

INTERACTIVE GAMBLING (PLAYER PROTECTION) BILL 1998

EXPLANATORY NOTES

Short title

Interactive Gambling (Player Protection) Act 1998

Objectives of the Legislation

The Bill is designed to provide the legislative basis for regulating interactive games in order to protect players who participate in interactive forms of gambling. The legislative framework also provides for the implementation in Queensland of an interjurisdictional scheme to regulate gambling on the Internet and other forms of interactive gambling.

The Bill incorporates significant consumer protection strategies. A crucial element is the focus on requirements aimed at ensuring the integrity of industry participants and the fairness of products being provided. The interjurisdictional legislative scheme provides a regulatory framework to ensure the probity of licensed interactive gambling providers. Queensland will be able to licence providers in Queensland and to recognise products offered by providers licensed in participating jurisdictions as well as entering into taxation sharing arrangements with participating jurisdictions.

Reasons for the Legislation

This legislation addresses a complex and rapidly evolving issue relating to the availability of gambling activities in private residences via telecommunications. The Bill addresses the fact that interactive gambling is already occurring in an unregulated manner throughout the world and provides a means to protect consumers participating in games offered through the Internet and other such forms of interactive gambling. Accordingly, the Bill has been designed to ensure that those who wish to participate in interactive gambling can do so confidently and in a secure

regulatory environment.

Estimated Cost for Government Implementation

The establishment of a regulatory regime for interactive activities involves a new responsibility for the Queensland Office of Gaming Regulation, which currently regulates all other forms of lawful gaming in Queensland. It is anticipated that the additional cost involved in regulating interactive gambling, in terms of the proposed legislation and the interactive model, will be recovered from charges levied on licensed operators. This would include all costs associated with ensuring the probity and integrity of interactive gambling operations and supervising operators licensed under the legislation.

Initially, an additional 5 staff, at a cost of \$300,000 will be necessary for the Queensland Office of Gaming Regulation to regulate interactive gambling. As the Queensland Office of Gaming Regulation will assume regulatory responsibilities in a previously unregulated area, resource requirements will be subject to constant review.

Since Queensland will be among the first jurisdictions in the world to implement a comprehensive regulatory regime for interactive gambling, it has an opportunity to take advantage of the resultant business, employment and taxation benefits. As Queensland will be a participant in an interjurisdictional legislative model, it will protect its revenue base derived through gaming taxes while at the same time being in a position to gain additional revenue derived through the play of residents from jurisdictions which do not participate in the model. Therefore, it is expected that the introduction of this Bill will provide a net financial benefit to the State.

Assessment of Bill's consistency with Fundamental Legislative Principles

The legislation has been prepared taking into consideration fundamental legislative principles. A deviation from these principles is the provision that decisions of the Governor in Council or the Minister, as set out in schedule 1 of the legislation, are final and conclusive and are not subject to judicial review. These decisions relate to the interactive gambling licence and persons with an interest or potential interest in the licence, authorisation of games and approving exemption schemes. Moreover, the Minister may refuse to grant an interactive gambling licence even if satisfied of the

suitability of the applicant to hold a licence.

These provisions are absolutely necessary in the public interest to ensure integrity in the conduct of interactive games. They are consistent with other Queensland legislation regulating or controlling lawful forms of gambling.

The Bill provides for an exemption scheme which is designed to permit flexibility in the efficient application of the Bill. Further, the scheme is seen as a necessary feature to effectively regulate products and providers utilising technologies which are in a constant state of development. It is impossible to accurately predict all the forms of existing and future products which could be offered through interactive means. It is therefore vital that the legislation contain sufficient flexibility to permit the legislation to operate efficiently, having regard to the rapidity of development of both interactive technologies and products, whilst still safeguarding the interests of participants.

Queensland is the first Australian jurisdiction to introduce comprehensive legislation to regulate interactive gambling. Moreover, Australia is leading the international community in developing regulatory controls of this nature. Accordingly, Queensland has not been in a position to benefit from a review of alternative legislative regimes or experiences from other jurisdictions. It is intended that the exemption scheme provisions will be re-examined following implementation of the Bill and in conjunction with regulatory developments both in Australia and overseas.

The Bill also requires some flexibility in automatically recognising products from a participating jurisdiction. As the future form of such products cannot be foreseen, it is essential that the Minister is able to refuse to recognise a product which is contrary to the public interest. In exercising this ability the Minister will, however, offer the provider and participating regulator the opportunity to make a representation.

The ability to be flexible in the application of the Bill is further reflected in a provision designed to include, as an authorised game, a game which would otherwise be authorised, or eligible to be authorised, as an art union under the *Art Unions Act 1992*. In considering whether the game should be brought within the ambit of this Act the Minister will have regard to the nature, value, or frequency of prizes offered in the game and other matters the Minister considers relevant. This is necessary in order to capture products where the nature of the product dictates that player protection, integrity and probity measures should apply.

Accompanying emerging technologies are new products designed specifically to complement technologies and pertinent to the introduction and use of that technology. One such group of products relates to alternative forms of cash, for example Ecash and Digicash. Accordingly, another flexible element provides for a regulation to prescribe the types of funds able to be used to cover the amount of a wager, other than funds from player accounts. This will recognise the emergence of new products thereby enabling transfer other than by means of credit, for the purpose of wagering.

Persons involved in the conduct of interactive gambling must be continually subject to close scrutiny in order to protect the integrity of gaming in the public interest. Persons wishing to be involved in the operation of interactive gambling, must be willing to be subject to such scrutiny. Therefore, it is essential that certain provisions, such as the power conferred on inspectors to enter premises of a licensee or its agent, without a warrant, be included. Inspectors do not have the power to enter other places without warrant. To gain consent to enter other places, the inspector must tell the occupier the purpose of the entry and that the occupier is not obliged to give consent.

