

Queensland



GAMING MACHINE ACT 1991

**Reprinted as in force on 6 April 1999
(includes amendments up to Act No. 8 of 1999)**

Warning—see last endnote for uncommenced amendments

Reprint No. 4C

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This Act is reprinted as at 6 April 1999. The reprint shows the law as amended by all amendments that commenced on or before that day (Reprints Act 1992 s 5(c)).

The reprint includes a reference to the law by which each amendment was made—see list of legislation and list of annotations in endnotes.

This page is specific to this reprint. See previous reprints for information about earlier changes made under the Reprints Act 1992. A table of earlier reprints is included in the endnotes.

Also see endnotes for information about—

- **when provisions commenced**
- **provisions that have not commenced and are not incorporated in the reprint**
- **editorial changes made in earlier reprints.**

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GAMING MACHINE ACT 1991

[as amended by all amendments that commenced on or before 6 April 1999]

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

PART 1—PRELIMINARY

Short title

1. This Act may be cited as the *Gaming Machine Act 1991*.

Definitions

3. In this Act—

“accepted representations” see section 72ZJ.¹

“approved financier” means any of the following—

- (a) a financial institution under the *Acts Interpretation Act 1954*, section 36;²
- (b) a registered corporation under the *Financial Corporations Act 1974* (Cwlth);
- (c) another entity prescribed under a regulation.

“approved form” see section 213A.³

“approved trust account” means an account—

¹ Section 72ZJ (Consideration of representations)

² Under the *Acts Interpretation Act 1954*, section 36, a “financial institution” means a bank, building society or credit union.

³ Section 213A (Approval of forms)

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- (a) established with a financial institution for holding multiple site jackpot increments; and
- (b) approved by the chief executive.

“arrangement” includes scheme, understanding, promise or undertaking, whether express or implied.

“assessment period”, for licensed premises, means the period for which an assessment is required to be made under section 163(1)⁴ for the premises.

“associate”, of a person, has the meaning given by section 6.

“basic monitoring services” means services supplied by a licensed operator under the conditions of the operator’s licence—

- (a) for electronically monitoring the security, accounting or operational data from a licensee’s gaming equipment on licensed premises; or
- (b) relating to the operation of the equipment being monitored.

“betting unit” means the least valuable bet a player may make on a gaming machine.

“body corporate” means—

- (a) a corporation as defined in the Corporations Law; or
- (b) an incorporated association as defined in the *Associations Incorporation Act 1981*; or
- (c) any other body incorporated under any other Act or law.

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

“chairperson” means a commissioner—

- (a) appointed under section 13(2) and holding office; or
- (b) appointed under section 19(1) and at that time acting; as the chairperson of the commission.

⁴ Section 163 (Monthly taxable metered win)

“club” means a body corporate that holds a club liquor licence.

“club liquor licence” means—

- (a) a licence mentioned in the *Liquor Act 1992*, section 58(1)(e); or
- (b) an authority held by a non-proprietary club to sell liquor under a Commonwealth Act.

“commission” means the Queensland Gaming Commission continued in existence under section 10.

“commissioner” means a person—

- (a) appointed under section 13(1) or 14(2) and holding office; or
- (b) appointed under section 19(2) and at that time acting;
as a commissioner of the commission.

“computer cabinet” means the sealable metal cabinet in a gaming machine which cabinet contains the game program storage medium and the random access memory.

“conduct of gaming” has the meaning given by section 4.

“conviction” includes a finding of guilt, or the acceptance of a plea of guilty, by a court.

“disclosed associate” means a person stated in a disclosure affidavit as being a person who satisfies a description mentioned in section 72ZZ(4)(a) or (b).⁵

“disclosure affidavit” see section 72ZZ.⁶

“division” means the Machine Gaming Division of the department.

“electronic monitoring system” means any electronic or computer system or device that is so designed that it may be used, or adapted, to receive data from gaming equipment in relation to the security, accounting or operation of gaming equipment.

