the same matters to which the chief executive may have regard under section 200(5)(a), (b) and (f)¹⁰ in considering an application for a licence under this part.

‘(4) For subsection (1)(a)(ii), the holder of a licence acts in a way that is inappropriate for the conduct of gaming if the holder does, or omits to do, an act that results in—

- (a) if the holder is a key monitoring employee of a licensed monitoring operator—

9 Section 210 (Disclosure of influential or benefiting parties)

10 Section 200 (Chief executive to consider application)

- (i) the licensed monitoring operator's supply operations not being conducted under the approved control system for the operator's supply operations; and
 - (ii) the integrity of gaming and the conduct of gaming being jeopardised; or
- (b) otherwise—the integrity of gaming and the conduct of gaming being jeopardised.

‘(5) For forming a belief that the ground mentioned in subsection (2)(d)(i) exists, the chief executive may have regard to the same matters to which the chief executive may have regard under section 200(5)(a) and (b) in considering an application for a licence under this part.

‘(6) In this section—

“**spent conviction**” means a conviction—

- (a) for which the rehabilitation period under the *Criminal Law (Rehabilitation of Offenders) Act 1986* has expired under that Act; and
- (b) that is not revived as prescribed by section 11¹¹ of that Act.

‘214B Show cause notice

‘(1) If the chief executive believes a ground exists to suspend or cancel a licence under this part, the chief executive must before taking action to suspend or cancel the licence give the holder of the licence a written notice (a “**show cause notice**”).

‘(2) The show cause notice must state the following—

- (a) the action the chief executive proposes taking under this subdivision (the “**proposed action**”);
- (b) the grounds for the proposed action;
- (c) an outline of the facts and circumstances forming the basis for the grounds;
- (d) if the proposed action is suspension of the licence—the proposed suspension period;

11 *Criminal Law (Rehabilitation of Offenders) Act 1986*, section 11 (Revival of convictions)

- (e) that the holder of the licence may, within a stated period (the “**show cause period**”), make written representations to the chief executive to show why the proposed action should not be taken.

‘(3) The show cause period must end at least 21 days after the holder of the licence is given the show cause notice.

‘(4) Subsection (5) applies if the chief executive believes—

- (a) the holder of the licence is employed by an interested person of the holder; and
- (b) the existence of the grounds for the proposed action is likely to adversely affect the conduct of gaming by the interested person.

‘(5) The chief executive must immediately give a copy of the show cause notice to the interested person.

‘(6) The interested person may make written representations about the show cause notice to the chief executive in the show cause period.

‘214C Consideration of representations

‘The chief executive must consider all written representations (the “**accepted representations**”) made under section 214B(2)(e) or (6).

‘214D Immediate suspension

‘(1) The chief executive may suspend a licence under this part immediately if the chief executive believes—

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

‘(2) The suspension—

- (a) can be effected only by the chief executive giving the holder of the licence an information notice for the decision to suspend it, together with a show cause notice; and
- (b) operates immediately the information notice is given to the holder; and

- (c) continues to operate until the show cause notice is finally dealt with.

‘(3) If the chief executive believes the holder of the licence is employed by an interested person of the holder, the chief executive must immediately give written notice of the suspension to the interested person.

‘214E Suspension and cancellation of licence after show cause process

‘(1) This section applies if—

- (a) there are no accepted representations for a show cause notice; or
- (b) after considering the accepted representations for a show cause notice, the chief executive—
 - (i) still believes a ground exists to suspend or cancel a licence under this part; and
 - (ii) believes suspension or cancellation of the licence is warranted.

‘(2) This section also applies if the holder of a licence contravenes a direction given to the holder under section 214H.¹²

‘(3) The chief executive may—

- (a) if the proposed action was to suspend the licence—suspend the licence for not longer than the proposed suspension period; or
- (b) if the proposed action was to cancel the licence—cancel the licence or suspend it for a period.

‘(4) If the chief executive decides to take action under subsection (3), the chief executive must immediately—

- (a) give an information notice for the decision to the holder of the licence; and
- (b) if the chief executive believes the holder is employed by an interested person of the holder—give written notice of the suspension or cancellation to the interested person.

‘(5) The decision takes effect on the later of the following—

- (a) the day the information notice is given to the holder of the licence;

12 Section 214H (Direction to rectify matter after show cause process)

(b) the day of effect stated in the information notice.

‘(6) If the chief executive cancels the licence, the holder must give the licence to the chief executive within 14 days after the cancellation takes effect.

Maximum penalty for subsection (6)—40 penalty units.

‘Subdivision 2—Other action by chief executive

‘214F Ending show cause process without further action

‘(1) This section applies if, after considering the accepted representations for a show cause notice, the chief executive no longer believes a ground exists to suspend or cancel a licence under this part.

‘(2) The chief executive—

- (a) must not take any further action about the show cause notice; and
- (b) must give each of the following a written notice stating that no further action is to be taken—
 - (i) the holder of the licence;
 - (ii) an interested person to whom a copy of the show cause notice was given under section 214B(5).

‘214G Censuring licensed person

‘(1) The chief executive may censure the holder of a licence under this part for a matter relating to a ground for suspension or cancellation if the chief executive—

- (a) believes a ground exists to suspend or cancel the licence but does not believe that giving a show cause notice to the holder is warranted; or
- (b) after considering the accepted representations for a show cause notice, still believes a ground exists to suspend or cancel the licence but does not believe suspension or cancellation of the licence is warranted.

‘(2) The censure can be effected only by the chief executive giving the holder of the licence an information notice for the decision to censure the holder.

‘(3) If the chief executive believes the holder of the licence is employed by an interested person of the holder, the chief executive must immediately give written notice of the censure to the interested person.

‘214H Direction to rectify matter after show cause process

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

- (a) still believes a ground exists to suspend or cancel a licence under this part; and
- (b) believes a matter relating to the ground for suspension or cancellation is capable of being rectified and it is appropriate to give the holder of the licence an opportunity to rectify the matter.

‘(2) The chief executive may direct the holder of the licence to rectify the matter.

‘(3) If the chief executive decides to give the holder of a licence a direction under this section, the direction can be effected only by the chief executive giving the holder an information notice for the decision.

‘(4) The information notice must state the period for rectifying the matter.

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

‘(6) If the chief executive gave a copy of the show cause notice to an interested person under section 214B(5), the chief executive must give written notice of the direction to the interested person immediately after giving the information notice to the holder of the licence.

‘214I Cancellation or reduction of period of suspension

‘(1) If the chief executive suspends a licence, the chief executive may, for any remaining period of suspension and at any time the suspension is in force—

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

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

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

- (a) the holder of the licence; and
- (b) if the chief executive believed the holder was employed by an interested person of the holder when the licence was suspended—the interested person.

‘(4) Subsection (1) does not apply to an immediate suspension.’.

45 Omission of ss 219–222

Sections 219 to 222—

omit.

46 Amendment of s 226 (Licensee’s register of gaming machines)

Section 226(2)(a), after ‘licensee’—

insert—

‘, or otherwise in the licensee’s possession under an arrangement’.

47 Amendment of s 233 (Basic monitoring fees)

Section 233—

insert—

‘Maximum penalty—200 penalty units.’.

48 Amendment of s 237 (Rules ancillary to gaming to be displayed and enforced)

Section 237(a)—

omit, insert—

- ‘(a) to be displayed in a conspicuous position, and in a way that ensures the rules are clearly legible from a reasonable distance, in each gaming machine area on the licensed premises; and’.

49 Amendment of s 254 (Minors can not be allowed to game)

Section 254(1), penalty, paragraph (a), ‘a gaming employee’—
omit, insert—
 ‘the licensee’s nominee’.

50 Replacement of s 261 (Licensees to prohibit certain persons from gaming)

Section 261—
omit, insert—

‘Division 10—Excluding or removing persons from licensed premises or gaming machine areas

‘Subdivision 1—Provisions about self-exclusion**‘261 Self-exclusion notice**

‘(1) A person may give to a licensee a notice in the approved form (a “**self-exclusion notice**”) asking the licensee to prohibit the person from entering or remaining in—

- (a) the licensee’s licensed premises; or
- (b) a gaming machine area on the licensed premises.

‘(2) The person must, if asked by the licensee, give the licensee a recent photo of the person together with the notice.

‘(3) If a licensee’s gaming machine licence relates to more than 1 licensed premises, a self-exclusion notice may relate to a stated premises or all premises to which the gaming machine licence relates.

‘261A Self-exclusion order

‘(1) If a person gives a licensee a self-exclusion notice under section 261, the licensee must as soon as practicable give to the person—

- (a) a notice in the approved form (a “**self-exclusion order**”) prohibiting the person from entering or remaining in the licensed premises or gaming machine area; and

- (b) details, including the name and address, of at least 1 entity that provides counselling services for problem gamblers.

Maximum penalty—50 penalty units.

‘(2) A self-exclusion order has effect for the period—

- (a) starting when it is given to the person; and
- (b) ending on the earlier of the following—
 - (i) when a revocation notice for the order takes effect under section 261B(3);
 - (ii) the day that is 5 years after the day the order is given to the person.

‘(3) If a licensee gives a person a self-exclusion order, the licensee must as soon as practicable give to the chief executive a copy of—

- (a) the order; and
- (b) the self-exclusion notice relating to the order.

‘261B Revoking self-exclusion order

‘(1) A person who is given a self-exclusion order may, by notice in the approved form (a “**revocation notice**”) given to the licensee of the licensed premises to which the order relates, revoke the order.

‘(2) However, the person may revoke the order only—

- (a) within 24 hours after the person receives it; or
- (b) after 1 year after the person receives it.

‘(3) A revocation notice takes effect—

- (a) if the notice is given to the licensee under subsection (2)(a)—when it is given to the licensee; or
- (b) otherwise—28 days after the day it is given to the licensee.

‘(4) The licensee must, as soon as practicable after receiving a revocation notice, give the chief executive written notice of the revocation.

‘Subdivision 2—Exclusion instigated by licensee

‘261C Exclusion direction

‘(1) If a licensee believes on reasonable grounds a person is a problem gambler, the licensee may give the person a notice in the approved form (an **“exclusion direction”**) prohibiting the person from entering or remaining in—

- (a) the licensee’s licensed premises; or
- (b) a gaming machine area on the licensed premises.

‘(2) If a licensee’s gaming machine licence relates to more than 1 licensed premises, an exclusion direction may relate to a stated premises or all premises to which the gaming machine licence relates.

‘(3) If a licensee decides to give a person an exclusion direction—

- (a) the direction must be accompanied by an information notice for the decision; and
- (b) the licensee must, as soon as practicable after giving the direction, give a copy of it to the chief executive.

‘261D Duration of exclusion direction

‘An exclusion direction has effect for the period—

- (a) starting when it is given to the person concerned; and
- (b) ending on the earlier of the following—
 - (i) if the decision to give the direction is set aside on appeal under part 2—when the decision is set aside;
 - (ii) if a revocation notice for the direction takes effect under section 261F(6)—when the notice takes effect;
 - (iii) if a decision, under section 261F, refusing to revoke the direction is set aside on appeal under part 2—when the decision is set aside;
 - (iv) the day that is 5 years after the day the direction is given to the person.

‘261E Application to revoke exclusion direction

‘(1) This section applies if a person is prohibited from entering or remaining in a licensee’s licensed premises, or a gaming machine area on the licensed premises, under an exclusion direction.

‘(2) The person may apply to the licensee for the licensed premises to which the direction relates for revocation of the direction.

‘(3) The application may only be made at least 1 year after the day the person is given the direction.

‘(4) The application must be—

- (a) in the approved form; and
- (b) supported by enough information to enable the licensee to decide the application.

‘(5) A person may apply under this section only once each year commencing on the anniversary of the day the person was given the direction.

‘261F Deciding application to revoke exclusion direction

‘(1) This section applies to an application under section 261E for revocation of an exclusion direction.

‘(2) The licensee must consider the application and, within 28 days after receiving it, decide to revoke or refuse to revoke the direction.

‘(3) If the licensee fails to decide the application within 28 days after its receipt, the failure is taken to be a decision by the licensee to refuse to revoke the direction.

‘(4) In considering the application, the licensee may have regard to the information supporting the application and any other information the licensee considers relevant, including, for example, a report of a psychologist.

‘(5) If the licensee decides to revoke the direction, the licensee must as soon as practicable—

- (a) give the applicant notice of the revocation in the approved form (a “**revocation notice**”); and
- (b) give the chief executive a copy of the revocation notice.

‘(6) A revocation notice takes effect when it is given to the applicant.

‘(7) If the licensee decides to refuse to revoke the direction, the licensee must as soon as practicable give the applicant an information notice for the decision.

‘Subdivision 3—Other provisions

‘261G Particular persons not to enter or remain in licensed premises or gaming machine area

‘A person who is prohibited from entering or remaining in licensed premises or a gaming machine area under a self-exclusion order or an exclusion direction must not enter or remain in the licensed premises or gaming machine area.

Maximum penalty—40 penalty units.

‘261H Counselling

‘(1) This section applies if a court finds a person (the “**defendant**”) guilty of, or accepts a person’s plea of guilty for, an offence against section 261G.

‘(2) The court may, if satisfied the defendant is a problem gambler, postpone its decision on penalty on condition that the defendant agrees to attend counselling on a basis decided by the court.

‘(3) The agreement—

- (a) must provide for counselling of a kind that may, in the court’s opinion, be beneficial in helping to overcome harmful behaviour related to gambling; and
- (b) must provide for counselling over a period, of not more than 12 months, fixed by the court; and
- (c) must allow the counsellor a discretion to disclose to the court information about the defendant’s participation in the counselling if the counsellor believes the disclosure will help the court to exercise its powers and discretions in an appropriate way under this section; and
- (d) must provide that the counsellor is to report to the court a failure by the defendant to attend counselling under the agreement.

‘(4) To decide whether the defendant is a problem gambler and, if so, whether counselling of an appropriate kind is available, the court may have regard to any information the court considers relevant, including, for example, a report of a psychiatrist or a psychologist.

‘(5) If the court postpones a decision on penalty under this section, the court must proceed to make a decision on penalty—

- (a) as soon as practicable after the end of the period fixed for the counselling; or
- (b) if, during the period fixed for the counselling, the defendant advises the court that he or she does not want to continue with the counselling—as soon as practicable after the court receives the advice; or
- (c) if, during the period fixed for the counselling, the counsellor reports to the court that the defendant has failed to attend counselling under the agreement or to participate satisfactorily in the counselling—as soon as practicable after the court receives the report.

‘(6) In making its decision on penalty after a postponement under this section, the court—

- (a) must consider whether and, if so, to what extent, the defendant has made a genuine attempt to overcome harmful behaviour related to gambling; and
- (b) may, for considering the matters mentioned in paragraph (a), have regard to the report of a counsellor appointed to counsel the defendant under an agreement under this section.

‘261I Obligation to prevent person from entering or remaining in licensed premises or gaming machine area

‘(1) This section applies to a licensee or an employee of the licensee if the licensee or employee knows that a person is prohibited from entering or remaining in the licensee’s licensed premises, or a gaming machine area on the licensed premises, under a self-exclusion order or an exclusion direction.

‘(2) The licensee or employee must take reasonable steps to prevent the person from entering or remaining in the licensed premises or gaming machine area.

Maximum penalty—

- (a) for a licensee—250 penalty units; or
- (b) for another person—40 penalty units.

‘(3) It is lawful for the licensee or employee to use necessary and reasonable force to prevent the person from entering or remaining in the licensed premises or gaming machine area.

‘(4) The force that may be used does not include force that is likely to cause bodily harm to the person.

‘(5) Subsection (2) must not be construed as requiring a licensee or an employee to use reasonable force to prevent a person from entering or remaining in the licensed premises or gaming machine area.

‘261J Register

‘(1) A licensee must keep a register, in the approved form, of persons who are prohibited from entering or remaining in the licensee’s licensed premises, or a gaming machine area on the licensed premises, under a self-exclusion order or an exclusion direction.

Maximum penalty—40 penalty units.

‘(2) The licensee must keep the register available for inspection by an inspector.

‘261K Notice of contravention of order or direction

‘(1) This section applies if, under section 261I, a licensee or an employee of a licensee prevents a person from entering or remaining in the licensee’s licensed premises or a gaming machine area on the licensed premises.

‘(2) The licensee must as soon as practicable give the chief executive notice, in the approved form, of the prevention.

Maximum penalty—40 penalty units.’.

51 Amendment of s 262 (Removal of certain persons)

- (1) Section 262(2), ‘or 261’—
omit.

(2) Section 262—

insert—

‘(4) The force that may be used does not include force that is likely to cause bodily harm to the person.’

52 Amendment of s 265 (Manufacture, sale, supply, obtaining or possession of gaming machines)

(1) Section 265(5) to (7)—

omit.

(2) Section 265(8) to (12)—

renumber as section 265(5) to (9).

(3) Section 265(6), (7) and (8), as renumbered, ‘(8)’—

omit, insert—

‘(5)’.

(4) Section 265(13)—

omit.

53 Amendment of s 265A (Dealing with gaming equipment etc. by monitoring operators and approved financiers)

(1) Section 265A(1)(b)—

renumber as section 265A(1)(c).