The powers conferred on inspectors are not excessive in view of the object of the Bill and the strong public interest reasons supporting its introduction. In addition, these powers are similar to those contained in the *Keno Act*, *Lotteries Act*, *Casino Control Act* and the *Gaming Machine Act* and are based on proven methods of protecting the public interest.

Consultation

The Bill is based on a draft national model for the regulation of interactive gambling products. The model was developed by the Gaming Ministers from Australian States and Territories and was released for discussion in May 1997. The Queensland Office of Gaming Regulation has consulted with all gaming regulators from other Australian jurisdictions during development of the legislation and will maintain ongoing consultation.

Inter-departmental consultation was carried out with the Department of Families, Youth and Community Care, Queensland Emergency Services, Queensland Police Service, Office of Rural Communities, Business Environment Unit and Treasury's National Competition Policy

Implementation Unit.

Consultation has been undertaken with the Totalisator Administration Board of Queensland, the Golden Casket Lottery Corporation Limited, Reef Corporate Services Limited, Jupiters Limited (Jupiters Casino, Treasury Casino and Jupiters Keno) and Breakwater Island Limited.

NOTES ON PROVISIONS

PART 1—PRELIMINARY

Clause 1 sets out the short title of the Act.

Clause 2 provides for the Act to commence on proclamation.

Clause 3 defines the major objects of the Act which are to: regulate and control interactive gambling; protect players of interactive games; and to implement a scheme to recognise inter-jurisdictional regulation of interactive gambling.

Clause 4 defines a “game” to include schemes and arrangements. This is similar in substance to the definitions of a gaming scheme in other Gaming Acts.

Clause 5 defines a “player” as a person who participates in an interactive game.

Clause 6 sets out the basic elements of an “interactive game”. However, the following games will be excluded from the ambit of this definition: existing authorised wagering activities; games which would otherwise be approved under the *Art Unions Act 1992* (unless a game or product is specifically prescribed in a regulation); and games which are approved under another Gaming Act and which utilise telecommunication devices from designated commercial sites.

Clause 7 refers to the Dictionary for the Act in schedule 3.

Clause 8 deals with the extraterritorial application of the Act.

PART 2—INTERACTIVE GAMBLING

Clause 9 deals with the major features of the co-operative regulatory scheme. The scheme will be comprised of the Queensland legislation and the corresponding legislation of participating jurisdictions.

Clause 10 provides that the Governor in Council, on the Minister's recommendation, may declare a jurisdiction to be a participating jurisdiction. In order for such a declaration to be made, the Minister must have entered into an arrangement with that jurisdiction which provides: a uniform approach to the taxation of authorised games; for the collaboration between relevant officials of the jurisdictions; for the mutual recognition of licences; and for the sharing of tax revenue on an equitable basis. A declaration may be revoked if the law of the participating jurisdiction ceases to be compatible with this Act, or the arrangements between the jurisdictions cease to operate satisfactorily.

Clause 11 defines a "licensed provider" (Queensland licensee), an "external provider" (licensee of a participating jurisdiction) and an "authorised provider" (all licensees whether licensed in Queensland or elsewhere).

Clause 12 defines an authorised game as a game that is authorised to be conducted under Queensland legislation or corresponding legislation. Following representations from the relevant participating regulator and external provider, the Minister may prohibit an external provider's game from being conducted within Queensland if the Minister believes the game is contrary to the public interest.

Clause 13 enables the Minister to authorise a licensed provider to conduct a particular interactive game on conditions stated in the instrument of approval.

Clause 14 enables the Minister to change the conditions of a game authorisation.

Clause 15 enables the Minister to revoke an authorisation for a game.

Clause 16 makes it an offence for a person to conduct an interactive game (wholly or partly in Queensland) unless the game is an authorised game and the person is authorised to conduct the interactive game. This clause also provides an offence for a person in Queensland to participate as a player in an interactive game knowing that the game is not an authorised game.

Clause 17 makes it an offence for a licensed provider to permit a person to participate in an authorised game unless the person is registered with the provider as a player. This clause also prohibits a person from participating as a player in an authorised game unless the person is registered with the authorised provider as a player.

Clause 18 deals with the procedures for registration of players.

Clause 19 prohibits a licensed provider from allowing a registered player to participate in an authorised game until the player's identity has been authenticated.

Clause 20 deals with the establishment of a player's account.

Clause 21 provides that a licensed provider must not accept a wager from a player in an authorised game unless a player has adequate funds to cover the amount of the wager.

Clause 22 requires a player who participates in an authorised game to comply with the rules of the game as notified to the player.

Clause 23 makes it an offence for a person to advertise premises for playing interactive games or to attempt to obtain commercial advantage from using premises as venues for interactive gambling.

Clause 24 defines the term "exemption scheme".

Clause 25 authorises the Minister to approve an exemption scheme if satisfied that the exemption scheme complies with the criteria for approval regarding probity and integrity matters and the exemption scheme is warranted in the particular case.

Clause 26 empowers the Minister to cancel an exemption scheme in certain circumstances.

Clause 27 provides for the termination of an approved exemption scheme.

Clause 28 provides that any approval of an exemption scheme or the

cancellation of an exemption scheme must be published in the Gazette.

Clause 29 provides that despite any other law, certain specified activities are to be regarded as lawful under this Act.

PART 3—INTERACTIVE GAMBLING LICENCES

Clause 30 provides that an application for an interactive gambling licence must be made in the approved form and must be accompanied by a prescribed application fee. The Minister may require the applicant to provide further information about the application.

Clause 31 provides that the Minister must consider an application for an interactive gambling licence and either grant, or refuse to grant, the application.