“employ” means to employ for fee or reward, to engage in an honorary

⁵ Section 72ZZ (Disclosure affidavits about persons having influence or receiving benefits)

⁶ Section 72ZZ (Disclosure affidavits about persons having influence or receiving benefits)

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capacity or to engage without fee or reward.

“executive officer”, in relation to a body corporate, means each of the chairperson, managing director or other principal executive officer of the body corporate and every member of any executive, governing or management body of the body corporate (by whatever name called).

“financial institution” means—

- (a) the Reserve Bank of Australia; or
- (b) a bank within the meaning of the *Banking Act 1959* (Cwlth); or
- (c) a building society within the meaning of the Financial Institutions Code; or
- (d) a credit union within the meaning of the Financial Institutions Code; or
- (e) a person who carries on State banking within the meaning of the Commonwealth Constitution, section 51(xiii); or
- (f) a body corporate that is, or that, if it had been incorporated in Australia, would be, a financial corporation within the meaning of the Commonwealth Constitution, section 51(xx); or
- (g) any other person or body that permits persons to deposit amounts of money with that other person or body for use by, or at the direction of, those persons for gaming or betting.

“financial year” means the period of 1 year ending on 30 June in any year or, if the chief executive, under section 5, approves some other date as the terminating date of a financial year in a particular case, the period so approved.

“game” means a game designed to be played on a gaming machine and identifiable from all other games by differences in rules or programming.

“gaming” means the playing of a gaming machine.

“Gaming Act” means any of the following Acts—

- *Art Unions Act 1992*
- *Casino Control Act 1982*
- *Interactive Gambling (Player Protection) Act 1998*

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- *Keno Act 1996*
- *Lotteries Act 1997*
- *Wagering Act 1998.*

“gaming equipment” means—

- (a) any gaming machine; or
- (b) any linked jackpot equipment; or
- (c) any electronic monitoring system; or
- (d) any centralised credit system; or
- (e) any part of, or replacement part for, any such machine, equipment or system.

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

- (a) it may be used for the purpose of playing a game of chance or a game of mixed chance and skill; and
- (b) it may be operated, wholly or in part—
 - (i) by the insertion of a gaming token into the device; or
 - (ii) by the use of gaming machine credits; or
 - (iii) by the electronic transfer of credits of gaming tokens to the device; or
 - (iv) by the use of gaming tokens held, stored or accredited by the device or elsewhere; and
- (c) because of making a bet on the device, winnings may become payable;

but does not include any device declared under section 190 not to be a gaming machine.

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

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

“gaming machine licence” means a gaming machine licence issued under section 43 that is in force.

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“gaming machine type” means a type of gaming machine in which different games may be installed.

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

“gaming trainer” means a person (other than a listed person) who conducts a genuine training course relating to the conduct of gaming.

“general associate”, of a person, means an associate (other than a disclosed associate) of the person.

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

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

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

“inspector” means—

- (a) an inspector (whether by use of that term or by use of another name containing that term) appointed under section 26; or
- (b) an officer who is appointed to be an inspector under section 26; or
- (c) a person who is appointed as an inspector (whether by use of that term or by use of another name containing that term) under section 27; or
- (d) a person who is, because of office, an inspector under this Act.

“interested person” see section 72ZI.⁷

“jackpot payout” see section 6A.

“key monitoring employee” means an individual employed by, or working for, a licensed operator who—

⁷ Section 72ZI (Involvement of interested persons in show cause process)

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- (a) occupies a managerial position or carries out functions in a managerial capacity; or
- (b) may make decisions, involving the exercise of the person's discretion, that regulate the operator's operations.

“key officer”, for a licensed operator, means a person associated with, or employed by, the operator who—

- (a) exercises, or is able to exercise, significant influence over the operator's operations; or
- (b) because of the person's remuneration or policy-making position or other reasons prescribed under a regulation—exercises, or is able to exercise, authority of a nature, or to an extent, about the operator's operations that makes it desirable in the public interest for the person to be a licensed key monitoring employee.