(2) Section 265A(1)—

insert—

‘(b) sell or supply, on written order with the chief executive’s written approval, gaming machines to a licensed monitoring operator, an approved financier, a licensee or a gaming trainer; and’.

54 Insertion of new s 267A

After section 267—

insert—

‘267A Possession etc. of particular gaming equipment by approved evaluator

‘(1) An approved evaluator is authorised to obtain and be in possession of gaming machines, linked jackpot equipment and restricted components for the purpose of testing the gaming machines, equipment or components.

‘(2) An approved evaluator must not use premises to test designated equipment unless the chief executive has approved the premises for testing the equipment.

Maximum penalty—200 penalty units.

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

‘(4) In this section—

“designated equipment” means—

- (a) gaming equipment; or
- (b) property of an approved evaluator that is ancillary or related to the gaming equipment in the evaluator’s possession; or
- (c) restricted components.’.

55 Amendment of s 287 (Requirements for approvals for linked jackpot arrangements)

Section 287(9), from ‘subsection (7)(b)’—

omit, insert—

‘subsection (7)(b)—

- (a) if the operator stops conducting monitoring operations when the arrangement stops operating—give the amount to the chief executive, for payment into the consolidated fund, within 7 days after the day the account stops operating; or
- (b) if the operator continues to conduct monitoring operations after the arrangement stops operating—deal with the amount in the way approved by the chief executive, having regard to the amount in the approved trust account and the interests of players of gaming machines.’.

56 Amendment of s 305 (Community benefit statement and other associated documents for audit report for category 2 licensee)

(1) Section 305(1)(e)—

renumber as section 305(1)(f).

(2) Section 305(1)—

insert—

‘(e) a statement, in the approved form, containing details of all benefits given by the licensee to each of the following persons in the financial year—

- (i) a member of the licensee’s management committee or board, or the secretary of the licensee;
- (ii) a lessor of the licensee’s licensed premises;
- (iii) a person who—
 - (A) has entered into an agreement or an arrangement with the licensee about the management of the licensee’s business or operations; or
 - (B) is responsible for the day to day management of the operation of the licensed premises;
- (iv) a person who is an associate of a person mentioned in subparagraphs (i) to (iii);
- (v) another person prescribed under a regulation; and’.

(3) Section 305(1A), after ‘subsection (1)(c)’—

insert—

‘must’.

(4) Section 305(1A)(a) and (b), ‘must’—

omit.

(5) Section 305—

insert—

‘**(1B)** The approved form under subsection (1)(e) must include provision for the following—

- (a) the name of the person to whom the benefit is given;
- (b) the nature of the benefit;

(c) the amount or monetary value of the benefit.’.

(6) Section 305(2), ‘(1)(a) or (b)’—

omit, insert—

‘(1)(a), (b), (e) or (f)’.

(7) Section 305—

insert—

‘(4A) Despite subsection (1)(e), the statement mentioned in that paragraph need not contain details of approved benefits given to a person if the total amount or monetary value of the approved benefits is less than an amount prescribed under a regulation.’.

(8) Section 305(6)—

insert—

‘ **“approved benefit”** means a benefit that is approved by a category 2 licensee’s management committee or board as a benefit that may be given by the licensee to a person.

“benefit” includes the following—

- (a) salaries, wages, allowances and financial incentives;
- (b) a payment under a lease, agreement or arrangement;
- (c) service and advantage.

“monetary value”, for a benefit that is not money, means the value of the benefit in monetary terms reasonably estimated by the management committee or board of the licensee who gave the benefit.’.

(9) Section 305(1A) to (6)—

renumber as section 305(2) to (9).

(10) Section 305(8), as renumbered, ‘subsection (6)’—

omit, insert—

‘subsection (9)’.

57 Amendment of s 317 (Payment of taxes etc.)

Section 317(1)—

insert—

‘Maximum penalty—200 penalty units.’.

58 Insertion of new s 341A

After section 341—

insert—

‘341A Restriction on membership of management committee or board

‘(1) This section applies to each of the following persons—

- (a) a lessor of a category 2 licensee’s licensed premises;
- (b) a person who is a creditor of a category 2 licensee;
- (c) a person who—
 - (i) has entered into an agreement or an arrangement with a category 2 licensee about the management of the licensee’s business or operations; or
 - (ii) is responsible for the day to day management of the operation of a category 2 licensee’s licensed premises;
- (d) a person who is an associate of a person mentioned in paragraph (a), (b) or (c).

‘(2) The person must not hold office as a member of the category 2 licensee’s management committee or board, unless—

- (a) the person is nominated or otherwise chosen as a member of the licensee’s management committee or board, under the category 2 licensee’s relevant rules, by a related entity of the licensee; or
- (b) the chief executive authorises the person to be a member of the management committee or board.

Maximum penalty—200 penalty units.

‘(3) The chief executive must not authorise the person to be a member of the category 2 licensee’s management committee or board unless—

- (a) the licensee asks the chief executive to give the authorisation;
- and

(b) the chief executive considers it is in the best interests of the licensee to give the authorisation.

‘(4) An authorisation for subsection (2)(b) must be by gazette notice.

‘(5) In this section—

“**related entity**”, of a category 2 licensee, means a voluntary association of persons from which the licensee was formed.

“**relevant rules**”, of a category 2 licensee, means the memorandum and articles of association, rules, constitution or other incorporating documents of the licensee.’.

59 Insertion of new pt 12, div 9

After section 427—

insert—

‘Division 9—Provisions for Gambling Legislation Amendment Act 2004

‘428 Definitions for div 9

‘In this division—

“**commencement**” means the day this division commences.

“**pre-amended Act**” means this Act as in force before the commencement of the *Gambling Legislation Amendment Act 2004*, part 4.

‘429 Dealing with notice to show cause

‘(1) This section applies if—

- (a) under the pre-amended Act, section 219, the chief executive has issued a notice to show cause to the holder of a licence; and
- (b) the notice to show cause has not been finally dealt with before the commencement.

‘(2) For dealing with the notice to show cause, the pre-amended Act continues to apply as if the *Gambling Legislation Amendment Act 2004*, part 4, had not commenced.

‘(3) Subsection (4) applies if, under the pre-amended Act, a person could appeal to the commission against a decision of the chief executive relating to the notice to show cause.

‘(4) The person may appeal, and the commission may hear and decide the appeal, under the pre-amended Act.

‘430 Transitional provision about immediate suspension of licence

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

- (a) has suspended a licence under the pre-amended Act, section 220; and
- (b) has not given the holder of the licence a notice to show cause as required under that section before the commencement.

‘(2) The chief executive must, within 7 days after suspending the licence, give the holder a notice to show cause under the pre-amended Act, section 219(2).

‘(3) The suspension of the licence continues until the notice to show cause is finally dealt with.

‘(4) For giving and dealing with the notice to show cause, the pre-amended Act continues to apply as if the *Gambling Legislation Amendment Act 2004*, part 4, had not commenced.

‘(5) Subsection (6) applies if, under the pre-amended Act, a person could appeal to the commission against a decision of the chief executive relating to the notice to show cause.

‘(6) The person may appeal, and the commission may hear and decide the appeal, under the pre-amended Act.

‘431 Direction to rectify under pre-amended Act

‘(1) This section applies to a direction to rectify a matter given to a holder of a licence under the pre-amended Act, section 219(12)(c)(i), if, before the commencement—

- (a) the period for rectifying the matter under that Act has not ended; or
- (b) the period for rectifying the matter under that Act has ended and action has not been taken under section 219(13) of that Act in relation to a failure to comply with the direction.

‘(2) A failure to comply with the direction may be dealt with under the pre-amended Act as if the *Gambling Legislation Amendment Act 2004*, part 4, had not commenced.

‘432 Appeals to commission

‘(1) Subsection (2) applies if—

- (a) a person has appealed to the commission against a decision of the chief executive under a repealed provision; and
- (b) the appeal has not been decided before the commencement.

‘(2) The commission may hear, or continue to hear, and decide the appeal under the pre-amended Act.

‘(3) Subsection (4) applies if—

- (a) immediately before the commencement a person could have appealed to the commission against a decision of the chief executive under a repealed provision; and
- (b) the person has not appealed before the commencement.

‘(4) The person may appeal, and the commission may hear and decide the appeal, under the pre-amended Act.

‘(5) In this section—

“repealed provision” means the pre-amended Act, section 219(12), (13) or (14), or 220(2).

‘433 Continuation of obligation under pre-amended Act, s 261

‘(1) This section applies to a licensee if, immediately before the commencement, a prohibition by the licensee under the pre-amended Act, section 261, is in force.

‘(2) The pre-amended Act, section 261, continues to apply to the licensee as if the *Gambling Legislation Amendment Act 2004*, part 4, had not commenced.

‘434 Members of category 2 licensee’s management committee or board

‘(1) This section applies to a person who, immediately before the commencement—

- (a) holds office as a member of a category 2 licensee’s management committee or board; and

(b) is a person to whom, apart from this section, section 341A(2) applies.

‘(2) Section 341A(2) does not apply to the person until the person’s current term ends.

‘(3) In this section—

“**current term**”, for a person who holds office as a member of a category 2 licensee’s management committee or board, means the person’s term of office in which the commencement happens.’.

60 Amendment of schedule (Dictionary)

(1) Schedule, definitions “accepted representations”, “conviction”, “decision maker”, “employ”, “show cause notice” and “show cause period”—

omit.

(2) Schedule—

insert—

“**accepted representations**”—

(a) for part 4, division 6—see section 142; and

(b) for part 5, division 6—see section 214C.

“**bodily harm**” means any bodily injury that interferes with health or comfort.

“**commencement**”—

(a) for part 12, division 7—see section 404; and

(b) for part 12, division 8—see section 408; and

(c) for part 12, division 9—see section 428.

“**conviction**” includes the acceptance of a plea of guilty or a finding of guilt by a court even though a conviction is not recorded.

“**decision maker**”, for an appeal to a Magistrates Court under section 31 or the commission under section 32, means the entity who made the decision appealed against.

“**employ**” includes engage on a contract for services or commission and use the services of, whether or not for reward.

“exclusion direction” see section 261C(1).

“indictable offence” includes an indictable offence dealt with summarily, whether or not the Criminal Code, section 659,¹³ applies to the indictable offence.

“interested person”, of a holder of a license under part 5, means—

- (a) if the holder is a licensed gaming employee or a licensed gaming nominee—a licensee; or
- (b) if the holder is a licensed key monitoring employee or a licensed service contractor—a licensed monitoring operator; or
- (c) if the holder is a licensed repairer—a licensed monitoring operator, a licensed service contractor or another licensed repairer.

“pre-amended Act”, for part 12, division 9, see section 428.

“problem gambler” means a person whose behaviour indicates a compulsion to gamble, an addiction to gambling, or an inability or disinclination to make rational judgments about gambling.

“proposed action”, for part 5, division 6, see section 214B(2)(a).

“revocation notice”—

- (a) for part 6, division 10, subdivision 1—see section 261B(1); and
- (b) for part 6, division 10, subdivision 2—see section 261F(5)(a).

“self-exclusion notice” see section 261(1).

“self-exclusion order” see section 261A(1)(a).

“show cause notice”—

- (a) for part 4, division 6—see section 140(2); and
- (b) for part 5, division 6—see section 214B(1).

“show cause period”, for part 4, division 6, see section 140(2)(d).’

(3) Schedule, definition “appeal authority”, ‘the Magistrates Court’—
omit, insert—
 ‘a Magistrates Court’.

¹³ Criminal Code, section 659 (Effect of summary conviction for indictable offences)

PART 5—AMENDMENT OF INTERACTIVE GAMBLING (PLAYER PROTECTION) ACT 1998

61 Act amended in pt 5

This part amends the *Interactive Gambling (Player Protection) Act 1998*.

62 Amendment of s 6 (Meaning of “interactive game”)

(1) Section 6(2)—

insert—

‘(ba) a lottery, other than the lottery known as ‘instant scratch-its’ or another instant lottery, conducted under a lottery licence under the *Lotteries Act 1997*;’.

(2) Section 6(2)(ab) to (c)—

renumber as section 6(2)(b) to (e).

(3) Section 6(3), ‘(2)(b)’—

omit, insert—

‘(2)(c)’.

63 Amendment of s 74 (Changing conditions of key person licence)

Section 74(2), from ‘promptly—’ to ‘; and’—

omit, insert—

‘immediately—

(a) give the key person licensee—

(i) written notice of the changed conditions; and

(ii) an information notice about the decision; and’.

64 Replacement of pt 4, div 3 (Suspension and cancellation of key person licences)

Part 4, division 3—

omit, insert—

‘Division 3—Suspension and cancellation of key person licences, and other action by chief executive

‘Subdivision 1—Suspension and cancellation

‘77 Grounds

‘(1) Each of the following is a ground for suspending or cancelling a key person licensee’s key person licence—

- (a) the key person licensee—
 - (i) is not a suitable person to hold a key person licence; or
 - (ii) acts in a way that is inappropriate for the conduct of interactive games; or
 - (iii) contravenes a provision of this Act, or a corresponding law of a participating jurisdiction, other than a provision a contravention of which is an offence against this Act or the corresponding law; or
 - (iv) contravenes a condition of the licence;
- (b) the key person licensee has a conviction, other than a spent conviction, for—
 - (i) an offence against this Act, a gaming Act or a corresponding law of a participating jurisdiction; or
 - (ii) an indictable offence;
- (c) the key person licence was issued because of a materially false or misleading representation or document.

‘(2) For forming a belief that the ground mentioned in subsection (1)(a)(i) exists, the chief executive may have regard to the same matters to which the chief executive may have regard under section 67(2)¹⁴ in deciding whether an applicant for a key person licence is a suitable person to hold the licence.

‘(3) For subsection (1)(a)(ii), a key person licensee acts in a way that is inappropriate for the conduct of interactive games if the licensee does, or omits to do, an act that results in—

14 Section 67 (Conditions for granting application)

- (a) the conduct of interactive games by a licensed provider not being conducted under the approved control system for the conduct of the games; and
- (b) the integrity of the conduct of interactive games being jeopardised.

‘(4) In this section—

“**spent conviction**” means a conviction—

- (a) for which the rehabilitation period under the *Criminal Law (Rehabilitation of Offenders) Act 1986* has expired under that Act; and
- (b) that is not revived as prescribed by section 11¹⁵ of that Act.

‘78 Show cause notice

‘(1) If the chief executive believes a ground exists to suspend or cancel a key person licence, the chief executive must before taking action to suspend or cancel the licence give the key person licensee a written notice (a “**show cause notice**”).

‘(2) The show cause notice must state the following—

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

‘(3) The show cause period must end at least 21 days after the key person licensee is given the show cause notice.

‘(4) Subsection (5) applies if the chief executive believes—

15 *Criminal Law (Rehabilitation of Offenders) Act 1986*, section 11 (Revival of convictions)

- (a) there is a key relationship between the key person licensee and a licensed provider; and
- (b) the existence of the grounds for the proposed action is likely to adversely affect the conduct of interactive games by the licensed provider.

‘(5) The chief executive must immediately give a copy of the show cause notice to the licensed provider.

‘(6) The licensed provider may make written representations about the show cause notice to the chief executive in the show cause period.

‘79 Consideration of representations

‘The chief executive must consider all written representations (the “**accepted representations**”) made under section 78(2)(e) or (6).

‘80 Immediate suspension

‘(1) The chief executive may suspend a key person licensee’s key person licence immediately if the chief executive believes—

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

‘(2) The suspension—

- (a) can be effected only by the chief executive giving the key person licensee an information notice about the decision to suspend the licence, together with a show cause notice; and
- (b) operates immediately the information notice is given to the licensee; and
- (c) continues to operate until the show cause notice is finally dealt with.

‘(3) If the chief executive believes there is a key relationship between the key person licensee and a licensed provider, the chief executive must immediately give written notice of the suspension to the licensed provider.

‘81 Suspension and cancellation of licence after show cause process

‘(1) This section applies if—

- (a) there are no accepted representations for a show cause notice; or
- (b) after considering the accepted representations for a show cause notice, the chief executive—
 - (i) still believes a ground exists to suspend or cancel a key person licence; and
 - (ii) believes suspension or cancellation of the licence is warranted.

‘(2) This section also applies if a key person licensee contravenes a direction given to the licensee under section 83A.¹⁶

‘(3) The chief executive may—

- (a) if the proposed action was to suspend the licence—suspend the licence for not longer than the proposed suspension period; or
- (b) if the proposed action was to cancel the licence—cancel the licence or suspend it for a period.

‘(4) If the chief executive decides to take action under subsection (3), the chief executive must immediately—

- (a) give an information notice about the decision to the key person licensee; and
- (b) if the chief executive believes there is a key relationship between the licensee and a licensed provider—give written notice of the suspension or cancellation to the licensed provider.

‘(5) The decision takes effect on the later of the following—

- (a) the day the information notice is given to the key person licensee;
- (b) the day of effect stated in the information notice.

‘(6) If the chief executive cancels the licence, the key person licensee must give the licence to the chief executive within 14 days after the cancellation takes effect.

Maximum penalty for subsection (6)—40 penalty units.