Clause 32 provides that the Minister must be satisfied of the integrity of the applicant and the integrity of the applicant's business and executive associates. However, the Minister may refuse to grant a licence even if satisfied of such matters.

Clause 33 sets out the matters to which the Minister may have regard in deciding whether an applicant is a suitable person to hold an interactive gambling licence.

Clause 34 outlines the criteria which may be considered by the Minister when deciding whether a business or executive associate of an applicant for an interactive gambling licence is a suitable person.

Clause 35 provides that the chief executive may investigate an applicant, or a business or executive associate of an applicant, to assist the Minister in the Minister's assessment of person's suitability.

Clause 36 provides that if the Minister decides to grant an interactive gambling licence, the Minister must promptly issue it to the applicant. If the Minister decides to refuse an application, the Minister must promptly give the applicant written notice of the decision.

Clause 37 provides that the Minister may issue an interactive gambling licence in accordance with conditions considered necessary for the proper

conduct of interactive gambling in the public interest.

Clause 38 provides that an interactive gambling licence must be in an approved form and sets out the matters to be included in the licence.

Clause 39 gives the Minister the power to add to, or change, the conditions of an interactive gambling licence.

Clause 40 provides that the licensed provider must return the licence for endorsement of changed conditions.

Clause 41 provides that an interactive gambling licence can only be transferred if the Minister has approved the mortgage or encumbrance of the licence.

Clause 42 provides that the Minister's written approval is required before a licensed provider can mortgage or encumber the licence. Similarly, the Minister must approve, in writing, of the transferee. To give this approval the Minister must be satisfied that certain specified criteria have been satisfied. A transferee may be required to submit an application to hold a licence. The Minister must approve, in writing, of the appointment of a receiver or manager.

Clause 43 provides that a licensed provider may surrender a licence by notice in writing to the Minister, and such a notice takes effect either three months after the notice is given or a specified later date indicated in the notice or an earlier date approved by the Minister.

Clause 44 sets out the grounds for suspending or cancelling an interactive gambling licence.

Clause 45 provides that a licensed provider must be given a written notice (a "show cause notice") of proposed action if the Minister believes a ground exists to suspend or cancel the interactive gambling licence and the act or omission is of a serious and fundamental nature and the act or omission has occurred which compromises the integrity of interactive gambling or affects the public interest in an adverse or material way. The licensed provider is given a period in which a response must be given as to why action should not be taken.

Clause 46 provides that copies of the show cause notice must be given to participating regulators and other persons who the Minister believes have an interest in the interactive gambling licence. Such persons are able to make representations about the notice to the Minister.

Clause 47 provides that the Minister must consider all written representations made during the show cause period.

Clause 48 provides for immediate suspension of an interactive gambling licence in a case where a ground exists to suspend or cancel the licence and the seriousness of the situation justifies immediate action in order to safeguard the public interest or the integrity of the conduct of interactive games.

Clause 49 provides that the Minister may censure, by notice in writing, a licensed provider for a matter relating to a ground for suspension or cancellation of the licence in circumstances where the Minister does not believe cancellation or suspension is warranted.

Clause 50 provides that the Minister may, by notice in writing, direct a licensed provider to rectify a matter within a specified reasonable time period. Such a direction can only be issued if the Minister believes a ground exists to suspend or cancel the licence and the matter is capable of being rectified.

Clause 51 requires the Minister to forward to the Governor in Council written notice of the Minister's belief that a ground to suspend or cancel an interactive gambling licence exists. A notice must also be forwarded stating the licensed provider's failure to comply with a direction to rectify a matter.

Clause 52 outlines action that may be taken by the Governor in Council after receiving a notice under clause 51. Such action includes suspension of a licensed provider, cancellation of the licence or appointment of an administrator to conduct the operation of the licensed provider. The Minister must promptly notify the licensed provider of any action to be taken.

Clause 53 provides for the term and functions of an administrator appointed by the Governor in Council to conduct operations under an interactive gambling licence.

Clause 54 provides that, at any time, the Governor in Council may cancel the remaining period of suspension of an interactive gambling licence or reduce the remaining period of suspension of a licence. The Minister must promptly notify the licensed provider of any such change.

Clause 55 allows the Minister to approve an audit program for investigating a licensed provider, or business or executive associates of a licensed provider. Such an audit is under the responsibility of the chief executive. A person may be investigated only if a similar investigation has

not occurred within the preceding two years.

Clause 56 provides circumstances where an investigation may be undertaken by the chief executive to determine whether the person is suitable to hold, or to continue to hold, an interactive gambling licence. This provision also provides for circumstances where the chief executive may investigate a business or executive associate of a licensed provider.

Clause 57 provides that a person may be required, by written notice from the chief executive, to give the chief executive information or documentation that the chief executive considers relevant to an investigation. This provision includes penalties for failure to comply, without reasonable excuse, with a requirement of the chief executive.

Clause 58 provides that the chief executive can ask for and obtain criminal history reports from the commissioner of the police service during investigations under this part.

Clause 59 provides that decisions by the Governor in Council or the Minister about an interactive gambling licence or a person with an interest in an interactive gambling licence, authorisation of games and approval of exemption schemes are not justiciable.

PART 4—KEY PERSONS

Clause 60 defines a “key person” and a “key relationship”.

Clause 61 provides that a person is not to accept employment with, or be employed by a licensed provider to carry out the functions of a key person unless they are licensed as a key person.

Clause 62 enables the chief executive to require a person who is believed to be in a key relationship with a licensed provider either to apply for a key person licence or to terminate the relevant relationship.

Clause 63 provides that if the chief executive refuses to approve an application for a key person licence the chief executive may require the unsuccessful applicant to terminate the relevant key relationship within a stated period.