“licensed key monitoring employee” means the holder of a key monitoring employee's licence in force under this Act.

“licensed machine manager” means the holder of a machine manager's licence, that is in force, issued under section 81.

“licensed operator” means the holder of an operator's licence in force under this Act.

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

“licensed repairer” means the holder of a repairer's licence, that is in force, issued under section 81.

“licensed service contractor” means the holder of a service contractor's licence, that is in force, issued under section 81.

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

“linked jackpot arrangement” means an arrangement under which 2 or more gaming machines are linked to a device recording a winning result or other event resulting in an amount, part of an amount, or something else, being won by a player.

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

linked jackpot arrangement.

“liquor” means liquor within the meaning of the *Liquor Act 1992*.

“liquor licence” means—

- (a) a licence mentioned in the *Liquor Act 1992*, section 58(1); or
- (b) an authority to sell liquor under an Act, or a Commonwealth Act.

“liquor licensing authority” means the chief executive of the department that deals with matters arising under the *Liquor Act 1992*.

“listed person” means a person for the time being listed on—

- (a) the roll of recognised manufacturers and suppliers of gaming machines maintained under section 130; or
- (b) the roll of recognised suppliers of restricted components maintained under section 131.

“machine manager” means—

- (a) a licensed machine manager employed under section 75(3); or
- (b) an applicant for a machine manager’s licence employed under section 75(4); or
- (c) a person employed under section 75(6).

“metered amount” means the amount displayed on the total wins meter of a gaming machine or on a progressive jackpot prize meter.

“metered bets”, for licensed premises for an assessment period, means the amount of all bets made on gaming machines on the premises in the assessment period.

“metered payouts” see section 6B.

“metered win”, for licensed premises for an assessment period, means the amount obtained by subtracting the metered payouts for the premises from the metered bets for the premises.

“money clearance” means the removal of gaming tokens from the drop box of a gaming machine.

“monthly taxable metered win”, for licensed premises for an assessment period, means the metered win for the premises for the period, less—

- (a) the amount for the period, other than promotions, paid into an

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approved trust account maintained by a licensed operator for multiple site jackpot increments; and

(b) the amount prescribed for the period under a regulation.

“multiple site jackpot increments”, for licensed premises, means the amount assessed by or for the chief executive for a linked jackpot arrangement for an assessment period.

“multiple site linked jackpot arrangement” means a linked jackpot arrangement linking gaming machines with other gaming machines on 2 or more licensed premises.

“non-proprietary club” means a club whose memorandum and articles of association, rules, constitution or other incorporating documents provide that—

(a) the income, profits and assets of the club are to be applied only in the promotion of its objects; and

(b) the payment of dividends to, or the distribution of income, profits or assets of the club among, its members is prohibited.

“officer of the division” means an appointee under section 26 or 27 and a person made available under section 28 (during the time that person renders assistance under section 28).

“percentage return to player” see section 6C.

“place” includes any house, wharf or premises.

“play a gaming machine” has the meaning given by section 7.

“premises” includes messuages, buildings, lands, easements, tenements of any tenure, vehicles or vessels.

“prescribed liquor licence” means a liquor licence prescribed for the purpose of this definition.

“principal executive officer”, in relation to a body corporate, means each of the chairperson, managing director or other principal executive, governing or management officer (by whatever name called) of the body corporate.

“progressive jackpot prize meter” means a device for recording amounts that, if won by a player, would be payable by a licensee as a jackpot payout.

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“promotions” means an amount, part of an amount, or something else, able to be won on a gaming machine, whether or not a winning result is obtained, and made available by the licensee or licensed operator.

“public interest” means public interest having regard to the creation and maintenance of public confidence and trust in the credibility or integrity of—

- (a) gaming; or
- (b) the conduct of gaming; or
- (c) the manufacture, assembly, sale, supply, installation, alteration, obtaining, possession, operation, use, adjustment, maintenance or repair of gaming equipment; or
- (d) the administration of licensed premises.