¹⁶ Section 83A (Direction to rectify matter after show cause process)

‘Subdivision 2—Other action by chief executive**‘82 Ending show cause process without further action**

‘(1) This section applies if, after considering the accepted representations for a show cause notice, the chief executive no longer believes a ground exists to suspend or cancel a key person licence.

‘(2) The chief executive—

- (a) must not take any further action about the show cause notice; and
- (b) must give each of the following a written notice stating that no further action is to be taken—
 - (i) the key person licensee;
 - (ii) a licensed provider to whom a copy of the show cause notice was given under section 78(5).

‘83 Censuring key person licensee

‘(1) The chief executive may censure a key person licensee for a matter relating to a ground for suspension or cancellation if the chief executive—

- (a) believes a ground exists to suspend or cancel the licensee’s key person licence but does not believe that giving a show cause notice to the licensee is warranted; or
- (b) after considering the accepted representations for a show cause notice, still believes a ground exists to suspend or cancel the licensee’s key person licence but does not believe suspension or cancellation of the licence is warranted.

‘(2) The censure can be effected only by the chief executive giving the key person licensee an information notice about the decision to censure the licensee.

‘(3) If the chief executive believes there is a key relationship between the key person licensee and a licensed provider, the chief executive must immediately give written notice of the censure to the licensed provider.

‘83A Direction to rectify matter after show cause process

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

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

‘(2) The chief executive may direct the key person licensee to rectify the matter.

‘(3) If the chief executive decides to give a key person licensee a direction under this section, the direction can be effected only by the chief executive giving the licensee an information notice about the decision.

‘(4) The information notice must state the period for rectifying the matter.

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

‘(6) If the chief executive gave a copy of the show cause notice to a licensed provider under section 78(5), the chief executive must give written notice of the direction to the licensed provider immediately after giving the information notice to the key person licensee.

‘83B Cancellation or reduction of period of suspension

‘(1) If the chief executive suspends a key person licence, the chief executive may, for any remaining period of suspension and at any time the suspension is in force—

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

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

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

- (a) the key person licensee; and
- (b) if the chief executive believed there was a key relationship between the licensee and a licensed provider when the licence was suspended—the licensed provider.

‘(4) Subsection (1) does not apply to an immediate suspension.’

65 Amendment of s 128 (Control system submission)

(1) Section 128(5)—

renumber as section 128(6).

(2) Section 128—

insert—

‘(5) However, a licensed provider’s control system submission need not include particular information mentioned in subsection (4) if the chief executive is satisfied, having regard to the nature of the licensed provider’s operations, that the information is not necessary for the chief executive’s proper consideration of the submission under section 130.’

66 Replacement of s 137 (Prohibition of interactive gambling)

Section 137—

omit, insert—

‘Division 5A—Excluding persons from participating in authorised games as players

‘Subdivision 1—Provisions about self-exclusion**‘137 Self-exclusion notice**

‘A person who is registered with a licensed provider as a player may give to the licensed provider a notice in the approved form (a **“self-exclusion notice”**) asking the licensed provider to prohibit the person from participating as a player in authorised games conducted by the licensed provider.

‘137A Self-exclusion order

‘(1) If a person gives a licensed provider a self-exclusion notice under section 137, the licensed provider must as soon as practicable give to the person—

- (a) a notice in the approved form (a **“self-exclusion order”**) prohibiting the person from participating as a player in authorised games conducted by the licensed provider; and

- (b) details, including the name and address, of at least 1 entity that provides counselling services for problem gamblers.

Maximum penalty—50 penalty units.

‘(2) A self-exclusion order has effect for the period—

- (a) starting when it is given to the person; and
- (b) ending on the earlier of the following—
 - (i) when a revocation notice for the order takes effect under section 137B(3);
 - (ii) the day that is 5 years after the day the order is given to the person.

‘(3) If a licensed provider gives a person a self-exclusion order, the licensed provider must as soon as practicable give to the chief executive a copy of—

- (a) the order; and
- (b) the self-exclusion notice relating to the order.

‘137B Revoking self-exclusion order

‘(1) A person who is given a self-exclusion order may, by notice in the approved form (a “**revocation notice**”) given to the licensed provider who gave the order, revoke the order.

‘(2) However, the person may revoke the order only—

- (a) within 24 hours after the person receives it; or
- (b) after 1 year after the person receives it.

‘(3) A revocation notice takes effect—

- (a) if the notice is given to the licensed provider under subsection (2)(a)—when it is given to the licensed provider; or
- (b) otherwise—28 days after the day it is given to the licensed provider.

‘(4) The licensed provider must, as soon as practicable after receiving a revocation notice, give the chief executive written notice of the revocation.

‘Subdivision 2—Exclusion instigated by licensed provider

‘137C Exclusion direction

‘(1) A licensed provider may give a person who is registered with the licensed provider as a player a notice in the approved form (an **“exclusion direction”**) prohibiting the person from participating as a player in authorised games conducted by the licensed provider.

‘(2) The licensed provider may give the direction only if the licensed provider believes on reasonable grounds the person is a problem gambler.

‘(3) If a licensed provider decides to give a person an exclusion direction—

- (a) the direction must be accompanied by an information notice about the decision; and
- (b) the licensed provider must, as soon as practicable after giving the direction, give a copy of it to the chief executive.

‘137D Duration of exclusion direction

‘An exclusion direction has effect for the period—

- (a) starting when it is given to the person concerned; and
- (b) ending on the earlier of the following—
 - (i) if the decision to give the direction is set aside on appeal under part 10—when the decision is set aside;
 - (ii) if a revocation notice for the direction takes effect under section 137F(6)—when the notice takes effect;
 - (iii) if a decision, under section 137F, refusing to revoke the direction is set aside on appeal under part 10—when the decision is set aside;
 - (iv) the day that is 5 years after the day the direction is given to the person.

‘137E Application to revoke exclusion direction

‘(1) This section applies if a person is prohibited from participating as a player in authorised games conducted by a licensed provider under an exclusion direction.

‘(2) The person may apply to the licensed provider for revocation of the direction.

‘(3) The application may only be made at least 1 year after the day the person is given the direction.

‘(4) The application must be—

- (a) in the approved form; and
- (b) supported by enough information to enable the licensed provider to decide the application.

‘(5) A person may apply under this section only once each year commencing on the anniversary of the day the person was given the direction.

‘137F Deciding application to revoke exclusion direction

‘(1) This section applies to an application under section 137E for revocation of an exclusion direction.

‘(2) The licensed provider must consider the application and, within 28 days after receiving it, decide to revoke or refuse to revoke the direction.

‘(3) If the licensed provider fails to decide the application within 28 days after its receipt, the failure is taken to be a decision by the licensed provider to refuse to revoke the direction.

‘(4) In considering the application, the licensed provider may have regard to the information supporting the application and any other information the licensed provider considers relevant, including, for example, a report of a psychologist.

‘(5) If the licensed provider decides to revoke the direction, the licensed provider must as soon as practicable—

- (a) give the applicant notice of the revocation in the approved form (a “**revocation notice**”); and
- (b) give the chief executive a copy of the revocation notice.

‘(6) A revocation notice takes effect when it is given to the applicant.

‘(7) If the licensed provider decides to refuse to revoke the direction, the licensed provider must as soon as practicable give the applicant an information notice for the decision.

‘Subdivision 3—Other provisions**‘137G Particular persons not to participate in authorised games**

‘A person who is prohibited, under a self-exclusion order or an exclusion direction, from participating as a player in authorised games conducted by a licensed provider must not participate as a player in the games.

Maximum penalty—40 penalty units.

‘137H Counselling

‘(1) This section applies if a court finds a person (the “**defendant**”) guilty of, or accepts a person’s plea of guilty for, an offence against section 137G.

‘(2) The court may, if satisfied the defendant is a problem gambler, postpone its decision on penalty on condition that the defendant agrees to attend counselling on a basis decided by the court.

‘(3) The agreement—

- (a) must provide for counselling of a kind that may, in the court’s opinion, be beneficial in helping to overcome harmful behaviour related to gambling; and
- (b) must provide for counselling over a period, of not more than 12 months, fixed by the court; and
- (c) must allow the counsellor a discretion to disclose to the court information about the defendant’s participation in the counselling if the counsellor believes the disclosure will help the court to exercise its powers and discretions in an appropriate way under this section; and
- (d) must provide that the counsellor is to report to the court a failure by the defendant to attend counselling under the agreement.

‘(4) To decide whether the defendant is a problem gambler and, if so, whether counselling of an appropriate kind is available, the court may have regard to any information the court considers relevant, including, for example, a report of a psychiatrist or a psychologist.

‘(5) If the court postpones a decision on penalty under this section, the court must proceed to make a decision on penalty—

- (a) as soon as practicable after the end of the period fixed for the counselling; or
- (b) if, during the period fixed for the counselling, the defendant advises the court that he or she does not want to continue with the counselling—as soon as practicable after the court receives the advice; or
- (c) if, during the period fixed for the counselling, the counsellor reports to the court that the defendant has failed to attend counselling under the agreement or to participate satisfactorily in the counselling—as soon as practicable after the court receives the report.

‘(6) In making its decision on penalty after a postponement under this section, the court—

- (a) must consider whether and, if so, to what extent, the defendant has made a genuine attempt to overcome harmful behaviour related to gambling; and
- (b) may, for considering the matters mentioned in paragraph (a), have regard to the report of a counsellor appointed to counsel the defendant under an agreement under this section.

‘137I Obligation to prevent persons from participating in authorised games

‘(1) This section applies to a licensed provider or an employee of the licensed provider if the licensed provider or employee knows that a person is prohibited, under a self-exclusion order or an exclusion direction, from participating as a player in authorised games conducted by the licensed provider.

‘(2) The licensed provider or employee must take reasonable steps to prevent the person from participating as a player in the authorised games.

Maximum penalty—

- (a) for a licensed provider—250 penalty units; or
- (b) for another person—40 penalty units.

‘137J Register

‘(1) A licensed provider must keep a register, in the approved form, of persons who are prohibited from participating as a player in authorised games conducted by the licensed provider under a self-exclusion order or an exclusion direction.

Maximum penalty—40 penalty units.

‘(2) The licensed provider must keep the register available for inspection by an inspector.

‘137K Notice of contravention of order or direction

‘(1) This section applies if, under section 137I, a licensed provider or an employee of a licensed provider prevents a person from participating as a player in authorised games.

‘(2) The licensee must as soon as practicable give the chief executive notice, in the approved form, of the prevention.

Maximum penalty—40 penalty units.’.

67 Amendment of s 163 (Use of regulated interactive gambling equipment)

Section 163, penalties, ‘40’—

omit, insert—

‘200’.

68 Amendment of s 253 (Appeals by other persons)

(1) Section 253(1)—

omit.

(2) Section 253(2), ‘(2)’—

omit.

69 Replacement of s 259 (Appeals to District Court)

Section 259—

omit, insert—

‘Division 2—Appeals to Magistrates Court**‘259 Who may appeal**

‘A person may appeal to a Magistrates Court against the following decisions—

- (a) a decision of a licensed provider, under section 137C, to give the person an exclusion direction;
- (b) a decision of a licensed provider, under section 137F, refusing to revoke an exclusion direction given to the person.

‘259A Starting appeal

‘(1) An appeal is started by—

- (a) filing a notice of appeal with the clerk of a Magistrates Court; and
- (b) serving a copy of the notice on the licensed provider who made the decision; and
- (c) complying with rules of court applicable to the appeal.

‘(2) The notice of appeal must be filed within 28 days after the person is given the information notice about the decision.

‘(3) However, the court may, at any time, extend the time for filing the notice of appeal.

‘(4) The notice of appeal must state fully the grounds of appeal.

‘259B Stay of operation of decision

‘(1) The Magistrates Court may grant a stay of the decision to secure the effectiveness of the appeal.

‘(2) A stay—

- (a) may be given on the conditions the court considers appropriate; and

- (b) operates for the period fixed by the court; and
- (c) may be amended or cancelled by the court.

‘(3) The period of a stay under this section must not extend past the time when the court decides the appeal.

‘(4) The appeal affects the decision, or carrying out of the decision, only if it is stayed.

‘259C Hearing procedures

‘(1) In deciding an appeal, the Magistrates Court—

- (a) is not bound by the rules of evidence; and
- (b) must comply with natural justice.

‘(2) An appeal is by way of rehearing, unaffected by the decision appealed against, on the material before the licensed provider who made the decision and any further evidence allowed by the court.

‘259D Court’s powers on appeal

‘(1) In deciding an appeal, the Magistrates Court may—

- (a) confirm the decision appealed against; or
- (b) set aside the decision and substitute another decision; or
- (c) set aside the decision and return the matter to the licensed provider with directions the court considers appropriate.

‘(2) If the court substitutes another decision, the substituted decision is, for this Act, other than this division, taken to be the decision of the licensed provider.

‘Division 3—Appeals to District Court

‘259E Appeal to District Court

‘An appeal lies to the District Court against a decision of the Queensland Gaming Commission or a Magistrates Court under this part but only on a question of law.’.

70 Amendment of s 260 (Confidentiality of information)

(1) Section 260(1), (2) and (3), before ‘information’—

insert—

‘confidential’.

(2) Section 260(3)(c), ‘entity or person’—

omit, insert—

‘person or other entity’.

(3) Section 260(5), before ‘information’, first mention—

insert—

‘confidential’.

(4) Section 260—

insert—

‘(6) In this section—

“**confidential information**” means information, other than information that is publicly available, about—

- (a) a person’s personal affairs, business affairs or reputation, character, criminal history, current financial position or financial background; or
- (b) a person making an application under this Act.’.

71 Insertion of new pt 12

After section 263—

insert—

**‘PART 12—TRANSITIONAL PROVISIONS FOR
GAMBLING LEGISLATION AMENDMENT ACT 2004**

‘264 Definitions for pt 12

‘In this part—

“**commencement**” means the day this part commences.

“**pre-amended Act**” means this Act as in force before the commencement of the *Gambling Legislation Amendment Act 2004*, part 5.

‘265 Dealing with show cause notice

‘(1) This section applies if—

- (a) under the pre-amended Act, section 78 or 79, the chief executive has given a show cause notice to a key person licensee; and
- (b) the notice has not been finally dealt with before the commencement.

‘(2) For dealing with the show cause notice, the pre-amended Act continues to apply as if the *Gambling Legislation Amendment Act 2004*, part 5, had not commenced.

‘(3) Subsection (4) applies if, under the pre-amended Act, a person could appeal to the Queensland Gaming Commission against a decision of the chief executive relating to the show cause notice.

‘(4) The person may appeal, and the Queensland Gaming Commission may hear and decide the appeal, under the pre-amended Act.

‘266 Direction to rectify under pre-amended Act

‘(1) Subsection (2) applies to a direction to rectify a matter given to a key person licensee under the pre-amended Act, section 81(3), if—

- (a) the chief executive gave the direction to the licensee after considering, under the pre-amended Act, the accepted representations for a show cause notice; and
- (b) before the commencement—
 - (i) the period for rectifying the matter under that Act has not ended; or
 - (ii) the period for rectifying the matter under that Act has ended and action has not been taken under section 82 of that Act in relation to a failure to comply with the direction.

‘(2) A failure to comply with the direction may be dealt with under the pre-amended Act as if the *Gambling Legislation Amendment Act 2004*, part 5, had not commenced.

‘(3) Subsection (4) applies to a direction to rectify a matter given to a key person licensee under the pre-amended Act, section 81(3), if—

- (a) the chief executive gave the direction to the licensee without a show cause notice; and
- (b) before the commencement—
 - (i) the period for rectifying the matter under that Act has not ended; or
 - (ii) the period for rectifying the matter under that Act has ended and action has not been taken under that Act in relation to a failure to comply with the direction.

‘(4) A failure to comply with the direction is taken to be a contravention of a provision of this Act, other than a provision a contravention of which is an offence against this Act.

‘267 Appeals to Queensland Gaming Commission

‘(1) Subsection (2) applies if—

- (a) a person has appealed to the Queensland Gaming Commission against a decision of the chief executive under the repealed provision; and
- (b) the appeal has not been decided before the commencement.

‘(2) The Queensland Gaming Commission may hear, or continue to hear, and decide the appeal under the pre-amended Act.

‘(3) Subsection (4) applies if—

- (a) immediately before the commencement a person could have appealed to the Queensland Gaming Commission against a decision of the chief executive under the repealed provision; and
- (b) the person has not appealed before the commencement.

‘(4) The person may appeal, and the Queensland Gaming Commission may hear and decide the appeal, under the pre-amended Act.

‘(5) In this section—

“**repealed provision**” means the pre-amended Act, section 82.’

72 Amendment of sch 2 (Decisions of chief executive subject to appeal)

(1) Schedule 2, part 1, entry for section 82—

omit.

(2) Schedule 2, part 2, entry for section 82—

omit, insert—

‘80	Immediately suspending a key person licence
81	Suspending or cancelling a key person licence
83	Censuring a key person licensee
83A	Directing a key person licensee to rectify a matter’.

73 Amendment of sch 3 (Dictionary)

(1) Schedule 3, definitions “accepted representations”, “information notice”, “show cause notice” and “show cause period”—

omit.