Clause 64 provides that the chief executive may require the licensed provider to take the necessary action to terminate their relationship with a key person if that person does not comply with a requirement to terminate the relationship, or the person's application for a key person licence is refused.

Clause 65 sets out the requirements for an application for a key person licence. This provision also allows the chief executive to require the applicant for a key person licence to provide further information.

Clause 66 provides that the chief executive must consider an application for a key person licence only if the applicant agrees to have their photograph and fingerprints taken.

Clause 67 provides that the chief executive may grant an application for a key person licence only if certain requirements have been fulfilled.

Clause 68 authorises the chief executive to investigate the suitability of an applicant for a key person licence.

Clause 69 requires the chief executive to promptly issue the licence if the application is granted, or promptly advise the applicant if the application is refused.

Clause 70 provides that the key person licence must be in the approved form.

Clause 71 provides that a key person licence remains in force until it lapses or is cancelled or surrendered.

Clause 72 provides that a key person licence lapses if there has been no key relationship between the key person licensee and a licensed provider for a continuous period of 1 year.

Clause 73 allows the chief executive to impose conditions on a key person licence.

Clause 74 provides for changing the conditions of a key person licence. This provision also allows for the amendment or replacement of a key person licence to include changes of conditions imposed by the chief executive.

Clause 75 provides that a lost, stolen, destroyed or damaged key person licence may be replaced upon application to the chief executive.

Clause 76 provides that a key person licence may be surrendered and that

the chief executive is to give notice to the licensed provider of the surrender, if there was a key relationship with the licensed provider at that time.

Clause 77 sets out the grounds for suspending or cancelling a key person licence.

Clause 78 sets out the requirements for a show cause notice given by the chief executive to a licensed key person.

Clause 79 allows the chief executive to immediately suspend a key person licence in certain circumstances.

Clause 80 allows the chief executive to censure a key person licensee in circumstances which do not warrant suspension or cancellation.

Clause 81 allows the chief executive to direct a key person licensee to rectify a matter which was a ground for suspension or cancellation and is capable of being rectified.

Clause 82 provides for the suspension or cancellation of a key person licence.

Clause 83 allows the chief executive to cancel the remaining period of suspension or reduce the remaining period of suspension of a key person licence at any time that the suspension is in force.

Clause 84 allows the chief executive to approve an audit program for investigating key person licensees. A person may only be investigated under this provision if there has not been an investigation of the same person within the previous 2 years.

Clause 85 allows the chief executive to investigate a key person licensee either if the chief executive reasonably suspects that the licensee is not or is no longer a suitable person, or under the approved audit program.

Clause 86 provides that the chief executive may require a key person licensee to provide information relevant to an investigation and provides an offence for a key person licensee to fail to provide the information required.

Clause 87 provides that the chief executive can ask for and obtain criminal history reports from the commissioner of the police service during investigations under this part.

Clause 88 requires a licensed provider to notify the chief executive of the commencement of employment of a key person licensee within 7 days.

Clause 89 provides that the chief executive may require a licensed provider to provide a list of licensed and unlicensed employees.

Clause 90 requires a licensed provider to notify the chief executive of the end of a key relationship within 7 days.

Clause 91 provides that the chief executive may require a licensed provider to end a key relationship where a person ceases to hold a key person licence. A licensed provider does not incur a liability for complying with a requirement of the chief executive under this provision.

Clause 92 makes it an offence for an applicant for a key person licence to make false or misleading statements in any application made under Part 4.

Clause 93 requires the chief executive to have the fingerprints of a key person licensee destroyed if the licence lapses or is cancelled.

PART 5—AGENTS

Clause 94 defines an agent and sets out the functions that are to be regarded as agency functions for the purposes of the Act.

Clause 95 defines an “agency agreement” and sets out conditions for entering into agency agreements, including conditions under which an agent acts as and remains an agent of the licensed provider.

Clause 96 deals with the conditions on which a licensed provider may appoint an agent.

Clause 97 requires the licensed provider to give the chief executive a copy of an agency agreement within 7 days after entering into the agreement.

Clause 98 provides that agency agreements can only be amended with the approval of the chief executive. The chief executive may withhold approval of a proposed amendment only if it is necessary to do so in the public interest.

Clause 99 requires the licensed provider to give the chief executive periodic returns about the provider’s agents.

Clause 100 sets out the grounds for directing the termination of an

agency agreement.

Clause 101 requires the chief executive to give the agent a show cause notice where the chief executive believes that grounds for directing termination of the agency agreement exist and the grounds are of a serious and fundamental nature.

Clause 102 provides for the immediate suspension of an agent's operations where the suspension is necessary in the public interest or there is an immediate threat to the integrity of the conduct of interactive games.

Clause 103 provides for the chief executive to censure an agent.

Clause 104 provides for the chief executive to direct rectification of certain matters by an agent that the chief executive considers capable of rectification.

Clause 105 provides for the chief executive to direct the termination of an agency agreement.

Clause 106 requires the licensed provider to comply with a direction to terminate an agency agreement and confers immunity from liability in relation to action taken under the direction.

Clause 107 deals with the termination of an agency agreement otherwise than because of a direction to terminate. In this case, the licensed provider must give the chief executive written notice of the termination within 7 days after the agreement is terminated.

Clause 108 provides that the chief executive may approve an audit program for investigating agents and their business or executive associates. The chief executive is to be responsible for carrying out investigations under the program. A person cannot be investigated more than once every 2 years under the program.

Clause 109 enables the chief executive to investigate an agent or a business or executive associate of an agent.

Clause 110 enables the chief executive to require the giving of information or the production of documents relevant to an investigation. Failure to comply constitutes an offence unless certain elements exist.