“reasonably suspects” means suspects on grounds that are reasonable in all the circumstances.

“recognised manufacturer or supplier of gaming machines” means a person for the time being listed on the roll of recognised manufacturers and suppliers of gaming machines.

“recognised supplier of restricted components” means a person for the time being listed on the roll of recognised suppliers of restricted components.

“registered company auditor” means a person registered as an auditor, or taken to be registered as an auditor, under the Corporations Law, chapter 9, part 9.2.⁸

“restricted component” means any component that is prescribed as a restricted component when it does not form part of any gaming machine, linked jackpot equipment, electronic monitoring system or centralised credit system but does not include anything declared under section 190 not to be a restricted component.

“service contract” means any agreement to install, alter, adjust, maintain or repair gaming equipment provided to a licensee or that is on licensed premises but does not include an agreement to carry out any installation, alteration, adjustment, maintenance or repair prescribed for

⁸ Chapter 9 (Miscellaneous), part 9.2 (Registration of auditors and liquidators)

the purposes of section 73(3).

“show cause notice” see section 72ZH.⁹

“show cause period” see section 72ZH.

“single site linked jackpot arrangement” means a linked jackpot arrangement linking gaming machines with gaming machines on the same licensed premises.

“total wins meter” means a device for recording amounts that, if won by a player, would be payable by a licensee other than as a jackpot payout.

“vehicle” includes any motor vehicle, omnibus, coach, cart, sulky, bicycle, velocipede, train, railway carriage, aeroplane, airship, balloon, hovercraft or other means of conveyance or transit.

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

Meaning of “conduct of gaming”

4. A reference in this Act to **“conduct of gaming”** is a reference to—

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

Approval of terminating date for financial year

5. The chief executive may approve some date other than 30 June as the

⁹ Section 72ZH (Show cause notice)

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termination date of a financial year which may be for a period longer or shorter than 1 year, but not longer than 18 months, ending on the date so approved.

Meaning of “associate”**6. For the purposes of this Act—**

- (a) the following persons are associates of a person—
 - (i) the person’s spouse;
 - (ii) a parent or remoter lineal ancestor, son, daughter or remoter issue, brother or sister of the person;
 - (iii) any partner of the person;
 - (iv) any body corporate of which the person is an executive officer;
 - (v) where the person is a body corporate—an executive officer of the body corporate;
 - (vi) a person who, in the previous year, has provided to the first person advice for fee or reward in relation to—
 - (A) gaming; or
 - (B) the conduct of gaming; or
 - (C) the manufacture, assembly, sale, supply, installation, alteration, obtaining, possession, operation, use, adjustment, maintenance or repair of gaming equipment;
 - (vii) any employee or employer of the person;
 - (viii) any officer or employee of any body corporate of which the person is an officer or employee;
 - (ix) any employee of a natural person of whom the person is an employee;
 - (x) any body corporate whose executive officers are accustomed or under an obligation, whether formal or informal, to act in accordance with the directions, instructions or wishes of the person, or where the person is a body corporate, of the

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- executive officers of that body corporate;
- (xi) any body corporate in accordance with the directions, instructions or wishes of which, or of the executive officers of which, the person is accustomed or under an obligation, whether formal or informal, to act;
 - (xii) any body corporate in which the person holds a controlling interest;
 - (xiii) where the person is a body corporate—a person who holds a controlling interest in the body corporate;
 - (xiv) any person who is named in an affidavit forwarded or lodged by the person under section 59, 72H, 72K, 72W, 72ZU or 89;
 - (xv) any person who is because of paragraph (a), an associate of any other person who is an associate of the person (including a person who is an associate of the person by another application or other applications of paragraph (a)); and
- (b) a person is taken to hold a controlling interest in a body corporate if the person, alone or together with any associate or associates of the person, is in a position to control not less than 15% of the voting power in the body corporate or holds interests in not less than 15% of the issued shares in the body corporate.