(2) Schedule 3—

insert—

‘**“accepted representations”**—

- (a) for part 3, division 3—see section 47; and
- (b) for part 4, division 3—see section 79; and
- (c) for part 5, division 2—see section 101(6); and
- (d) for part 7, division 10—see section 152(6).

“commencement”, for part 12, see section 264.

“exclusion direction” see section 137C(1).

“indictable offence” includes an indictable offence dealt with summarily, whether or not the Criminal Code, section 659,¹⁷ applies to the indictable offence.

¹⁷ Criminal Code, section 659 (Effect of summary conviction for indictable offences)

“information notice”, for a decision of the chief executive or a licensed provider, means a written notice stating all of the following—

- (a) the decision;
- (b) the reasons for the decision;
- (c) that the person to whom the notice is given may, within 28 days after the person receives the notice, appeal against the decision to—
 - (i) for a decision of the chief executive—the Queensland Gaming Commission; or
 - (ii) for a decision of a licensed provider—a Magistrates Court;
- (d) how the person may appeal to the Queensland Gaming Commission or a Magistrates Court.

“pre-amended Act”, for part 12, see section 264.

“problem gambler” means a person whose behaviour indicates a compulsion to gamble, an addiction to gambling, or an inability or disinclination to make rational judgments about gambling.

“proposed action”, for part 4, division 3, see section 78(2)(a).

“revocation notice”—

- (a) for part 7, division 5A, subdivision 1—see section 137B(1); and
- (b) for part 7, division 5A, subdivision 2—see section 137F(5)(a).

“self-exclusion notice” see section 137.

“self-exclusion order” see section 137A(1)(a).

“show cause notice”—

- (a) for part 3, division 3—see section 45(2); and
- (b) for part 4, division 3—see section 78(1); and
- (c) for part 5, division 2—see section 101(2); and
- (d) for part 7, division 10—see section 152(2).

“show cause period”, for part 3, division 3, see section 45(2)(e).’.

PART 6—AMENDMENT OF KENO ACT 1996

74 Act amended in pt 6

This part amends the *Keno Act 1996*.

75 Amendment of s 58 (Changing conditions of licence)

(1) Section 58(2), from ‘promptly’—

omit, insert—

‘immediately give the licensed keno employee—

- (a) written notice of the changed conditions; and
- (b) an information notice about the decision.’.

(2) Section 58(3), ‘of’—

omit, insert—

‘after’.

76 Replacement of pt 4, div 5 (Suspension and cancellation of keno employee licences)

Part 4, division 5—

omit, insert—

***‘Division 5—Suspension and cancellation of keno employee licences,
and other action by chief executive***

‘Subdivision 1—Suspension and cancellation

‘61 Grounds

‘(1) Each of the following is a ground for suspending or cancelling a licensed keno employee’s keno employee licence—

- (a) the licensed keno employee—
 - (i) is not a suitable person to hold a keno employee licence; or

- (ii) acts in a way that is inappropriate for the conduct of approved keno games; or
- (iii) contravenes a provision of this Act, other than a provision a contravention of which is an offence against this Act; or
- (iv) contravenes a condition of the licence;
- (b) the licensed keno employee has a conviction, other than a spent conviction, for—
 - (i) an offence against this Act or a gaming Act; or
 - (ii) an indictable offence;
- (c) the keno employee licence was issued because of a materially false or misleading representation or document.

‘(2) For forming a belief that the ground mentioned in subsection (1)(a)(i) exists, the chief executive may have regard to the same issues to which the chief executive may have regard under section 51(2)¹⁸ in deciding whether an applicant for a keno employee licence is a suitable person to hold the licence.

‘(3) For subsection (1)(a)(ii), a licensed keno employee acts in a way that is inappropriate for the conduct of approved keno games if the employee does, or omits to do, an act that results in—

- (a) the conduct of approved keno games at the keno gaming place at which the employee is employed not being conducted under the approved control system for the conduct of the games; and
- (b) the integrity of the conduct of approved keno games being jeopardised.

‘(4) In this section—

“**spent conviction**” means a conviction—

- (a) for which the rehabilitation period under the *Criminal Law (Rehabilitation of Offenders) Act 1986* has expired under that Act; and
- (b) that is not revived as prescribed by section 11¹⁹ of that Act.

18 See section 51 (Conditions for granting application)

19 *Criminal Law (Rehabilitation of Offenders) Act 1986*, section 11 (Revival of convictions)

‘62 Show cause notice

‘(1) If the chief executive believes a ground exists to suspend or cancel a keno employee licence, the chief executive must before taking action to suspend or cancel the licence give the licensed keno employee a written notice (a “**show cause notice**”).

‘(2) The show cause notice must state the following—

- (a) the action the chief executive proposes taking under this subdivision (the “**proposed action**”);
- (b) the grounds for the proposed action;
- (c) an outline of the facts and circumstances forming the basis for the grounds;
- (d) if the proposed action is suspension of the licence—the proposed suspension period;
- (e) that the licensed keno employee may, within a stated period (the “**show cause period**”), make written representations to the chief executive to show why the proposed action should not be taken.

‘(3) The show cause period must end at least 21 days after the licensed keno employee is given the show cause notice.

‘(4) Subsection (5) applies if the chief executive believes—

- (a) the licensed keno employee is employed by, or a key operator of, a keno licensee; and
- (b) the existence of the grounds for the proposed action is likely to adversely affect the conduct of approved keno games by the keno licensee.

‘(5) The chief executive must immediately give a copy of the show cause notice to the keno licensee.

‘(6) The keno licensee may make written representations about the show cause notice to the chief executive in the show cause period.

‘63 Consideration of representations

‘The chief executive must consider all written representations (the “**accepted representations**”) made under section 62(2)(e) or (6).

‘64 Immediate suspension

‘(1) The chief executive may suspend a licensed keno employee’s keno employee licence immediately if the chief executive believes—

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

‘(2) The suspension—

- (a) can be effected only by the chief executive giving the licensed keno employee an information notice about the decision to suspend the licence, together with a show cause notice; and
- (b) operates immediately the information notice is given to the employee; and
- (c) continues to operate until the show cause notice is finally dealt with.

‘(3) If the chief executive believes the licensed keno employee is employed by, or a key operator of, a keno licensee, the chief executive must immediately give written notice of the suspension to the keno licensee.

‘65 Suspension and cancellation of licence after show cause process

‘(1) This section applies if—

- (a) there are no accepted representations for a show cause notice; or
- (b) after considering the accepted representations for a show cause notice, the chief executive—
 - (i) still believes a ground exists to suspend or cancel a keno employee licence; and
 - (ii) believes suspension or cancellation of the licence is warranted.

‘(2) This section also applies if a licensed keno employee contravenes a direction given to the employee under section 67A.²⁰

‘(3) The chief executive may—

- (a) if the proposed action was to suspend the licence—suspend the licence for not longer than the proposed suspension period; or
- (b) if the proposed action was to cancel the licence—cancel the licence or suspend it for a period.

‘(4) If the chief executive decides to take action under subsection (3), the chief executive must immediately—

- (a) give an information notice about the decision to the licensed keno employee; and
- (b) if the chief executive believes the employee is employed by, or a key operator of, a keno licensee—give written notice of the suspension or cancellation to the licensee.

‘(5) The decision takes effect on the later of the following—

- (a) the day the information notice is given to the licensed keno employee;
- (b) the day of effect stated in the information notice.

‘(6) If the chief executive cancels the licence, the licensed keno employee must give the licence to the chief executive within 14 days after the cancellation takes effect.

Maximum penalty for subsection (6)—40 penalty units.

‘Subdivision 2—Other action by chief executive

‘66 Ending show cause process without further action

‘(1) This section applies if, after considering the accepted representations for a show cause notice, the chief executive no longer believes a ground exists to suspend or cancel a keno employee licence.

‘(2) The chief executive—

- (a) must not take any further action about the show cause notice; and

²⁰ Section 67A (Direction to rectify matter after show cause process)

- (b) must give each of the following a written notice stating that no further action is to be taken—
 - (i) the licensed keno employee;
 - (ii) a keno licensee to whom a copy of the show cause notice was given under section 62(5).

‘67 Censuring licensed keno employee

‘(1) The chief executive may censure a licensed keno employee for a matter relating to a ground for suspension or cancellation if the chief executive—

- (a) believes a ground exists to suspend or cancel the employee’s keno employee licence but does not believe that giving a show cause notice to the employee is warranted; or
- (b) after considering the accepted representations for a show cause notice, still believes a ground exists to suspend or cancel the employee’s keno employee licence but does not believe suspension or cancellation of the licence is warranted.

‘(2) The censure can be effected only by the chief executive giving the licensed keno employee an information notice about the decision to censure the employee.

‘(3) If the chief executive believes the licensed keno employee is employed by, or a key operator of, a keno licensee, the chief executive must immediately give written notice of the censure to the keno licensee.

‘67A Direction to rectify matter after show cause process

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

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

‘(2) The chief executive may direct the licensed keno employee to rectify the matter.

‘(3) If the chief executive decides to give a licensed keno employee a direction under this section, the direction can be effected only by the chief executive giving the employee an information notice about the decision.

‘(4) The information notice must state the period for rectifying the matter.

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

‘(6) If the chief executive gave a copy of the show cause notice to a keno licensee under section 62(5), the chief executive must give written notice of the direction to the keno licensee immediately after giving the information notice to the licensed keno employee.

‘67B Cancellation or reduction of period of suspension

‘(1) If the chief executive suspends a keno employee licence, the chief executive may, for any remaining period of suspension and at any time the suspension is in force—

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

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

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

- (a) the licensed keno employee; and
- (b) if the chief executive believed the licensed keno employee was employed by, or a key operator of, a keno licensee when the licence was suspended—the keno licensee.

‘(4) Subsection (1) does not apply to an immediate suspension.’.

77 Amendment of s 118 (Control system submission)

(1) Section 118(5)—
renumber as section 118(6).

(2) Section 118—
insert—

‘(5) However, a keno licensee’s control system submission need not include particular information mentioned in subsection (4) if the chief executive is satisfied, having regard to the nature of the licensee’s operations, that the information is not necessary for the chief executive’s proper consideration of the submission under section 120.’

78 Amendment of s 146 (Use of regulated keno equipment)

Section 146(1), (2) and (3), penalties, ‘40’—

omit, insert—

‘200’.

79 Omission of s 153 (Banning excessive gamblers from playing approved keno games)

Section 153—

omit.

80 Insertion of new pt 8, div 2A

Part 8, after section 154—

insert—

‘Division 2A—Excluding persons from approved places of operation or taking part in keno gaming

‘Subdivision 1—Provisions about self-exclusion

‘154A Self-exclusion notice

‘(1) A person may give to an appointed agent a notice in the approved form (a “**self-exclusion notice**”) asking the agent to prohibit the person from taking part in keno gaming at, or entering or remaining in, the agent’s approved place of operation.

‘(2) The person must, if asked by the appointed agent, give the agent a recent photo of the person together with the notice.

‘(3) If an appointed agent has more than 1 approved place of operation, a self-exclusion notice may relate to a stated approved place of operation, or all approved places of operation, of the agent.

‘154B Self-exclusion order

‘(1) If a person gives an appointed agent a self-exclusion notice under section 154A, the agent must as soon as practicable give to the person—

- (a) a notice in the approved form (a “**self-exclusion order**”) prohibiting the person from taking part in keno gaming at, or entering or remaining in, the agent’s approved place of operation; and
- (b) details, including the name and address, of at least 1 entity that provides counselling services for problem gamblers.

Maximum penalty—50 penalty units.

‘(2) A self-exclusion order has effect for the period—

- (a) starting when it is given to the person; and
- (b) ending on the earlier of the following—
 - (i) when a revocation notice for the order takes effect under section 154C(3);
 - (ii) the day that is 5 years after the day the order is given to the person.

‘(3) If an appointed agent gives a person a self-exclusion order, the agent must as soon as practicable give to the chief executive a copy of—

- (a) the order; and
- (b) the self-exclusion notice relating to the order.

‘154C Revoking self-exclusion order

‘(1) A person who is given a self-exclusion order may, by notice in the approved form (a “**revocation notice**”) given to the appointed agent who gave the order, revoke the order.

‘(2) However, the person may revoke the order only—

- (a) within 24 hours after the person receives it; or
- (b) after 1 year after the person receives it.

‘(3) A revocation notice takes effect—

- (a) if the notice is given to the appointed agent under subsection (2)(a)—when it is given to the agent; or
- (b) otherwise—28 days after the day it is given to the agent.

‘(4) The appointed agent must, as soon as practicable after receiving a revocation notice, give the chief executive written notice of the revocation.

‘Subdivision 2—Exclusion instigated by appointed agent

‘154D Exclusion direction

‘(1) An appointed agent may give a person a notice in the approved form (an “**exclusion direction**”) prohibiting the person from taking part in keno gaming at, or entering or remaining in, the agent’s approved place of operation if the agent believes on reasonable grounds the person is a problem gambler.

‘(2) If an appointed agent has more than 1 approved place of operation, an exclusion direction may relate to a stated approved place of operation, or all approved places of operation, of the agent.

‘(3) If an appointed agent decides to give a person an exclusion direction—

- (a) the direction must be accompanied by an information notice about the decision; and
- (b) the agent must, as soon as practicable after giving the direction, give a copy of it to the chief executive.

‘154E Duration of exclusion direction

‘An exclusion direction has effect for the period—

- (a) starting when it is given to the person concerned; and
- (b) ending on the earlier of the following—
 - (i) if the decision to give the direction is set aside on appeal under part 11—when the decision is set aside;
 - (ii) if a revocation notice for the direction takes effect under section 154G(6)—when the notice takes effect;

- (iii) if a decision, under section 154G, refusing to revoke the direction is set aside on appeal under part 11—when the decision is set aside;
- (iv) the day that is 5 years after the day the direction is given to the person.

‘154F Application to revoke exclusion direction

‘(1) This section applies if a person is prohibited from taking part in keno gaming at, or entering or remaining in, an appointed agent’s approved place of operation under an exclusion direction.

‘(2) The person may apply to the appointed agent for the approved place of operation to which the direction relates for revocation of the direction.

‘(3) The application may only be made at least 1 year after the day the person is given the direction.

‘(4) The application must be—

- (a) in the approved form; and
- (b) supported by enough information to enable the appointed agent to decide the application.

‘(5) A person may apply under this section only once each year commencing on the anniversary of the day the person was given the direction.

‘154G Deciding application to revoke exclusion direction

‘(1) This section applies to an application under section 154F for revocation of an exclusion direction.

‘(2) The appointed agent must consider the application and, within 28 days after receiving it, decide to revoke or refuse to revoke the direction.

‘(3) If the appointed agent fails to decide the application within 28 days after its receipt, the failure is taken to be a decision by the agent to refuse to revoke the direction.

‘(4) In considering the application, the appointed agent may have regard to the information supporting the application and any other information the agent considers relevant, including, for example, a report of a psychologist.

‘(5) If the appointed agent decides to revoke the direction, the agent must as soon as practicable—

- (a) give the applicant notice of the revocation in the approved form (a “**revocation notice**”); and
- (b) give the chief executive a copy of the revocation notice.

‘(6) A revocation notice takes effect when it is given to the applicant.

‘(7) If the appointed agent decides to refuse to revoke the direction, the agent must as soon as practicable give the applicant an information notice about the decision.

‘Subdivision 3—Other provisions

‘154H Particular persons not to take part in keno gaming etc.

‘(1) This section applies to a person who is prohibited from taking part in keno gaming at, or entering or remaining in, an appointed agent’s approved place of operation under a self-exclusion order or an exclusion direction.

‘(2) The person must not take part in keno gaming at, or enter or remain in, the appointed agent’s approved place of operation.

Maximum penalty—40 penalty units.

‘154I Counselling

‘(1) This section applies if a court finds a person (the “**defendant**”) guilty of, or accepts a person’s plea of guilty for, an offence against section 154H(2).

‘(2) The court may, if satisfied the defendant is a problem gambler, postpone its decision on penalty on condition that the defendant agrees to attend counselling on a basis decided by the court.

‘(3) The agreement—

- (a) must provide for counselling of a kind that may, in the court’s opinion, be beneficial in helping to overcome harmful behaviour related to gambling; and
- (b) must provide for counselling over a period, of not more than 12 months, fixed by the court; and

- (c) must allow the counsellor a discretion to disclose to the court information about the defendant's participation in the counselling if the counsellor believes the disclosure will help the court to exercise its powers and discretions in an appropriate way under this section; and
- (d) must provide that the counsellor is to report to the court a failure by the defendant to attend counselling under the agreement.

‘(4) To decide whether the defendant is a problem gambler and, if so, whether counselling of an appropriate kind is available, the court may have regard to any information the court considers relevant, including, for example, a report of a psychiatrist or a psychologist.

‘(5) If the court postpones a decision on penalty under this section, the court must proceed to make a decision on penalty—

- (a) as soon as practicable after the end of the period fixed for the counselling; or
- (b) if, during the period fixed for the counselling, the defendant advises the court that he or she does not want to continue with the counselling—as soon as practicable after the court receives the advice; or
- (c) if, during the period fixed for the counselling, the counsellor reports to the court that the defendant has failed to attend counselling under the agreement or to participate satisfactorily in the counselling—as soon as practicable after the court receives the report.