Clause 111 provides that the chief executive can ask for and obtain criminal history reports from the commissioner of the police service during investigations under this part.

PART 6—LICENCE FEES AND TAX

Clause 112 requires a licensed provider to pay licence fees in accordance with the conditions of the interactive gambling licence.

Clause 113 requires a licensed provider to pay tax to the chief executive for each authorised game conducted by the provider. The tax is to be calculated and paid on a basis fixed under a regulation.

Clause 114 requires a licensed provider, within 7 days after the end of each month, to give the chief executive returns in the approved form containing the information necessary for the calculation of tax and any other information required under the regulations.

Clause 115 requires the Minister to remit to the participating regulator a proportion of the tax collected from a licensed provider reflecting the contribution of players in the relevant jurisdiction to the aggregate gambling turnover of licensed providers and the proportion of interactive gambling tax revenue properly attributable to that contribution.

Clause 116 provides for how the Minister deals with the payment of the interactive gambling tax revenue collected under the Act. A proportion specified under regulation is paid into a fund established for community benefit under a Gaming Act and designated under regulation, with the balance paid into the consolidated fund.

Clause 117 imposes penalties for late payment of interactive gambling tax or licence fee.

Clause 118 provides for the recovery of licence fees, interactive gambling tax and penalties as debts due to the State.

Clause 119 makes it an offence to attempt to evade the payment of interactive gambling tax or licence fee or to knowingly provide a false, misleading or incomplete return.

PART 7—COMPLIANCE REQUIREMENTS

Clause 120 provides for the making of rules by the Minister, with the rules designated as subordinate legislation. Licensed providers may make submissions to the Minister about a rule or proposed rule.

Clause 121 empowers the chief executive to give a licensed provider directions about the conduct of an authorised game.

Clause 122 requires a licensed provider to comply with the rules and any relevant direction.

Clause 123 requires a licensed provider to take reasonable steps to ensure compliance with the rules and directions by its agents.

Clause 124 requires agents to comply with the rules and any relevant direction.

Clause 125 provides that a licensed provider must operate from a place of operation approved by the chief executive. All regulated interactive gambling equipment used for the conduct of authorised games must be situated at that place or some other place approved by the chief executive.

Clause 126 provides that an agent's place of operation in Queensland must be of a kind prescribed under a regulation as appropriate for an agent. If the agent is an agent for a licensed provider, the place of operation must be as specified in the agency agreement.

Clause 127 requires a licensed provider to have an approved control system and to ensure that authorised games are conducted under the system. An approved control system may only be changed if the chief executive directs or approves the change.

Clause 128 provides for the making of a control system submission and deals with the kind of information to be included in the submission for approval of the chief executive.

Clause 129 provides for a submission seeking approval of changes to an approved control system.

Clause 130 deals with the approval of a control system, or of a proposed change to an approved control system.

Clause 131 provides for the chief executive to direct a licensed provider to make changes to the provider's approved control system. Failure to comply with the direction would result in cancellation of the approval of the licensed provider's control system.

Clause 132 provides that a licensed provider must, at the request of a player, remit the balance in the player's account to the player in a manner directed by the player no later than the next working day after the request is received.

Clause 133 prohibits a licensed provider and its agents from providing credit to a player or a player's account. A licensed provider or agent must not act as agent for a credit provider to facilitate the provision of credit to a player or a player's account.

Clause 134 prevents a licensed provider from having recourse to funds in a player's account except for the purpose of debiting wagers to the account, or depositing or returning the balance standing to its credit to the player.

Clause 135 provides that the licensed provider must return the balance of the player's account to the player if no transaction has been recorded on an account for a period as prescribed in regulation. Where the player cannot be found, the balance of the account is to be paid to an account at the Treasury designated under a regulation.

Clause 136 empowers a player to set, in advance, limits on the amount that the player may wager on interactive games. The player may set a limit on the amount of an individual wager; the player may set a limit to the amount to be wagered over a stated period; or the player might set the limit at zero - thus creating a self-imposed ban. A limit may be changed or revoked by written notice to the licensed provider. If the notice seeks to remove or relax the limit, the notice does not have effect unless 7 days have passed and the licensed provider has not been notified of an intention to withdraw the notice.

Clause 137 empowers the chief executive to make an order prohibiting a resident of Queensland from gambling on interactive games. An application for an order to ban may be made by the person or by a third party who satisfies the chief executive of the need for a ban. The provision outlines actions that must be taken to install or revoke such a prohibition and the right of appeal.

Clause 138 provides for approval by the chief executive of a place for the keeping of a licensed provider's gambling records. Certain records may be exempted from the requirement to keep them at a particular place.

Clause 139 requires a licensed provider to keep records at the licensed

provider's public office or an approved place for records, unless the record is an exempt gambling record.

Clause 140 provides for the keeping of accounting records by a licensed provider.

Clause 141 requires a licensed provider to keep proper accounting records of the provider's operations under the interactive gambling licence.

Clause 142 provides for the preparation of financial statements and accounts by a licensed provider.

Clause 143 requires the submission of reports to the chief executive about a licensed provider's operations.

Clause 144 requires a licensed provider to keep financial institutions accounts approved by the chief executive for banking transactions for the licensed provider's operations.

Clause 145 prohibits the use of an approved financial institution account for a purpose other than the purpose for which it was approved.

Clause 146 requires an annual audit of financial records by a registered company auditor.

Clause 147 requires the auditor to complete the audit within 3 months after the end of the relevant financial year and to give the chief executive a copy of the audit report.

Clause 148 empowers the chief executive to require further information from the licensed provider about matters mentioned in the audit report.