Meaning of “jackpot payout”

6A.(1) For this Act, a “**jackpot payout**” is a payment by a licensee to a player for a winning result on a gaming machine if the payment—

- (a) does not increase the credit meter of the gaming machine; and
- (b) is not discharged from the hopper.

(2) In this section, a payment by a licensee for a winning result does not include a promotion.

Meaning of “metered payouts”

6B.(1) For this Act, “**metered payouts**”, for a licensed premises for an assessment period, means the metered amount won by players for winning results on gaming machines on the premises in the assessment period.

(2) In this section, the metered amount won does not include an amount payable under this Act from an approved trust account.

Meaning of “percentage return to player”

6C.(1) For this Act, the “**percentage return to player**”, for a game, is the percentage calculated using the formula—

$$\frac{W \times 100}{B}$$

where—

“**B**” is the amount that will be bet if bets are made on every result in the game.

“**W**” is the amount that can be won, other than promotions, if all winning results in the game are obtained.

Meaning of “play a gaming machine”

7. For the purposes of this Act, a person is taken to play a gaming machine if the person, directly or indirectly—

- (a) inserts a gaming token into; or
- (b) causes gaming machine credits to be registered by; or
- (c) makes a bet on; or
- (d) causes the activation of any process relating to the game of; or
- (e) makes or participates in the making of the decisions involved in playing;

the gaming machine.

Act binds the Crown

8. This Act binds the Crown.

Acceptable evidence of age

9. For the purposes of this Act, acceptable evidence of the age of a person is a document mentioned in the *Liquor Act 1992*, section 6.

PART 2—ADMINISTRATION**Establishment of commission**

10.(1) The entity previously established as the Queensland Machine Gaming Commission is continued in existence under the name of Queensland Gaming Commission.

(2) The commission—

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

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

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

Functions of commission

11. The functions of the commission are such—

- (a) as are conferred upon the commission under this and other Acts; and
- (b) as are otherwise conferred upon the commission by the Minister.

Powers of commission

12.(1) The commission may do all things necessary or convenient to be done for or in connection with the performance of its functions or exercise of its powers under this or another Act.

(2) Each commissioner is, because of office, an inspector for the purposes of this Act.

Commissioners

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

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

(3) In recommending appointments to the commission, the Minister must ensure that knowledge and experience in the following fields is available to the commission through the commissioners—

- (a) the gaming industry;
- (b) accountancy;
- (c) the provision of social welfare services to the community.

(3A) At least 1 member of the commission must be a legal practitioner practising law in Queensland.

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

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

(6) The Minister is to cause due inquiry to be made before a person is appointed under this section to be, or appointed under section 19 to act as, a commissioner in order to be satisfied that the person is of good repute.

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

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

Tenure of office

14.(1) A commissioner—

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

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

Leave of absence

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

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

Register and disclosure of interests

16.(1) The Minister is to maintain—

- (a) a register of the pecuniary interests of each commissioner had by the commissioner at the time of appointment as a commissioner or acquired during the term of appointment as a commissioner; and
- (b) a record of personal or political associations had by each commissioner that might influence the commissioner in the performance functions as a commissioner.

(2) Each commissioner must furnish to the Minister—

- (a) a summary in writing of pecuniary interests had by the commissioner at the time of appointment as a commissioner; and
- (b) advice in writing of associations referred to in subsection (1)(b) had by the commissioner at the time of appointment as a commissioner; and
- (c) within 30 days following any substantial change in the interests

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referred to in paragraph (a), or a change in the associations referred to in paragraph (b), information in writing of the change.

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

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

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

- (a) be present during any deliberation of the commission in relation to the matter; or
- (b) take part in any decision of the commission in relation to the matter.

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

- (a) be present during any deliberation of the commission for the purpose of making the determination; or
- (b) take part in the making of the determination by the commission.