‘(6) In making its decision on penalty after a postponement under this section, the court—

- (a) must consider whether and, if so, to what extent, the defendant has made a genuine attempt to overcome harmful behaviour related to gambling; and
- (b) may, for considering the matters mentioned in paragraph (a), have regard to the report of a counsellor appointed to counsel the defendant under an agreement under this section.

‘154J Obligation to prevent persons from taking part in keno gaming etc.

‘(1) This section applies to an appointed agent or an employee of the agent if the agent or employee knows that a person is prohibited from

taking part in keno gaming at, or entering or remaining in, the agent's approved place of operation under a self-exclusion order or an exclusion direction.

'(2) The appointed agent or employee must take reasonable steps to prevent the person from taking part in keno gaming at, or entering or remaining in, the approved place of operation.

Maximum penalty—

- (a) for an appointed agent—250 penalty units; or
- (b) for another person—40 penalty units.

'(3) It is lawful for the appointed agent or employee to use necessary and reasonable force to prevent the person from taking part in keno gaming at, or entering or remaining in, the agent's approved place of operation.

'(4) The force that may be used does not include force that is likely to cause bodily harm to the person.

'(5) Subsection (2) must not be construed as requiring an appointed agent or an employee to use reasonable force to prevent a person from taking part in keno gaming at, or entering or remaining in, the approved place of operation.

'(6) In this section—

"bodily harm" means any bodily injury that interferes with health or comfort.

'154K Register

'(1) An appointed agent must keep a register, in the approved form, of persons who are prohibited from taking part in keno gaming at, or entering or remaining in, the agent's approved place of operation under a self-exclusion order or an exclusion direction.

Maximum penalty—40 penalty units.

'(2) The appointed agent must keep the register available for inspection by an inspector.

'154L Notice of contravention of order or direction

'(1) This section applies if, under section 154J, an appointed agent or an employee of an appointed agent prevents a person from taking part in keno

gaming at, or entering or remaining in, the agent's approved place of operation.

‘(2) The appointed agent must as soon as practicable give the chief executive notice, in the approved form, of the prevention.

Maximum penalty—40 penalty units.’.

81 Replacement of pt 9, div 1 (Inspectors)

Part 9, division 1—

omit, insert—

‘Division 1—Inspectors

‘Subdivision 1—Appointment of inspectors

‘167 Appointment and qualifications

‘(1) The chief executive may appoint a person as an inspector.

‘(2) However, a person may be appointed as an inspector only if—

(a) the person is—

(i) a public service officer or employee; or

(ii) a member of a class of persons prescribed under a regulation; and

(b) the chief executive is satisfied the person—

(i) has the necessary expertise or experience to be an inspector;
or

(ii) has satisfactorily finished training approved by the chief executive; and

(c) the chief executive is satisfied the person is a suitable person to be an inspector, having regard to—

(i) the person's character; and

(ii) the person's current financial position and financial background.

*‘Subdivision 2—Other inspectors***‘168 Inspector under gaming Act**

‘A person who is an inspector under a gaming Act is an inspector for this Act.

*‘Subdivision 3—Other matters about inspectors***‘169 Conditions and limit on powers**

‘(1) An inspector holds office on any conditions stated in—

- (a) for an appointed inspector—the inspector’s instrument of appointment; or
- (b) a signed notice given to the inspector; or
- (c) a regulation.

‘(2) The instrument of appointment, a signed notice given to the inspector or a regulation may limit the inspector’s powers under this Act.

‘(3) In this section—

“signed notice” means a notice signed by the chief executive.

‘170 Issue of identity card

‘(1) The chief executive must issue an identity card to each appointed inspector.

‘(2) The identity card must—

- (a) contain a recent photo of the inspector; and
- (b) contain a copy of the inspector’s signature; and
- (c) identify the person as an inspector under this Act; and
- (d) state an expiry date for the card.

‘(3) This section does not prevent the issue of a single identity card to a person for this Act and other purposes.

‘171 Identity card for inspector under gaming Act

‘(1) If a person is an inspector for this Act because the person is an inspector under a gaming Act, the inspector’s identity card is the identity card given to the person as an inspector under the gaming Act.

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

‘171A Production or display of identity card

‘(1) In exercising a power under this Act in relation to a person, an inspector must—

- (a) produce the inspector’s identity card for the person’s inspection before exercising the power; or
- (b) have the identity card displayed so it is clearly visible to the person when exercising the power.

‘(2) However, if it is not practicable to comply with subsection (1), the inspector must produce the identity card for the person’s inspection at the first reasonable opportunity.

‘(3) For subsection (1), an inspector does not exercise a power in relation to a person only because the inspector has entered a place as mentioned in section 172(a) or (c).

‘171B When inspector ceases to hold office

‘(1) An inspector ceases to hold office if any of the following happens—

- (a) for an appointed inspector—
 - (i) the term of office stated in a condition of office ends; or
 - (ii) under another condition of office, the inspector ceases to hold office; or
 - (iii) the inspector’s resignation under section 171C takes effect;
- (b) for an inspector mentioned in section 168—the inspector is no longer an inspector under at least 1 gaming Act.

‘(2) Subsection (1) does not limit the ways an inspector may cease to hold office.

‘(3) In this section—

“**condition of office**” means a condition on which the appointed inspector holds office.

‘171C Resignation

‘An appointed inspector may resign by signed notice given to the chief executive.

‘171D Return of identity card

‘A person who ceases to be an appointed inspector must return the person’s identity card to the chief executive within 21 days after ceasing to be an inspector unless the person has a reasonable excuse.

Maximum penalty—40 penalty units.

‘Subdivision 4—Audit program and report about criminal history

‘171E Audit program

‘(1) The Minister may approve an audit program for investigating appointed inspectors.

‘(2) The chief executive may investigate an appointed inspector under an approved audit program to help the chief executive decide whether the inspector is a suitable person to be an inspector, having regard to—

- (a) the inspector’s character; and
- (b) the inspector’s current financial position and financial background.

‘(3) However, the chief executive may investigate an appointed inspector under subsection (2) only once every 2 years.

‘(4) The chief executive must ensure the investigation is conducted under the approved audit program.

‘(5) In this section—

“**approved audit program**” means an audit program approved by the Minister under subsection (1).

‘171F Report about criminal history

‘(1) To help decide whether a person is a suitable person to be an appointed inspector or continue as an appointed inspector, the chief executive may ask the commissioner of the police service for a written report about the person’s criminal history.

‘(2) If asked by the chief executive, the commissioner of the police service must give the chief executive a written report about the criminal history of the person.

‘(3) The duty imposed on the commissioner of the police service applies only to information in the commissioner’s possession or to which the commissioner has access.’

82 Replacement of s 239 (Appeal to District Court)

Section 239—

omit, insert—

‘239 Notice of decision

‘The Gaming Commission must, as soon as practicable after deciding an appeal, give each party to the appeal written notice of its decision and the reasons for the decision.’

83 Insertion of new pt 11, divs 2 and 3

Part 11, after section 239—

insert—

‘Division 2—Appeals to Magistrates Court**‘239A Who may appeal**

‘A person may appeal to a Magistrates Court against the following decisions—

- (a) a decision of an appointed agent, under section 154D, to give the person an exclusion direction;
- (b) a decision of an appointed agent, under section 154G, refusing to revoke an exclusion direction given to the person.

‘239B Starting appeal

‘(1) An appeal is started by—

- (a) filing a notice of appeal with the clerk of a Magistrates Court; and
- (b) serving a copy of the notice on the appointed agent who made the decision; and
- (c) complying with rules of court applicable to the appeal.

‘(2) The notice of appeal must be filed within 28 days after the person is given the information notice about the decision.

‘(3) However, the court may, at any time, extend the time for filing the notice of appeal.

‘(4) The notice of appeal must state fully the grounds of appeal.

‘239C Stay of operation of decision

‘(1) The Magistrates Court may grant a stay of the decision to secure the effectiveness of the appeal.

‘(2) A stay—

- (a) may be given on the conditions the court considers appropriate; and
- (b) operates for the period fixed by the court; and
- (c) may be amended or cancelled by the court.

‘(3) The period of a stay under this section must not extend past the time when the court decides the appeal.

‘(4) The appeal affects the decision, or carrying out of the decision, only if it is stayed.

‘239D Hearing procedures

‘(1) In deciding an appeal, the Magistrates Court—

- (a) is not bound by the rules of evidence; and
- (b) must comply with natural justice.

‘(2) An appeal is by way of rehearing, unaffected by the decision appealed against, on the material before the appointed agent who made the decision and any further evidence allowed by the court.

‘239E Court’s powers on appeal

‘(1) In deciding an appeal, the Magistrates Court may—

- (a) confirm the decision appealed against; or
- (b) set aside the decision and substitute another decision; or
- (c) set aside the decision and return the matter to the appointed agent with directions the court considers appropriate.

‘(2) If the court substitutes another decision, the substituted decision is, for this Act, other than this division, taken to be the decision of the appointed agent.

‘Division 3—Appeals to District Court

‘239F Appeal to District Court

‘An appeal lies to the District Court against a decision of the Gaming Commission or a Magistrates Court under this part but only on a question of law.’.

84 Amendment of s 240 (Confidentiality of information)

(1) Section 240(1), (2) and (3), before ‘information’—
insert—

‘confidential’.

(2) Section 240(3)(c), ‘entity or person’—
omit, insert—

‘person or other entity’.

(3) Section 240(5), before ‘information’, first mention—
insert—

‘confidential’.

(4) Section 240—

insert—

‘(6) In this section—

“**confidential information**” means information, other than information that is publicly available, about—

- (a) a person’s personal affairs, business affairs or reputation, character, criminal history, current financial position or financial background; or
- (b) a person making an application under this Act.’.

85 Insertion of new pt 13, div 2

After section 244—

insert—

‘Division 2—Transitional provisions for Gambling Legislation Amendment Act 2004

‘245 Definitions for div 2

‘In this division—

“**commencement**” means the day this division commences.

“**pre-amended Act**” means this Act as in force before the commencement of the *Gambling Legislation Amendment Act 2004*, part 6.

‘246 Dealing with show cause notice

‘(1) This section applies if—

- (a) under the pre-amended Act, section 62 or 63, the chief executive has given a show cause notice to a licensed keno employee; and
- (b) the notice has not been finally dealt with before the commencement.

‘(2) For dealing with the show cause notice, the pre-amended Act continues to apply as if the *Gambling Legislation Amendment Act 2004*, part 6, had not commenced.

‘(3) Subsection (4) applies if, under the pre-amended Act, a person could appeal to the Gaming Commission against a decision of the chief executive relating to the show cause notice.

‘(4) The person may appeal, and the Gaming Commission may hear and decide the appeal, under the pre-amended Act.

‘247 Direction to rectify under pre-amended Act

‘(1) This section applies to a direction to rectify a matter given to a licensed keno employee under the pre-amended Act, section 65, if, before the commencement—

- (a) the period for rectifying the matter under that Act has not ended; or
- (b) the period for rectifying the matter under that Act has ended and action has not been taken under section 66 of that Act in relation to a failure to comply with the direction.

‘(2) A failure to comply with the direction may be dealt with under the pre-amended Act as if the *Gambling Legislation Amendment Act 2004*, part 6, had not commenced.

‘248 Appeals to Gaming Commission

‘(1) Subsection (2) applies if—

- (a) a person has appealed to the Gaming Commission against a decision of the chief executive under the repealed provision; and
- (b) the appeal has not been decided before the commencement.

‘(2) The Gaming Commission may hear, or continue to hear, and decide the appeal under the pre-amended Act.

‘(3) Subsection (4) applies if—

- (a) immediately before the commencement a person could have appealed to the Gaming Commission against a decision of the chief executive under the repealed provision; and
- (b) the person has not appealed before the commencement.

‘(4) The person may appeal, and the Gaming Commission may hear and decide the appeal, under the pre-amended Act.

‘(5) In this section—

“repealed provision” means the pre-amended Act, section 66.

‘249 Continuation of obligation under pre-amended Act, s 153

‘(1) This section applies to an authorised keno operator if, immediately before the commencement, the operator must not, under the pre-amended Act, section 153(2), do an act or thing mentioned in that subsection.

‘(2) The pre-amended Act, section 153(2) and (3), continues to apply to the authorised keno operator as if the *Gambling Legislation Amendment Act 2004*, part 6, had not commenced.’.

86 Amendment of sch 2 (Decisions of chief executive subject to appeal)

(1) Schedule 2, part 1, entry for section 66—

omit.

(2) Schedule 2, part 2, entry for section 66—

omit, insert—

‘64	Immediately suspending the keno employee licence
65	Suspending or cancelling the keno employee licence
67	Censuring the licensed keno employee
67A	Directing the licensed keno employee to rectify a matter’.

87 Amendment of sch 4 (Dictionary)

(1) Schedule 4, definitions “accepted representations”, “identity card”, “information notice”, “inspector”, “proposed action”, “show cause notice” and “show cause period”—

omit.

(2) Schedule 4—

insert—

‘**“accepted representations”**—

- (a) for part 3, division 3—see section 27; and
- (b) for part 4, division 5—see section 63; and
- (c) for part 5, division 3—see section 97(6); and
- (d) for part 8, division 1—see section 136(6).

“appointed inspector” means a person appointed under section 167(1) as an inspector.

“approved place of operation”, for an appointed agent, means the place where the agent may, under section 142(2),²¹ carry on the agent’s operations.

“commencement”, for part 13, division 2, see section 245.

“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.

“exclusion direction” see section 154D(1).

“identity card”, for an inspector, means the inspector’s identity card under this Act.

“indictable offence” includes an indictable offence dealt with summarily, whether or not the Criminal Code, section 659,²² applies to the indictable offence.

“information notice”, for a decision of the chief executive or an appointed agent, means a written notice stating all of the following—

- (a) the decision;
- (b) the reasons for the decision;
- (c) that the person to whom the notice is given may, within 28 days after the person receives the notice, appeal against the decision to—

21 Section 142 (Places of operation)

22 Criminal Code, section 659 (Effect of summary conviction for indictable offences)

- (i) for a decision of the chief executive—the Gaming Commission; or
- (ii) for a decision of an appointed agent—a Magistrates Court;
- (d) how the person may appeal to the Gaming Commission or a Magistrates Court.

“inspector” means—

- (a) an appointed inspector; or
- (b) a person who is an inspector for this Act under section 168.

“pre-amended Act”, for part 13, division 2, see section 245.

“problem gambler” means a person whose behaviour indicates a compulsion to gamble, an addiction to gambling, or an inability or disinclination to make rational judgments about gambling.

“proposed action”—

- (a) for part 3, division 3—see section 25(2)(a); and
- (b) for part 4, division 5—see section 62(2)(a).

“revocation notice”—

- (a) for part 8, division 3, subdivision 1—see section 154C(1); and
- (b) for part 8, division 3, subdivision 2—see section 154G(5)(a).

“self-exclusion notice” see section 154A(1).

“self-exclusion order” see section 154B(1)(a).

“show cause notice”—

- (a) for part 3, division 3—see section 25(2); and
- (b) for part 4, division 5—see section 62(1); and
- (c) for part 5, division 3—see section 97(2); and
- (d) for part 8, division 1—see section 136(2).

“show cause period”, for part 3, division 3, see section 25(2)(e).’.

PART 7—AMENDMENT OF LOTTERIES ACT 1997**88 Act amended in pt 7**

This part amends the *Lotteries Act 1997*.

89 Amendment of s 56 (Changing conditions of key person licence)

Section 56(2), from ‘promptly—’ to ‘and’—

omit, insert—

‘immediately—

- (a) give the key person licensee—
 - (i) written notice of the changed conditions; and
 - (ii) an information notice about the decision; and’.

90 Replacement of pt 3, div 4 (Suspension and cancellation of key person licences)

Part 3, division 4—

omit, insert—

‘Division 4—Suspension and cancellation of key person licences, and other action by chief executive

‘Subdivision 1—Suspension and cancellation

‘59 Grounds

‘(1) Each of the following is a ground for suspending or cancelling a key person licensee’s key person licence—

- (a) the key person licensee—
 - (i) is not a suitable person to hold a key person licence; or
 - (ii) acts in a way that is inappropriate for the conduct of approved lotteries; or
 - (iii) contravenes a provision of this Act, other than a provision a contravention of which is an offence against this Act; or

- (iv) contravenes a condition of the licence;
- (b) the key person licensee has a conviction, other than a spent conviction, for—
 - (i) an offence against this Act or a gaming Act; or
 - (ii) an indictable offence;
- (c) the key person licence was issued because of a materially false or misleading representation or document.

‘(2) For forming a belief that the ground mentioned in subsection (1)(a)(i) exists, the chief executive may have regard to the same matters to which the chief executive may have regard under section 49(2)²³ in deciding whether an applicant for a key person licence is a suitable person to hold the licence.