Clause 149 defines an "ancillary gambling agreement". Essentially such an agreement is an agreement that give another person an interest in, or share of, gross or net gambling revenue or profits. An ancillary gambling agreement requires the chief executive's approval unless the chief executive considers the agreement of minor importance, or it is classified under a regulation as an agreement for which the approval is not required.

Clause 150 provides for an application for approval of an ancillary gambling agreement and empowers the chief executive to grant such an approval if the chief executive considers the agreement desirable or appropriate in the circumstances of the particular case.

Clause 151 provides that the chief executive may, by written notice, require a licensed provider to give information about related agreements to

the chief executive.

Clause 152 provides that, if the chief executive believes the continuance of a related agreement may jeopardise the integrity of the conduct of interactive games by the licensed provider or may otherwise adversely affect the public interest, the chief executive must issue a show cause notice. A copy of the notice is to be given to other interested parties.

Clause 153 empowers the chief executive to direct the termination of a related agreement if, after considering representations made in response to the show cause notice, the chief executive is still of the opinion that the agreement may jeopardise the integrity of the conduct of interactive games by the licensed provider or may otherwise adversely affect the public interest. This clause also confers immunity from liabilities that would otherwise arise from termination of the related agreement.

Clause 154 requires a licensed provider, at the request of the chief executive, to do anything reasonably necessary to allow an inspector to monitor the licensed provider's operations.

Clause 155 empowers the chief executive to require that specified operations to be carried out by the provider under the interactive gambling licence be carried out under the supervision of an inspector.

Clause 156 requires the immediate crediting of monetary prizes to the player. If a player wins a non-monetary prize, or a player without a player's account wins a monetary prize, the licensed provider must have the prize delivered personally or by post to the player or give the player written notice of a place in Queensland where the prize may be collected.

Clause 157 provides for the disposal of unclaimed non-monetary prizes by a licensed provider.

Clause 158 sets out the procedures to be followed where a player makes a claim for entitlement to a prize within 5 years of the end of the game. If a claim is not resolved, the chief executive may review a licensed provider's decision on a claim.

Clause 159 provides that if a prize is not claimed within 5 years after the game in which the prize was won was completed, the entitlement to the prize is extinguished and the prize is forfeited to the State.

Clause 160 provides for the repayment of wagers where a game is aborted, or is not completed, because of a human, operating or technical

failure. Where a failure occurs the licensed provider must notify the chief executive and the licensed provider must comply with directions of the chief executive in relation to the occurrence.

Clause 161 provides for a licensed provider to withhold payment of a prize where the provider believes there has been some illegality or a genuine malfunction. The chief executive is to be notified immediately. If the chief executive agrees that a prize may be withheld then wagers in the games are to be refunded to the participants.

Clause 162 provides for an application to the chief executive for approval of regulated interactive gambling equipment or a proposed modification to regulated interactive gambling equipment.

Clause 163 prohibits a licensed provider or an agent of a licensed provider from using or modifying regulated interactive gambling equipment unless the equipment or modification has been approved by the chief executive.

Clause 164 prohibits advertising of interactive games in Queensland unless it is an authorised game and the authorised provider has agreed to the advertising.

Clause 165 provides that a person who advertises the game must take reasonable steps to ensure that the advertisement is not indecent or offensive, is based on fact, and is not false, deceptive or misleading in a material particular.

Clause 166 enables the chief executive to give directions to the advertiser to stop the advertisement or to change it.

Clause 167 provides for a system of complaint resolution in relation to the conduct of interactive gambling operations.

Clause 168 requires an authorised provider or an agent to report, to the chief executive, dishonest or unlawful acts related to the conduct of interactive gambling operations.

Clause 169 prohibits cheating in relation to an authorised game.

Clause 170 prohibits the forging or uttering of official gambling documents.

Clause 171 prohibits impersonation of a licensed provider, an agent, key person licensee or a gaming official.

Clause 172 prohibits bribery of gaming officials.

Clause 173 prohibits participation by an employee (whether licensed or not) of a licensed provider in an authorised game if the employee is directly involved in functions related to the conduct of the game. Any prize won contrary to this provision is forfeited to the State.

Clause 174 provides that a gaming official is not to take part in an authorised game unless permitted by the chief executive in stated circumstances or for stated purposes.

Clause 175 provides that the chief executive, by notice in writing, may declare a gaming official to be a key official for the purposes of the Act.

Clause 176 a key official must not, without the chief executive's approval, accept or seek employment with an authorised provider or an agent or knowingly have any business or financial relationship with an authorised provider or agent. This prohibition is to apply for a period of 1 year after a person ceases to be a key official.

Clause 177 deals with relationships between key officials and prospective licensed providers. The key official must notify the chief executive of the relationship and the chief executive may direct termination of the relationship.

Clause 178 prohibits an authorised provider or agent, unless approved by the chief executive, from knowingly employing or having a business or financial relationship with a key official (or a person who has been a key official within the preceding 12 months).

Clause 179 provides that a licensed provider or an agent must not allow a minor to participate in operations related to the conduct of authorised games. However, it is a defence to prove that the defendant had no reason to believe and did not believe that the person was a minor. A minor is also prohibited from participating in such operations.

Clause 180 provides that a person involved in the conduct of an authorised game must not allow a minor to participate as a player in the game. However, it is a defence to prove that the defendant had no reason to believe and did not believe that the player was a minor. A minor is prohibited from participating as a player in an authorised game. A prize won by a minor by unlawfully participating in an authorised game is forfeited to the State.

Clause 181 prevents participation in an authorised game, or registration as a player, under a name that is obscene, indecent or offensive in the opinion of the provider or the agent.

Clause 182 prohibits interference, without the chief executive's authorisation, in the proper conduct of an authorised game.

Clause 183 prohibits certain promotional activities by unauthorised persons.

Clause 184 requires the licensed provider, employee and any associate to maintain confidentiality of information about the identity of players unless there are proper reasons for breaching that confidentiality.

PART 8—INVESTIGATION AND ENFORCEMENT

Clause 185 provides that the chief executive, a person appointed as an inspector under this division and a person who holds an appointment as an inspector under a corresponding law, and is authorised by the chief executive, are inspectors under this Act.

Clause 186 provides that the chief executive may appoint inspectors who are officers or employees of the public service or are otherwise prescribed under regulation.

Clause 187 outlines the qualifications which a person must possess prior to being appointed as an inspector.

Clause 188 provides that the Minister may approve an audit program for investigating inspectors. The audit program may be used by the chief executive in deciding whether a person is suitable to be appointed as an inspector.

Clause 189 provides that the chief executive can ask for and obtain criminal history reports from the commissioner of the police service during investigations under this part.

Clause 190 provides that an inspector may act for the purposes of this Act or a corresponding law. An inspector is subject to directions given by the chief executive in relation to the exercise of statutory powers of

investigation. An inspector's powers may be limited under a condition of employment, by written notice given by the chief executive to the inspector, or, in the case of an external inspector, under terms attached to the authorisation of that person as an inspector.

Clause 191 provides that an inspector is appointed on conditions which are outlined in the instrument of appointment. The clause also outlines circumstances where an inspector ceases to hold office.

Clause 192 provides that the chief executive must issue an inspector with an identity card and outlines the information that must be included on the identity card.

Clause 193 requires a person who ceases to be an inspector to return the person's identity card to the chief executive.

Clause 194 sets out requirements for the production and display of an inspector's identity card when exercising powers under the Act.

Clause 195 sets out the general scope of an inspector's powers.

Clause 196 allows an inspector to enter certain places without consent or warrant.

Clause 197 provides that an inspector may only enter places not listed in clause 196 with the consent of the occupier or a warrant.

Clause 198 provides a procedure for obtaining the consent of the occupier for an inspector to enter a place.

Clause 199 provides evidentiary presumptions in relation to whether the occupier's consent for an inspector to enter a place has been obtained.

Clause 200 provides for an application to a magistrate for a warrant. The application must be sworn and must state the grounds on which the warrant is sought.

Clause 201 sets out requirements to be satisfied for a magistrate to issue a warrant and for the contents of any such warrant.

Clause 202 provides for the application for and issue of a special warrant in urgent and other special circumstances.

Clause 203 provides evidentiary presumptions in relation to proving that a special warrant was issued.

Clause 204 sets out general powers of inspectors where entry to a place

is authorised.

Clause 205 provides a penalty for the failure by a person to assist an inspector when required to do so under clause 204.

Clause 206 provides a penalty for the failure by a person to give information required by an inspector under clause 204.

Clause 207 allows an inspector to seize a thing that the inspector reasonably believes is evidence of an offence under this Act, where entry may be made without consent or warrant.

Clause 208 provides requirements for an inspector to seize a thing at a place where entry was with the consent of the occupier or with a warrant.

Clause 209 provides for the securing of things seized by an inspector.

Clause 210 provides a penalty for tampering with a thing seized by an inspector.

Clause 211 allows an inspector to require a person in control of a thing to take action in order to enable a thing to be seized, and provides an offence for failure to comply with the requirement.

Clause 212 provides for the issue of a receipt for anything seized by an inspector.

Clause 213 provides for the forfeiture to the State, in certain cases, of objects that have been seized by an inspector. An appeal against forfeiture lies to the Queensland Gaming Commission.

Clause 214 requires an inspector to return seized things which have not been forfeited within 6 months of seizure, at the end of any proceeding for an offence or appeal from the proceeding, or when the thing is no longer required as evidence.

Clause 215 provides for an owner to obtain access to a seized thing which has not been forfeited or returned.

Clause 216 empowers an inspector to give a direction stopping the use of a particular device or thing if the inspector reasonably believes that the continued use of the thing may jeopardise integrity in the conduct of authorised games or adversely affect the public interest in some other way.

Clause 217 deals with how a stop direction is to be given. The notice in which the direction is given must state the grounds for the direction.

Clause 218 provides an offence for failure to comply with the stop direction of an inspector.

Clause 219 provides that an inspector may require a person to state their name and address in certain circumstances, and provides limitations on such a requirement.

Clause 220 provides an offence for the failure by a person to provide an inspector with the person's name and address.

Clause 221 allows an inspector to require production of documents issued, or required to be kept under, the Act or a corresponding law (a "document production requirement"). An inspector may also require a person to certify a copy of a document as a true copy (a "document certification requirement").

Clause 222 provides an offence for failure to produce a document to an inspector when required.

Clause 223 provides an offence for failure to certify a document required by an inspector.

Clause 224 allows an inspector to require a person to attend before the inspector at a reasonable time and place to answer questions about a document to which a document production requirement applies. The clause also empowers an inspector to require certain persons to attend to answer questions or give information about the operations of an authorised provider or an agent.

Clause 225 provides an offence for failure to attend before an inspector, failure to answer a question or provide information, or making false and misleading statements.

Clause 226 provides that an inspector may require information from the manager of a place of business of a financial institution with respect to accounts of an authorised provider or agent.

Clause 227 provides that the manager of a place of business of a financial institution is not liable for breach of trust by complying with the requirements of an inspector.

Clause 228 provides an offence for failure to comply with a financial records requirement of an inspector.

Clause 229 empowers the Minister to direct a licensed provider or an

agent to stop or change an unsatisfactory management practice if the Minister is satisfied that it may compromise proper standards of integrity in the conduct of authorised games or affect the public interest adversely in some other way.