‘(3) For subsection (1)(a)(ii), a key person licensee acts in a way that is inappropriate for the conduct of approved lotteries if the licensee does, or omits to do, an act that results in—

- (a) the conduct of approved lotteries by a lottery licensee not being conducted under the approved control system for the conduct of the lotteries; and
- (b) the integrity of the conduct of approved lotteries being jeopardised.

‘(4) In this section—

“**spent conviction**” means a conviction—

- (a) for which the rehabilitation period under the *Criminal Law (Rehabilitation of Offenders) Act 1986* has expired under that Act; and
- (b) that is not revived as prescribed by section 11²⁴ of that Act.

‘60 Show cause notice

‘(1) If the chief executive believes a ground exists to suspend or cancel a key person licence, the chief executive must before taking action to

²³ Section 49 (Conditions for granting application)

²⁴ *Criminal Law (Rehabilitation of Offenders) Act 1986*, section 11 (Revival of convictions)

suspend or cancel the licence give the key person licensee a written notice (a **“show cause notice”**).

‘(2) The show cause notice must state the following—

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

‘(3) The show cause period must end at least 21 days after the key person licensee is given the show cause notice.

‘(4) Subsection (5) applies if the chief executive believes—

- (a) the key person licensee is an employee or a key operator of a lottery licensee; and
- (b) the existence of the grounds for the proposed action is likely to adversely affect the conduct of approved lotteries by the lottery licensee.

‘(5) The chief executive must immediately give a copy of the show cause notice to the lottery licensee.

‘(6) The lottery licensee may make written representations about the show cause notice to the chief executive in the show cause period.

‘61 Consideration of representations

‘The chief executive must consider all written representations (the **“accepted representations”**) made under section 60(2)(e) or (6).

‘62 Immediate suspension

‘(1) The chief executive may suspend a key person licensee’s key person licence immediately if the chief executive believes—

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

‘(2) The suspension—

- (a) can be effected only by the chief executive giving the key person licensee an information notice about the decision to suspend the licence, together with a show cause notice; and
- (b) operates immediately the information notice is given to the licensee; and
- (c) continues to operate until the show cause notice is finally dealt with.

‘(3) If the chief executive believes the key person licensee is an employee or a key operator of a lottery licensee, the chief executive must immediately give written notice of the suspension to the lottery licensee.

‘63 Suspension and cancellation of licence after show cause process

‘(1) This section applies if—

- (a) there are no accepted representations for a show cause notice; or
- (b) after considering the accepted representations for a show cause notice, the chief executive—
 - (i) still believes a ground exists to suspend or cancel a key person licence; and
 - (ii) believes suspension or cancellation of the licence is warranted.

‘(2) This section also applies if a key person licensee contravenes a direction given to the licensee under section 65A.²⁵

‘(3) The chief executive may—

- (a) if the proposed action was to suspend the licence—suspend the licence for not longer than the proposed suspension period; or

25 Section 65A (Direction to rectify matter after show cause process)

- (b) if the proposed action was to cancel the licence—cancel the licence or suspend it for a period.

‘(4) If the chief executive decides to take action under subsection (3), the chief executive must immediately—

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

‘(5) The decision takes effect on the later of the following—

- (a) the day the information notice is given to the key person licensee;
- (b) the day of effect stated in the information notice.

‘(6) If the chief executive cancels the licence, the key person licensee must give the licence to the chief executive within 14 days after the cancellation takes effect.

Maximum penalty for subsection (6)—40 penalty units.

‘Subdivision 2—Other action by chief executive

‘64 Ending show cause process without further action

‘(1) This section applies if, after considering the accepted representations for a show cause notice, the chief executive no longer believes a ground exists to suspend or cancel a key person licence.

‘(2) The chief executive—

- (a) must not take any further action about the show cause notice; and
- (b) must give each of the following a written notice stating that no further action is to be taken—
 - (i) the key person licensee;
 - (ii) a lottery licensee to whom a copy of the show cause notice was given under section 60(5).

‘65 Censuring key person licensee

‘(1) The chief executive may censure a key person licensee for a matter relating to a ground for suspension or cancellation if the chief executive—

- (a) believes a ground exists to suspend or cancel the key person licensee’s key person licence but does not believe that giving a show cause notice to the licensee is warranted; or
- (b) after considering the accepted representations for a show cause notice, still believes a ground exists to suspend or cancel the key person licensee’s key person licence but does not believe suspension or cancellation of the licence is warranted.

‘(2) The censure can be effected only by the chief executive giving the key person licensee an information notice about the decision to censure the licensee.

‘(3) If the chief executive believes the key person licensee is an employee or a key operator of a lottery licensee, the chief executive must immediately give written notice of the censure to the lottery licensee.

‘65A Direction to rectify matter after show cause process

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

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

‘(2) The chief executive may direct the key person licensee to rectify the matter.

‘(3) If the chief executive decides to give a key person licensee a direction under this section, the direction can be effected only by the chief executive giving the licensee an information notice about the decision.

‘(4) The information notice must state the period for rectifying the matter.

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

‘(6) If the chief executive gave a copy of the show cause notice to a lottery licensee under section 60(5), the chief executive must give written notice of the direction to the lottery licensee immediately after giving the information notice to the key person licensee.

‘65B Cancellation or reduction of period of suspension

‘(1) If the chief executive suspends a key person licence, the chief executive may, for any remaining period of suspension and at any time the suspension is in force—

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

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

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

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

‘(4) Subsection (1) does not apply to an immediate suspension.’.

91 Amendment of s 101 (Control system submission)

(1) Section 101(5)—

renumber as section 101(6).

(2) Section 101—

insert—

‘(5) However, a lottery licensee’s control system submission need not include particular information mentioned in subsection (4) if the chief executive is satisfied, having regard to the nature of the licensee’s operations, that the information is not necessary for the chief executive’s proper consideration of the submission under section 103.’.

92 Insertion of new s 125A

After section 125—

insert—

‘125A Acceptance of entry form

‘A lottery licensee, in carrying on the licensee’s operations, may accept an entry form for an approved lottery submitted to the licensee by phone or another form of communication.

Example of another form of communication—

e-mail’.

93 Amendment of s 129 (Claims for prizes)

(1) Section 129(1) and (2)—

omit, insert—

‘(1) A claim for payment of a prize in an approved lottery may be made to the lottery licensee or a lottery agent of the lottery licensee.’.

(2) Section 129(3) to (5)—

renumber as section 129(2) to (4).

94 Amendment of s 130 (Payment of prizes)

Section 130(4), from ‘After’ to ‘lottery licensee’—

omit, insert—

‘A lottery licensee’.

95 Amendment of s 134 (Use of regulated lottery equipment)

Section 134, penalties, ‘40’—

omit, insert—

‘200’.

96 Replacement of pt 8, div 1 (Inspectors)

Part 8, division 1—

omit, insert—

‘Division 1—Inspectors***‘Subdivision 1—Appointment of inspectors*****‘153 Appointment and qualifications**

‘(1) The chief executive may appoint a person as an inspector.

‘(2) However, a person may be appointed as an inspector only if—

- (a) the person is—
 - (i) a public service officer or employee; or
 - (ii) a member of a class of persons prescribed under a regulation; and
- (b) the chief executive is satisfied the person—
 - (i) has the necessary expertise or experience to be an inspector; or
 - (ii) has satisfactorily finished training approved by the chief executive; and
- (c) the chief executive is satisfied the person is a suitable person to be an inspector, having regard to—
 - (i) the person’s character; and
 - (ii) the person’s current financial position and financial background.

‘Subdivision 2—Other inspectors**‘154 Inspectors under gaming Act**

‘A person who is an inspector under a gaming Act is an inspector for this Act.

‘Subdivision 3—Other matters about inspectors

‘155 Conditions and limit on powers

‘(1) An inspector holds office on any conditions stated in—

- (a) for an appointed inspector—the inspector’s instrument of appointment; or
- (b) a signed notice given to the inspector; or
- (c) a regulation.

‘(2) The instrument of appointment, a signed notice given to the inspector or a regulation may limit the inspector’s powers under this Act.

‘(3) In this section—

“signed notice” means a notice signed by the chief executive.

‘156 Issue of identity card

‘(1) The chief executive must issue an identity card to each appointed inspector.

‘(2) The identity card must—

- (a) contain a recent photo of the inspector; and
- (b) contain a copy of the inspector’s signature; and
- (c) identify the person as an inspector under this Act; and
- (d) state an expiry date for the card.

‘(3) This section does not prevent the issue of a single identity card to a person for this Act and other purposes.

‘157 Identity card for inspector under gaming Act

‘(1) If a person is an inspector for this Act because the person is an inspector under a gaming Act, the inspector’s identity card is the identity card given to the person as an inspector under the gaming Act.

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

‘157A Production or display of identity card

‘(1) In exercising a power under this Act in relation to a person, an inspector must—

- (a) produce the inspector’s identity card for the person’s inspection before exercising the power; or
- (b) have the identity card displayed so it is clearly visible to the person when exercising the power.

‘(2) However, if it is not practicable to comply with subsection (1), the inspector must produce the identity card for the person’s inspection at the first reasonable opportunity.

‘(3) For subsection (1), an inspector does not exercise a power in relation to a person only because the inspector has entered a place as mentioned in section 158(a) or (d).

‘157B When inspector ceases to hold office

‘(1) An inspector ceases to hold office if any of the following happens—

- (a) for an appointed inspector—
 - (i) the term of office stated in a condition of office ends; or
 - (ii) under another condition of office, the inspector ceases to hold office; or
 - (iii) the inspector’s resignation under section 157C takes effect;
- (b) for an inspector mentioned in section 154—the inspector is no longer an inspector under at least 1 gaming Act.

‘(2) Subsection (1) does not limit the ways an inspector may cease to hold office.

‘(3) In this section—

“**condition of office**” means a condition on which the inspector holds office.

‘157C Resignation

‘An appointed inspector may resign by signed notice given to the chief executive.

‘157D Return of identity card

‘A person who ceases to be an appointed inspector must return the person’s identity card to the chief executive within 21 days after ceasing to be an inspector unless the person has a reasonable excuse.

Maximum penalty—40 penalty units.

‘Subdivision 4—Audit program and report about criminal history**‘157E Audit program**

‘(1) The Minister may approve an audit program for investigating appointed inspectors.

‘(2) The chief executive may investigate an appointed inspector under an approved audit program to help the chief executive decide whether the inspector is a suitable person to be an inspector, having regard to—

- (a) the inspector’s character; and
- (b) the inspector’s current financial position and financial background.

‘(3) However, the chief executive may investigate an appointed inspector under subsection (2) only once every 2 years.

‘(4) The chief executive must ensure the investigation is conducted under the approved audit program.

‘(5) In this section—

“approved audit program” means an audit program approved by the Minister under subsection (1).

‘157F Report about criminal history

‘(1) To help decide whether a person is a suitable person to be an appointed inspector or continue as an appointed inspector, the chief executive may ask the commissioner of the police service for a written report about the person’s criminal history.

‘(2) If asked by the chief executive, the commissioner of the police service must give the chief executive a written report about the criminal history of the person.

‘(3) The duty imposed on the commissioner of the police service applies only to information in the commissioner’s possession or to which the commissioner has access.’.

97 Amendment of s 181A (Direction about conduct of approved lottery)

Section 181A(5), penalty, ‘40’—

omit, insert—

‘100’.

98 Insertion of new s 223A

After section 223—

insert—

‘223A Notice of decision

‘The Gaming Commission must, as soon as practicable after deciding an appeal, give each party to the appeal written notice of its decision and the reasons for the decision.’.

99 Amendment of s 225 (Confidentiality of information)

(1) Section 225(1), (2) and (3), before ‘information’—

insert—

‘confidential’.

(2) Section 225(3)(c), ‘entity or person’—

omit, insert—

‘person or other entity’.

(3) Section 225(5), before ‘information’, first mention—

insert—

‘confidential’.

(4) Section 225—

insert—

‘(6) In this section—

“confidential information” means information, other than information that is publicly available, about—

- (a) a person’s personal affairs, business affairs or reputation, character, criminal history, current financial position or financial background; or
- (b) a person making an application under this Act.’.

100 Insertion of new pt 12, div 4

After section 247—

insert—

***‘Division 4—Transitional provisions for Gambling Legislation
Amendment Act 2004***

‘248 Definitions for div 4

‘In this division—

“commencement” means the day this division commences.

“pre-amended Act” means this Act as in force before the commencement of the *Gambling Legislation Amendment Act 2004*, part 7.

‘249 Dealing with show cause notice

‘(1) This section applies if—

- (a) under the pre-amended Act, section 60 or 61, the chief executive has given a show cause notice to a key person licensee; and
- (b) the notice has not been finally dealt with before the commencement.

‘(2) For dealing with the show cause notice, the pre-amended Act continues to apply as if the *Gambling Legislation Amendment Act 2004*, part 7, had not commenced.

‘(3) Subsection (4) applies if, under the pre-amended Act, a person could appeal to the Gaming Commission against a decision of the chief executive relating to the show cause notice.

‘(4) The person may appeal, and the Gaming Commission may hear and decide the appeal, under the pre-amended Act.

‘250 Direction to rectify under pre-amended Act

‘(1) This section applies to a direction to rectify a matter given to a key person licensee under the pre-amended Act, section 63, if, before the commencement—

- (a) the period for rectifying the matter under that Act has not ended; or
- (b) the period for rectifying the matter under that Act has ended and action has not been taken under section 64 of that Act in relation to a failure to comply with the direction.

‘(2) A failure to comply with the direction may be dealt with under the pre-amended Act as if the *Gambling Legislation Amendment Act 2004*, part 7, had not commenced.

‘251 Appeals to Gaming Commission

‘(1) Subsection (2) applies if—

- (a) a person has appealed to the Gaming Commission against a decision of the chief executive under the repealed provision; and
- (b) the appeal has not been decided before the commencement.

‘(2) The Gaming Commission may hear, or continue to hear, and decide the appeal under the pre-amended Act.

‘(3) Subsection (4) applies if—

- (a) immediately before the commencement a person could have appealed to the Gaming Commission against a decision of the chief executive under the repealed provision; and
- (b) the person has not appealed before the commencement.

‘(4) The person may appeal, and the Gaming Commission may hear and decide the appeal, under the pre-amended Act.

‘(5) In this section—

“repealed provision” means the pre-amended Act, section 64.’.

101 Amendment of sch 2 (Decisions of chief executive subject to appeal)

(1) Schedule 2, part 1, entry for section 64—

omit.

(2) Schedule 2, part 2, entry for section 64—

omit, insert—

‘62	Immediately suspending a key person licence
63	Suspending or cancelling a key person licence
65	Censuring a key person licensee
65A	Directing a key person licensee to rectify a matter’.

102 Amendment of sch 3 (Dictionary)

(1) Schedule 3, definitions “accepted representations”, “agency payment period”, “identity card”, “inspector”, “show cause notice” and “show cause period”—

omit.

(2) Schedule 3—

insert—

‘ **“accepted representations”**—

- (a) for part 2, division 5—see section 27; and
- (b) for part 3, division 4—see section 61; and
- (c) for part 4, division 2—see section 84(6); and
- (d) for part 7, division 1—see section 119(6).

“appointed inspector” means a person appointed under section 153(1) as an inspector.

“commencement”, for part 12, division 4, see section 248.

“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.

“identity card”, for an inspector, means the inspector’s identity card under this Act.

“indictable offence” includes an indictable offence dealt with summarily, whether or not the Criminal Code, section 659,²⁶ applies to the indictable offence.

“inspector” means—

- (a) an appointed inspector; or
- (b) a person who is an inspector for this Act under section 154.

“pre-amended Act”, for part 12, division 4, see section 248.

“proposed action”, for part 3, division 4, see section 60(2)(a).

“show cause notice”—

- (a) for part 2, division 5—see section 25(2); and
- (b) for part 3, division 4—see section 60(1); and
- (c) for part 4, division 2—see section 84(2); and
- (d) for part 7, division 1—see section 119(2).

“show cause period”, for part 2, division 5, see section 25(2)(e).’.

(3) Schedule 3, definition “conviction”, after ‘includes’—

insert—

‘the acceptance of’.

²⁶ Criminal Code, section 659 (Effect of summary conviction for indictable offences)

PART 8—AMENDMENT OF TAB QUEENSLAND LIMITED PRIVATISATION ACT 1999

103 Act amended in pt 8

This part amends the *TAB Queensland Limited Privatisation Act 1999*.

104 Omission of s 43 (Application of pt 5)

Section 43—

omit.

105 Insertion of new pt 7

After section 59—

insert—

‘PART 7—TRANSITIONAL PROVISION

‘60 Transitional provision for Gambling Legislation Amendment Act 2004

‘The effect of the omission of section 43 by the *Gambling Legislation Amendment Act 2004*, section 104 is that part 5 applies from the commencement of that section.’.

PART 9—AMENDMENT OF WAGERING ACT 1998

106 Act amended in pt 9

This part amends the *Wagering Act 1998*.

107 Amendment of s 5 (Meaning of “oncourse wagering permit”)

Section 5, ‘racing venue’—

omit, insert—

‘licensed venue’.