Clause 230 allows a court to order forfeiture of things which have been used to commit an offence or are the subject of an offence where a person has been convicted of an offence under the Act.

Clause 231 provides that a thing which has been forfeited to the State becomes the property of the State and may be destroyed by the chief executive.

Clause 232 requires an inspector to notify an owner whose property has been damaged by the inspector in the exercise of the inspector's powers.

Clause 233 provides for an action against the State or external inspector or other person for compensation for damage caused in the exercise or purported exercise of an inspector's powers.

Clause 234 protects certain officials from liability in relation to acts, or omissions, made honestly and without negligence under the Act.

Clause 235 makes it an offence to make a false or misleading statement to an inspector.

Clause 236 makes it an offence to provide a document containing a false or misleading statement or incomplete information to an inspector.

Clause 237 makes it an offence to obstruct an inspector or someone helping an inspector without reasonable excuse.

PART 9—LEGAL PROCEEDINGS

Clause 238 specifies the application of Division 1 of this part.

Clause 239 contains evidentiary provisions in relation to appointments and authorities.

Clause 240 is an evidentiary provision in relation to signatures of the chief executive and inspectors.

Clause 241 contains evidentiary provisions in relation to matters certified by the chief executive.

Clause 242 sets out the offences in the Act which are indictable offences and which are summary offences.

Clause 243 provides for the hearing of indictable offences by summary proceedings or on indictment.

Clause 244 specifies indictable offence proceedings which must be heard before a magistrate.

Clause 245 limits the time for starting summary proceedings for an offence under the Act.

Clause 246 defines the responsibility of a person for acts or omissions by the person or the person's representative.

Clause 247 requires executive officers of corporations to ensure that the corporation complies with the Act and extends liability for offences committed by corporations to executive officers of the corporation in certain circumstances.

Clause 248 provides that it is an offence to attempt to commit an offence against the Act.

PART 10—APPEALS

Clause 249 provides that a licensed provider may appeal to the Queensland Gaming Commission against certain decisions of the chief executive.

Clause 250 allows an applicant for a key person licence to appeal to the Queensland Gaming Commission against a decision to refuse the application.

Clause 251 provides that a key person licensee may appeal to the Gaming Commission against certain decisions of the chief executive.

Clause 252 provides that an interactive agent may appeal to the Gaming Commission against certain decisions of the chief executive.

Clause 253 allows a person, who is not the applicant, prohibited from gambling by order of the chief executive to appeal against the decision, an unsuccessful applicant for an order to ban to appeal against the chief executive's decision and allows the owner of a thing seized by an inspector with a right of appeal to the Queensland Gaming Commission against the decision of the inspector.

Clause 254 sets out the procedure for starting an appeal.

Clause 255 provides that the Queensland Gaming Commission may grant a stay of the decision appealed against to secure the effectiveness of the appeal. Such an appeal may be given on conditions the Commission considers appropriate, operate for a time period fixed by the Commission and may be revoked by the Commission.

Clause 256 provides that, in deciding an appeal, the Queensland Gaming Commission has certain powers. An appeal is by way of rehearing.

Clause 257 gives the Queensland Gaming Commission certain powers that it will require to obtain the evidence necessary to decide the appeal mentioned in the notice.

Clause 258 allows the Queensland Gaming Commission, in deciding an appeal, to confirm a decision, set aside a decision and substitute another decision and set aside a decision and return it to the decision maker with directions.

Clause 259 allows an appeal to a District Court from a decision of the Queensland Gaming Commission on a question of law.

PART 11—MISCELLANEOUS

Clause 260 imposes a duty of confidentiality on persons who are, or have been, engaged in functions related to the administration or enforcement of the Act, but allows disclosure with the approval of the chief executive to certain persons and entities.

Clause 261 provides for delegation of powers under the Act by the Minister and the chief executive.

Clause 262 authorises the chief executive to approve forms for use under the Act.

Clause 263 authorises the making of regulations by the Governor in Council for the purposes of the Act.

PART 12—CONSEQUENTIAL AMENDMENTS

Clause 264 amends section 5(3) of the *Art Unions Act 1992* to provide that a game authorised under the *Interactive Gambling (Player Protection) Act 1998* is not an art union.

Clause 265 amends the definition of “Gaming Act” in section 4(1) of the *Casino Control Act 1982*. The list of Acts in the definition is broadened to include the *Interactive Gambling (Player Protection) Act 1998* and the *Wagering Act 1998*.

Clause 266 amends the *Gaming Machine Act 1991*. The amendments change the name of the commission to the Queensland Gaming Commission and slightly amends the statement of the Commission’s functions so that they are broad enough to cover the proposed new appellate functions under the Act. The constitution of the Commission is altered slightly to provide for collective knowledge and expertise of the Commission rather than individual qualifications. The definition of “Gaming Act” is amended to include the *Interactive Gambling (Player Protection) Act 1998* and the *Wagering Act 1998*.

Clause 267 amends the *Keno Act 1996*. The definition of “Gaming Act” is amended to include the *Interactive Gambling (Player Protection) Act 1998* and the *Wagering Act 1998*.

Clause 268 amends the *Lotteries Act 1997*. The definition of “Gaming Act” is amended to include the *Interactive Gambling (Player Protection) Act 1998* and the *Wagering Act 1998*. Sections 7(1) and 7(2) have been amended to permit interactive products under this Act.

SCHEDULES

Schedule 1 sets out the decisions of the Governor in Council and the Minister which are not subject to appeal.

Schedule 2 sets out the decisions of the chief executive that are subject to appeal. Part 1 deals with decisions affecting licensed providers. Part 2 deals with decisions affecting key person licensees. Part 3 deals with decisions affecting agents.

Schedule 3 contains the Dictionary which defines the terms used in the Act.