108 Replacement of s 6 (Meaning of “race wagering licence”)

Section 6—

omit, insert—

‘6 Meaning of “race wagering licence”

‘A “**race wagering licence**” is a licence authorising the race wagering licensee to conduct wagering on an event or contingency that—

- (a) is, or relates to, thoroughbred, harness or greyhound racing; and
- (b) may be lawfully held in Queensland or elsewhere.’.

109 Amendment of s 28 (Form of authority)

Section 28(2)(d), ‘racing venue’—

omit, insert—

‘licensed venue’.

110 Amendment of s 114 (Changing conditions of licence)

Section 114(2), from ‘promptly—’ to ‘and’—

omit, insert—

‘immediately—

- (a) give the key person licensee—
 - (i) written notice of the changed conditions; and
 - (ii) an information notice for the decision; and’.

111 Replacement of pt 7, div 7 (Suspension and cancellation of key person licences)

Part 7, division 7—

omit, insert—

‘Division 7—Suspension and cancellation of key person licences, and other action by chief executive

‘Subdivision 1—Suspension and cancellation

‘123 Grounds

‘(1) Each of the following is a ground for suspending or cancelling a key person licensee’s key person licence—

- (a) the key person licensee—
 - (i) is not a suitable person to hold a key person licence; or
 - (ii) acts in a way that is inappropriate for the conduct of authorised wagering; or
 - (iii) contravenes a provision of this Act, other than a provision a contravention of which is an offence against this Act; or
 - (iv) contravenes a condition of the licence;
- (b) the key person licensee has a conviction, other than a spent conviction, for—
 - (i) an offence against this Act or a gaming Act; or
 - (ii) an indictable offence;
- (c) the key person licence was issued because of a materially false or misleading representation or document.

‘(2) For forming a belief that the ground mentioned in subsection (1)(a)(i) exists, the chief executive may have regard to the same matters to which the chief executive may have regard under

section 113(2)²⁷ in deciding whether an applicant for a key person licence is a suitable person to hold the licence.

‘(3) For subsection (1)(a)(ii), a key person licensee acts in a way that is inappropriate for the conduct of authorised wagering if the licensee does, or omits to do, an act that results in—

- (a) the conduct of authorised wagering by an authority operator not being conducted under the approved control system for the conduct of the wagering; and
- (b) the integrity of the conduct of authorised wagering being jeopardised.

‘(4) In this section—

“**spent conviction**” means a conviction—

- (a) for which the rehabilitation period under the *Criminal Law (Rehabilitation of Offenders) Act 1986* has expired under that Act; and
- (b) that is not revived as prescribed by section 11²⁸ of that Act.

‘124 Show cause notice

‘(1) If the chief executive believes a ground exists to suspend or cancel a key person licence, the chief executive must before taking action to suspend or cancel the licence give the key person licensee a written notice (a “**show cause notice**”).

‘(2) The show cause notice must state the following—

- (a) the action the chief executive proposes taking under this subdivision (the “**proposed action**”);
- (b) the grounds for the proposed action;
- (c) an outline of the facts and circumstances forming the basis for the grounds;
- (d) if the proposed action is suspension of the licence—the proposed suspension period;

27 Section 113 (Suitability of applicants and key person licensees)

28 *Criminal Law (Rehabilitation of Offenders) Act 1986*, section 11 (Revival of convictions)

- (e) that the key person licensee may, within a stated period (the “**show cause period**”), make written representations to the chief executive to show why the proposed action should not be taken.

‘(3) The show cause period must end at least 21 days after the key person licensee is given the show cause notice.

‘(4) Subsection (5) applies if the chief executive believes—

- (a) the key person licensee is an employee or a key operator of an authority operator; and
- (b) the existence of the grounds for the proposed action is likely to adversely affect the conduct of authorised wagering by the authority operator.

‘(5) The chief executive must immediately give a copy of the show cause notice to the authority operator.

‘(6) The authority operator may make written representations about the show cause notice to the chief executive in the show cause period.

‘125 Consideration of representations

‘The chief executive must consider all written representations (the “**accepted representations**”) made under section 124(2)(e) or (6).

‘126 Immediate suspension

‘(1) The chief executive may suspend a key person licensee’s key person licence immediately if the chief executive believes—

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

‘(2) The suspension—

- (a) can be effected only by the chief executive giving the key person licensee an information notice for the decision to suspend the licence, together with a show cause notice; and

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

‘(3) If the chief executive believes the key person licensee is an employee or a key operator of an authority operator, the chief executive must immediately give written notice of the suspension to the authority operator.

‘127 Suspension and cancellation of licence after show cause process

‘(1) This section applies if—

- (a) there are no accepted representations for a show cause notice; or
- (b) after considering the accepted representations for a show cause notice, the chief executive—
 - (i) still believes a ground exists to suspend or cancel a key person licence; and
 - (ii) believes suspension or cancellation of the licence is warranted.

‘(2) This section also applies if a key person licensee contravenes a direction given to the licensee under section 130.²⁹

‘(3) The chief executive may—

- (a) if the proposed action was to suspend the licence—suspend the licence for not longer than the proposed suspension period; or
- (b) if the proposed action was to cancel the licence—cancel the licence or suspend it for a period.

‘(4) If the chief executive decides to take action under subsection (3), the chief executive must immediately—

- (a) give an information notice for the decision to the key person licensee; and
- (b) if the chief executive believes the licensee is an employee or a key operator of an authority operator—give written notice of the suspension or cancellation to the authority operator.

²⁹ Section 130 (Direction to rectify matter after show cause process)

‘(5) The decision takes effect on the later of the following—

- (a) the day the information notice is given to the key person licensee;
- (b) the day of effect stated in the information notice.

‘(6) If the chief executive cancels the licence, the key person licensee must give the licence to the chief executive within 14 days after the cancellation takes effect.

Maximum penalty for subsection (6)—40 penalty units.

‘Subdivision 2—Other action by chief executive

‘128 Ending show cause process without further action

‘(1) This section applies if, after considering the accepted representations for a show cause notice, the chief executive no longer believes a ground exists to suspend or cancel a key person licence.

‘(2) The chief executive—

- (a) must not take any further action about the show cause notice; and
- (b) must give each of the following a written notice stating that no further action is to be taken—
 - (i) the key person licensee;
 - (ii) an authority operator to whom a copy of the show cause notice was given under section 124(5).

‘129 Censuring key person licensee

‘(1) The chief executive may censure a key person licensee for a matter relating to a ground for suspension or cancellation if the chief executive—

- (a) believes a ground exists to suspend or cancel the licensee’s key person licence but does not believe that giving a show cause notice to the licensee is warranted; or
- (b) after considering the accepted representations for a show cause notice, still believes a ground exists to suspend or cancel the licensee’s key person licence but does not believe suspension or cancellation of the licence is warranted.

‘(2) The censure can be effected only by the chief executive giving the key person licensee an information notice for the decision to censure the licensee.

‘(3) If the chief executive believes the key person licensee is an employee or a key operator of an authority operator, the chief executive must immediately give written notice of the censure to the authority operator.

‘130 Direction to rectify matter after show cause process

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

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

‘(2) The chief executive may direct the key person licensee to rectify the matter.

‘(3) If the chief executive decides to give a key person licensee a direction under this section, the direction can be effected only by the chief executive giving the licensee an information notice for the decision.

‘(4) The information notice must state the period for rectifying the matter.

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

‘(6) If the chief executive gave a copy of the show cause notice to an authority operator under section 124(5), the chief executive must give written notice of the direction to the authority operator immediately after giving the information notice to the key person licensee.

‘131 Cancellation or reduction of period of suspension

‘(1) If the chief executive suspends a key person licence, the chief executive may, for any remaining period of suspension and at any time the suspension is in force—

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

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

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

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

‘(4) Subsection (1) does not apply to an immediate suspension.’.

112 Amendment of s 174 (Control system submission)

(1) Section 174(5)—
renumber as section 174(6).

(2) section 174—
insert—

‘(5) However, an authority operator’s control system submission need not include particular information mentioned in subsection (4) if the chief executive is satisfied, having regard to the nature of the operator’s operations, that the information is not necessary for the chief executive’s proper consideration of the submission under section 176.’.

113 Amendment of s 207 (Use of regulated wagering equipment)

Section 207(1), (2) and (3), penalties, ‘40’—
omit, insert—
‘200’.

114 Omission of s 215 (Banning excessive gamblers)

Section 215—
omit.

115 Insertion of new pt 11, div 2A

Part 11, after section 216—

insert—

‘Division 2A—Excluding persons from approved places of operation or taking part in approved wagering

‘Subdivision 1—Provisions about self-exclusion

‘216A Self-exclusion notice

‘(1) A person may give to a general operator a notice in the approved form (a “**self-exclusion notice**”) asking the general operator to prohibit the person from taking part in approved wagering at, or entering or remaining in, the operator’s approved place of operation.

‘(2) The person must, if asked by the general operator, give the operator a recent photo of the person together with the notice.

‘(3) If a general operator has more than 1 approved place of operation, a self-exclusion notice may relate to a stated approved place of operation, or all approved places of operation, of the operator.

‘216B Self-exclusion order

‘(1) If a person gives a general operator a self-exclusion notice under section 216A, the general operator must as soon as practicable give to the person—

- (a) a notice in the approved form (a “**self-exclusion order**”) prohibiting the person from entering or remaining in, or taking part in approved wagering at, the operator’s approved place of operation; and
- (b) details, including the name and address, of at least 1 entity that provides counselling services for problem gamblers.

Maximum penalty—50 penalty units.

‘(2) A self-exclusion order has effect for the period—

- (a) starting when it is given to the person; and
- (b) ending on the earlier of the following—

- (i) when a revocation notice for the order takes effect under section 216C(3);
- (ii) the day that is 5 years after the day the order is given to the person.

‘(3) If a general operator gives a person a self-exclusion order, the operator must as soon as practicable give to the chief executive a copy of—

- (a) the order; and
- (b) the self-exclusion notice relating to the order.

‘216C Revoking self-exclusion order

‘(1) A person who is given a self-exclusion order may, by notice in the approved form (a “**revocation notice**”) given to the general operator for the approved place of operation to which the order relates, revoke the order.

‘(2) However, the person may revoke the order only—

- (a) within 24 hours after the person receives it; or
- (b) after 1 year after the person receives it.

‘(3) A revocation notice takes effect—

- (a) if the notice is given to the general operator under subsection (2)(a)—when it is given to the operator; or
- (b) otherwise—28 days after the day it is given to the operator.

‘(4) The general operator must, as soon as practicable after receiving a revocation notice, give the chief executive written notice of the revocation.

‘*Subdivision 2—Exclusion instigated by general operator*

‘216D Exclusion direction

‘(1) A general operator may give a person a notice in the approved form (an “**exclusion direction**”) prohibiting the person from taking part in approved wagering at, or entering or remaining in, the operator’s approved place of operation if the operator believes on reasonable grounds the person is a problem gambler.

‘(2) If a general operator has more than 1 approved place of operation, an exclusion direction may relate to a stated approved place of operation, or all approved places of operation, of the operator.

‘(3) If a general operator decides to give a person an exclusion direction—

- (a) the direction must be accompanied by an information notice for the decision; and
- (b) the operator must, as soon as practicable after giving the direction, give a copy of it to the chief executive.

‘216E Duration of exclusion direction

‘An exclusion direction has effect for the period—

- (a) starting when it is given to the person concerned; and
- (b) ending on the earlier of the following—
 - (i) if the decision to give the direction is set aside on appeal under part 14, division 1—when the decision is set aside;
 - (ii) if a revocation notice for the direction takes effect under section 216G(6)—when the notice takes effect;
 - (iii) if a decision, under section 216G, refusing to revoke the direction is set aside on appeal under part 14, division 1—when the decision is set aside;
 - (iv) the day that is 5 years after the day the direction is given to the person.

‘216F Application to revoke exclusion direction

‘(1) This section applies if a person is prohibited from taking part in approved wagering at, or entering or remaining in, a general operator’s approved place of operation under an exclusion direction.

‘(2) The person may apply to the general operator for the approved place of operation to which the direction relates for revocation of the direction.

‘(3) The application may only be made at least 1 year after the day the person is given the direction.

‘(4) The application must be—

- (a) in the approved form; and
- (b) supported by enough information to enable the general operator to decide the application.

‘(5) A person may apply under this section only once each year commencing on the anniversary of the day the person was given the direction.

‘216G Deciding application to revoke exclusion direction

‘(1) This section applies to an application under section 216F for revocation of an exclusion direction.

‘(2) The general operator must consider the application and, within 28 days after receiving it, decide to revoke or refuse to revoke the direction.

‘(3) If the general operator fails to decide the application within 28 days after its receipt, the failure is taken to be a decision by the operator to refuse to revoke the direction.

‘(4) In considering the application, the general operator may have regard to the information supporting the application and any other information the operator considers relevant, including, for example, a report of a psychologist.

‘(5) If the general operator decides to revoke the direction, the operator must as soon as practicable—

- (a) give the applicant notice of the revocation in the approved form (a “**revocation notice**”); and
- (b) give the chief executive a copy of the revocation notice.

‘(6) A revocation notice takes effect when it is given to the applicant.

‘(7) If the general operator decides to refuse to revoke the direction, the operator must as soon as practicable give the applicant an information notice for the decision.

‘*Subdivision 3—Other provisions*

‘216H Particular persons not to take part in approved wagering etc.

‘(1) This section applies to a person who is prohibited from taking part in approved wagering at, or entering or remaining in, a general operator’s

approved place of operation under a self-exclusion order or an exclusion direction.

‘(2) The person must not take part in approved wagering at, or enter or remain in, the general operator’s approved place of operation.

Maximum penalty—40 penalty units.

‘216I Counselling

‘(1) This section applies if a court finds a person (the “**defendant**”) guilty of, or accepts a person’s plea of guilty for, an offence against section 216H(2).

‘(2) The court may, if satisfied the defendant is a problem gambler, postpone its decision on penalty on condition that the defendant agrees to attend counselling on a basis decided by the court.

‘(3) The agreement—

- (a) must provide for counselling of a kind that may, in the court’s opinion, be beneficial in helping to overcome harmful behaviour related to gambling; and
- (b) must provide for counselling over a period, of not more than 12 months, fixed by the court; and
- (c) must allow the counsellor a discretion to disclose to the court information about the defendant’s participation in the counselling if the counsellor believes the disclosure will help the court to exercise its powers and discretions in an appropriate way under this section; and
- (d) must provide that the counsellor is to report to the court a failure by the defendant to attend counselling under the agreement.

‘(4) To decide whether the defendant is a problem gambler and, if so, whether counselling of an appropriate kind is available, the court may have regard to any information the court considers relevant, including, for example, a report of a psychiatrist or a psychologist.

‘(5) If the court postpones a decision on penalty under this section, the court must proceed to make a decision on penalty—

- (a) as soon as practicable after the end of the period fixed for the counselling; or

- (b) if, during the period fixed for the counselling, the defendant advises the court that he or she does not want to continue with the counselling—as soon as practicable after the court receives the advice; or
- (c) if, during the period fixed for the counselling, the counsellor reports to the court that the defendant has failed to attend counselling under the agreement or to participate satisfactorily in the counselling—as soon as practicable after the court receives the report.

‘(6) In making its decision on penalty after a postponement under this section, the court—

- (a) must consider whether and, if so, to what extent, the defendant has made a genuine attempt to overcome harmful behaviour related to gambling; and
- (b) may, for considering the matters mentioned in paragraph (a), have regard to the report of a counsellor appointed to counsel the defendant under an agreement under this section.

‘216J Obligation to prevent persons from taking part in approved wagering etc.

‘(1) This section applies to a general operator or an employee of the operator if the operator or employee knows that a person is prohibited from taking part in approved wagering at, or entering or remaining in, the operator’s approved place of operation under a self-exclusion order or an exclusion direction.

‘(2) The general operator or employee must take reasonable steps to prevent the person from taking part in approved wagering at, or entering or remaining in, the operator’s approved place of operation.

Maximum penalty—

- (a) for a general operator—250 penalty units; or
- (b) for another person—40 penalty units.

‘(3) It is lawful for the general operator or employee to use necessary and reasonable force to prevent the person from taking part in approved wagering at, or entering or remaining in, the operator’s approved place of operation.

‘(4) The force that may be used does not include force that is likely to cause bodily harm to the person.

‘(5) Subsection (2) must not be construed as requiring a general operator or an employee to use reasonable force to prevent a person from taking part in approved wagering at, or entering or remaining in, the operator’s approved place of operation.

‘(6) In this section—

“**bodily harm**” means any bodily injury that interferes with health or comfort.

‘216K Register

‘(1) A general operator must keep a register, in the approved form, of persons who are prohibited from taking part in approved wagering at, or entering or remaining in, the operator’s approved place of operation under a self-exclusion order or an exclusion direction.

Maximum penalty—40 penalty units.

‘(2) The general operator must keep the register available for inspection by an inspector.

‘216L Notice of contravention of order or direction

‘(1) This section applies if, under section 216J, a general operator or an employee of a general operator prevents a person from taking part in approved wagering at, or entering or remaining in, the operator’s approved place of operation.

‘(2) The general operator must as soon as practicable give the chief executive notice, in the approved form, of the prevention.

Maximum penalty—40 penalty units.’.

116 Amendment of s 291 (Appeals by authority operators)

Section 291, first and second dot points—

omit.

117 Amendment of s 294 (Appeals by key person licensees)

Section 294, fourth and fifth dot points—

omit, insert—

- a decision under section 126 immediately suspending the key person licence
- a decision under section 127 suspending or cancelling the key person licence
- a decision under section 129 censuring the key person licensee
- a decision under section 130 directing the key person licensee to rectify a matter.’

118 Replacement of s 302 (Appeals to District Court)

Section 302—

omit, insert—

‘302 Notice of decision

‘The Gaming Commission must, as soon as practicable after deciding an appeal, give each party to the appeal written notice of its decision and the reasons for the decision.’

119 Insertion of new pt 14, div 1, sdivs 2 and 3

Part 14, division 1, after section 302—

insert—

‘Subdivision 2—Appeals to Magistrates Court**‘302A Who may appeal**

‘A person may appeal to a Magistrates Court against the following decisions—

- (a) a decision of a general operator, under section 216D, to give the person an exclusion direction;
- (b) a decision of a general operator, under section 216G, refusing to revoke an exclusion direction given to the person.

‘302B Starting appeal

‘(1) An appeal is started by—

- (a) filing a notice of appeal with the clerk of a Magistrates Court; and
- (b) serving a copy of the notice on the general operator who made the decision; and
- (c) complying with rules of court applicable to the appeal.

‘(2) The notice of appeal must be filed within 28 days after the person is given the information notice for the decision.

‘(3) However, the court may, at any time, extend the time for filing the notice of appeal.

‘(4) The notice of appeal must state fully the grounds of appeal.

‘302C Stay of operation of decision

‘(1) The Magistrates Court may grant a stay of the decision to secure the effectiveness of the appeal.

‘(2) A stay—

- (a) may be given on the conditions the court considers appropriate; and
- (b) operates for the period fixed by the court; and
- (c) may be amended or cancelled by the court.

‘(3) The period of a stay under this section must not extend past the time when the court decides the appeal.

‘(4) The appeal affects the decision, or carrying out of the decision, only if it is stayed.

‘302D Hearing procedures

‘(1) In deciding an appeal, the Magistrates Court—

- (a) is not bound by the rules of evidence; and
- (b) must comply with natural justice.

‘(2) An appeal is by way of rehearing, unaffected by the decision appealed against, on the material before the general operator who made the decision and any further evidence allowed by the court.

‘302E Court’s powers on appeal

‘(1) In deciding an appeal, the Magistrates Court may—

- (a) confirm the decision appealed against; or
- (b) set aside the decision and substitute another decision; or
- (c) set aside the decision and return the matter to the general operator with directions the court considers appropriate.

‘(2) If the court substitutes another decision, the substituted decision is, for this Act, other than this division, taken to be the decision of the general operator.’

‘Subdivision 3—Appeals to District Court

‘302F Appeal to District Court

‘An appeal lies to the District Court against a decision of the Gaming Commission or a Magistrates Court under this division but only on a question of law.’

120 Amendment of s 308 (Confidentiality of information)

(1) Section 308(1), (2) and (3), before ‘information’—
insert—

‘confidential’.

(2) Section 308(3)(c), ‘entity or person’—
omit, insert—

‘person or other entity’.

(3) Section 308(5), before ‘information’, first mention—
insert—

‘confidential’.

(4) Section 308—

insert—

‘(6) In this section—

“**confidential information**” means information, other than information that is publicly available, about—

- (a) a person’s personal affairs, business affairs or reputation, character, criminal history, current financial position or financial background; or
- (b) a person making an application under this Act.’.

121 Insertion of new pt 17, div 2

Part 17, after section 329—

insert—

‘Division 2—Transitional provisions for Gambling Legislation Amendment Act 2004

‘330 Definitions for div 2

‘In this division—

“**commencement**” means the day this division commences.

“**pre-amended Act**” means this Act as in force before the commencement of the *Gambling Legislation Amendment Act 2004*, part 9.

‘331 Dealing with show cause notice

‘(1) This section applies if—

- (a) under the pre-amended Act, section 124 or 130, the chief executive has given a show cause notice to a key person licensee; and
- (b) the notice has not been finally dealt with before the commencement.

‘(2) For dealing with the show cause notice, the pre-amended Act continues to apply as if the *Gambling Legislation Amendment Act 2004*, part 9, had not commenced.

‘(3) Subsection (4) applies if, under the pre-amended Act, a person could appeal to the Gaming Commission against a decision of the chief executive relating to the show cause notice.

‘(4) The person may appeal, and the Gaming Commission may hear and decide the appeal, under the pre-amended Act.

‘332 Direction to rectify under pre-amended Act

‘(1) This section applies to a direction to rectify a matter given to a key person licensee under the pre-amended Act, section 128, if—

- (a) the chief executive gave the direction to the licensee after considering, under the pre-amended Act, the accepted representations for a show cause notice; and
- (b) before the commencement—
 - (i) the period for rectifying the matter under that Act has not ended; or
 - (ii) the period for rectifying the matter under that Act has ended and action has not been taken under section 129 of that Act in relation to a failure to comply with the direction.

‘(2) A failure to comply with the direction may be dealt with under the pre-amended Act as if the *Gambling Legislation Amendment Act 2004*, part 9, had not commenced.

‘(3) Subsection (4) applies to a direction to rectify a matter given to a key person licensee under the pre-amended Act, section 128, if—

- (a) the chief executive gave the direction to the licensee without a show cause notice; and
- (b) before the commencement—
 - (i) the period for rectifying the matter under that Act has not ended; or
 - (ii) the period for rectifying the matter under that Act has ended and action has not been taken under that Act in relation to a failure to comply with the direction.

‘(4) A failure to comply with the direction is taken to be a contravention of a provision of this Act, other than a provision a contravention of which is an offence against this Act.

‘333 Appeals to Gaming Commission

‘(1) Subsection (2) applies if—

- (a) a person has appealed to the Gaming Commission against a decision of the chief executive under the repealed provision; and
- (b) the appeal has not been decided before the commencement.

‘(2) The Gaming Commission may hear, or continue to hear, and decide the appeal under the pre-amended Act.

‘(3) Subsection (4) applies if—

- (a) immediately before the commencement a person could have appealed to the Gaming Commission against a decision of the chief executive under the repealed provision; and
- (b) the person has not appealed before the commencement.

‘(4) The person may appeal, and the Gaming Commission may hear and decide the appeal, under the pre-amended Act.

‘(5) In this section—

“**repealed provision**” means the pre-amended Act, section 129.

‘334 Continuation of obligation under pre-amended Act, s 215

‘(1) This section applies to a general operator if, immediately before the commencement, the operator must not, under the pre-amended Act, section 215(2), allow a person to take part in approved wagering at a place at which the operator is entitled to carry on the operator’s operations.

‘(2) The pre-amended Act, section 215(2,) continues to apply to the operator as if the *Gambling Legislation Amendment Act 2004*, part 9, had not commenced.

‘335 Transitional provision for race wagering licence

‘(1) This section applies to a race wagering licence that is in force immediately before the commencement.

‘(2) In the race wagering licence—

- (a) a reference to a horse, trotting or greyhound race is taken to be a reference to thoroughbred, harness or greyhound racing; and

- (b) a reference to an event or contingency that is scheduled to be held at a race meeting at a racing venue is taken to be a reference to an event or contingency that may be lawfully held in Queensland or elsewhere.’

122 Amendment of sch 2 (Dictionary)

(1) Schedule 2, definitions, “accepted representations”, “greyhound race”, “horse race”, “information notice”, “race meeting”, “racing entity”, “racing venue” “show cause notice”, “show cause period”, “sporting event”, “TAB subsidiary” and “trotting race”—

omit.

(2) Schedule 2—

insert—

‘ **“accepted representations”**—

- (a) for part 4, division 5—see section 46; and
- (b) for part 5, division 5—see section 83(2); and
- (c) for part 7, division 7—see section 125; and
- (d) for part 8, division 4—see section 155(2); and
- (e) for part 11, division 1—see section 196(2).

“approved place of operation”, for a general operator, means the place where the operator may, under section 205,³⁰ carry on the operator’s operations.

“commencement”, for part 17, division 2, see section 330.

“exclusion direction” see section 216D(1).

“indictable offence” includes an indictable offence dealt with summarily, whether or not the Criminal Code, section 659,³¹ applies to the indictable offence.

“information notice”, for a decision of the chief executive or a general operator, means a written notice stating all of the following—

- (a) the decision;

³⁰ Section 205 (Places of operation)

³¹ Criminal Code, section 659 (Effect of summary conviction for indictable offences)

- (b) the reasons for the decision;
- (c) that the person to whom the notice is given may, within 28 days after the person receives the notice, appeal against the decision to—
 - (i) for a decision of the chief executive—the Gaming Commission; or
 - (ii) for a decision of a general operator—a Magistrates Court;
- (d) how the person may appeal to the Gaming Commission or a Magistrates Court.

“licensed club” see the *Racing Act 2002*, schedule 3.

“licensed venue” see the *Racing Act 2002*, schedule 3.

“pre-amended Act”, for part 17, division 2, see section 330.

“problem gambler” means a person whose behaviour indicates a compulsion to gamble, an addiction to gambling, or an inability or disinclination to make rational judgments about gambling.

“proposed action”, for part 7, division 7, see section 124(2)(a).

“race meeting” means a meeting for conducting thoroughbred, harness or greyhound racing.

“revocation notice”—

- (a) for part 11, division 3, subdivision 1—see section 216C(1); and
- (b) for part 11, division 3, subdivision 2—see section 216G(5)(a).

“self-exclusion notice” see section 216A(1).

“self-exclusion order” see section 216B(1)(a).

“show cause notice”—

- (a) for part 4, division 5—see section 44(2); and
- (b) for part 5, division 5—see section 82(2); and
- (c) for part 7, division 7—see section 124(1); and
- (d) for part 8, division 4—see section 154(2); and
- (e) for part 11, division 1—see section 195(3).

“show cause period”—

- (a) for part 4, division 5—see section 44(2)(e); and

- (b) for part 5, division 5—see section 82(2)(d); and
- (c) for part 8, division 4—see section 154(2)(d); and
- (d) for part 11, division 1—see section 195(3)(d).

“sporting event” does not include an event or contingency that is, or relates to, thoroughbred, harness or greyhound racing.

“UNiTAB” means UNITAB Limited ACN 085 691 738.

“UNiTAB subsidiary” means a wholly-owned subsidiary of UNiTAB.’.

PART 10—CONSEQUENTIAL AND OTHER AMENDMENTS

123 Consequential and other amendments

The schedule amends the Acts it mentions.

SCHEDULE

CONSEQUENTIAL AND OTHER AMENDMENTS

section 123

CASINO CONTROL ACT 1982

- 1 Section 31(1)(b), ‘, whether on indictment or summarily, punishable in the particular case’.**

omit, insert—

‘punishable’.

- 2 Part 9A, heading, ‘TO GAMING COMMISSION’—**

omit.

- 3 Part 9A, before section 91A—**

insert—

‘Division 1—Appeals to Gaming Commission’.

- 4 Part 10, after section 91P, as inserted by this Act—**

insert—

‘Subdivision 2—Exclusion instigated by other persons’.

- 5 Section 101, ‘100’—**

omit, insert—

‘100B’.

SCHEDULE (continued)

6 Section 126(d), ‘list of names of persons referred to in section 97’—*omit, insert—*

‘register mentioned in section 100C’.

7 Section 126(d), ‘list’, second mention—*omit, insert—*

‘register’.

GAMING MACHINE ACT 1991**1 Section 22(1)(g), ‘, whether on indictment or summarily, punishable in the particular case’—***omit, insert—*

‘punishable’.

2 Section 29(1)(a), ‘54(6)’—*omit, insert—*

‘54(7)’.

3 Section 66(3)(b)(iv), ‘(whether on indictment or summarily) punishable in the particular case’—*omit, insert—*

‘punishable’.

SCHEDULE (continued)

4 Section 97(1)(b)(iv), ‘, whether on indictment or summarily, punishable in the particular case’—*omit, insert—*

‘punishable’.

5 Section 97(1)(c)(i), ‘261’—*omit, insert—*

‘261A(1)’.

6 Section 139(1)(b), ‘(whether on indictment or summarily)’—*omit.***7 Section 153(2)(b)(ii), ‘(whether on indictment or summarily)’—***omit.***8 Section 164(4A) and (5)—***renumber* as section 164(5) and (6).**9 Part 5, before section 185—***insert—****‘Division 1—Preliminary’.*****10 Before section 196—***insert—****‘Division 2—Applications for licences, and changes in circumstances of applicants and holders of licences’.***

SCHEDULE (continued)

11 Section 199(3)(b)(iv), ‘(whether on indictment or summarily) punishable in the particular case’—*omit, insert—*

‘punishable’.

12 Before section 202—*insert—**‘Division 3—Form of licence and other matters about licences’.***13 Before section 209—***insert—**‘Division 4—Displaying licences etc., and disclosing information’.***14 Before section 211—***insert—**‘Division 5—Audit programs and investigations’.***15 Before section 215—***insert—**‘Division 7—Miscellaneous’.***16 Part 6, before section 225—***insert—**‘Division 1—Installation and storage, and register, of gaming machines’.***17 Before section 229—***insert—**‘Division 2—Advertising’.*

SCHEDULE (continued)

18 Before section 231—*insert—**‘Division 3—Gaming related systems’.***19 Before section 233—***insert—**‘Division 4—Fees for basic monitoring services, and maintaining facilities’.***20 Before section 235—***insert—**‘Division 5—Hours of gaming and rules ancillary to gaming’.***21 Before section 238—***insert—**‘Division 6—Extending credit, and gaming tokens’.***22 Before section 241—***insert—**‘Division 7—Provisions about winnings and other payments’.***23 Before section 250—***insert—**‘Division 8—Defective gaming system components, and security of gaming machines’.***24 Section 252(c), ‘drop’—***omit, insert—**‘cash’.*

SCHEDULE (continued)

25 Before section 253—*insert—****‘Division 9—Provisions about minors’.*****26 Before section 263—***insert—****‘Division 11—Obstructing licensees and other persons’.*****27 Section 356(8), definition “serious offence”, ‘265(1) or (8)’—***omit, insert—****‘265(1) or (5)’.*****28 Section 423, ‘412(1)’—***omit, insert—****‘412’.*****29 Section 427(2), ‘section 54(5)(a),’—***omit, insert—****‘section 54(6)(a),³²’.***

32 Section 54 (Confidentiality of information)

SCHEDULE (continued)

**INTERACTIVE GAMBLING (PLAYER PROTECTION)
ACT 1998****1 Part 10, before section 249—***insert—**‘Division 1—Appeals to Queensland Gaming Commission’.***KENO ACT 1996****1 Section 45(1) and (2), ‘of receiving’—***omit, insert—**‘after receiving’.***2 Part 8, divisions 2A, as inserted by this Act, and 3—***renumber as part 8, divisions 3 and 4.***3 Part 11, before section 228—***insert—**‘Division 1—Appeals to Gaming Commission’.***4 Part 13, heading—***omit, insert—***‘PART 13—TRANSITIONAL PROVISIONS***‘Division 1—Transitional provision for Gaming Machine and Other
Legislation Amendment Act (No. 2) 1999’.*

SCHEDULE (continued)

LOTTERIES ACT 1997

- 1 Sections 6(3) and (4), 7(1) and (2), 24(1)(c), 83(1)(c), 204(b), 206(1)(g) and 225(2)(a), ‘Gaming Act’—**

omit, insert—

‘gaming Act’.

POLICE POWERS AND RESPONSIBILITIES ACT 2000

- 1 Schedule 4, definition “prescribed place”, paragraph (b)(ix)—**

omit, insert—

‘(ix) a licensed venue under the *Racing Act 2002*; or’.

WAGERING ACT 1998

- 1 Sections 4(1)(b) and (2)(b), 16(2), 17(2), 22(1) and (2), ‘the TAB or a TAB subsidiary’—**

omit, insert—

‘UNiTAB or a UNiTAB subsidiary’.

- 2 Sections 18, 23(1)(b), 141(1)(a), 204(b), 303(1) to (5), 304(1) and (2), and 306(a), ‘race club’—**

omit, insert—

‘licensed club’.

SCHEDULE (continued)

3 Section 22(7)—*insert—*

‘**“racing entity”** means a control body under the *Racing Act 2002*.’

4 Part 11, divisions 2A, as inserted by this Act, and 3—*renumber* as part 11, divisions 3 and 4.**5 Part 14, division 1, before section 291—***insert—*

‘Subdivision 1—Appeals to Gaming Commission’.

6 Part 17, before section 318—*insert—*

‘Division 1—Transitional provisions for Act No. 15 of 1998’.

7 Section 318, heading, ‘part’—*omit, insert—*

‘div 1’.

8 Section 318, ‘This part’—*omit, insert—*

‘This division’.

9 Section 319, heading, after ‘Definitions’—*insert—*

‘for div 1’.

SCHEDULE (continued)

10 Section 319, ‘part’—*omit, insert—*

‘division’.