Termination of appointment of commissioners

17.(1) A commissioner ceases to hold office as a commissioner if the commissioner—

- (a) dies; or
- (b) resigns the commissioner's office by instrument in writing signed by the commissioner and given to the Minister; or
- (c) becomes a patient within the meaning of the *Mental Health Act*

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1974; or

- (d) being the chairperson—is absent, except with the leave of the Minister, from 3 consecutive meetings of the commission; or
- (e) being a commissioner other than the chairperson, is absent, except with the leave of the chairperson, from 3 consecutive meetings of the commission; or
- (f) is convicted of an offence against this Act or another Act that confers powers on the commission; or
- (g) is convicted of an indictable offence, whether on indictment or summarily, punishable in the particular case by imprisonment for 1 year or more (irrespective of whether the offence is also punishable by a fine in addition, or as an alternative, to imprisonment); or
- (h) is removed from office by the Governor in Council under subsection (2).

(2) The Governor in Council—

- (a) may remove a commissioner from office if the commissioner—
 - (i) without reasonable excuse contravenes section 16; or
 - (ii) fails to discharge the commissioner's financial commitments, becomes bankrupt or compounds with creditors or otherwise takes advantage of the laws in force for the time being relating to bankruptcy; and
- (b) must remove a commissioner from office if the Governor in Council determines the commissioner is not a fit and proper person to be a commissioner.

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

Terms and conditions of appointment of commissioners

18.(1) Each commissioner is entitled to such remuneration as is approved by the Governor in Council—

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

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the chairperson, the performance of the ordinary functions under this Act of the chairperson; and

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

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

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

Acting appointments

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

- (a) during a vacancy in the office of the chairperson; or
- (b) during any period, or during all periods, when the chairperson—
 - (i) has been granted leave of absence by the Minister; or
 - (ii) is, for any reason, unable to attend meetings of the commission, or otherwise perform the functions under this Act of the office.

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

- (a) during a vacancy in the office of such a commissioner; or
- (b) during any period, or during all periods, when such a commissioner—
 - (i) is acting as the chairperson; or
 - (ii) has been granted leave of absence by the chairperson; or
 - (iii) is, for any reason, unable to attend meetings of the

commission, or otherwise perform the functions under this Act of the office.

Meetings

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

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

- (a) at such times, places and intervals as are prescribed; and
- (b) at such other times and places as the commission determines.

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

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

(5) At a meeting of the commission—

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

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

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

Resources

21.(1) The chief executive must—

- (a) remunerate each commissioner as provided in section 18; and
- (b) make available to the commission (to the satisfaction of the Minister) sufficient—
 - (i) administrative services; and

(ii) funds for expenses incurred in the normal conduct of meetings of the commission;

as are necessary for the commission to perform its functions under section 11 and exercise its powers under section 12.

(2) The chief executive must maintain accounts of the remuneration and expenditure referred to in subsection (1).

Annual report

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

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

Decisions or determinations of commission

23.(1) Subject to subsections (2) to (4) and sections 24 and 25, any decision or determination of the commission is final.

(2) A regulation may—

- (a) rescind a decision or determination of the commission; and
- (b) give the commission directions about the rescission.

(3) A commission decision or determination that is rescinded is void as from the time stated in the regulation.

(4) No right of action arises against the Crown or any person because of the rescission.

(5) Subject to section 24(5), a decision or determination of the commission has effect from the making of the decision or determination or from such other time as is specified by the commission for the purpose.

Appeals to Minister

24.(1) A person who—

- (a) may be adversely affected by a decision under section 35(5); or

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- (b) is or was an applicant for or a holder of a licence under this Act or a listed person and is aggrieved by a decision or determination referred to in subsection (8) or (9);

may appeal against the decision or determination to the Minister.

(2) The appeal must—

- (a) be made in the approved form; and
- (b) state the nature and grounds of the appeal; and
- (c) be accompanied by the fee prescribed; and
- (d) be lodged with the chief executive within 14 days of the date when the appellant was given written advice of the decision or determination in respect of which the appeal is made.

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

(4) Within 7 days of the lodgment of an appeal, the chief executive is to give written notice of receipt of the appeal to—

- (a) the appellant; and
- (b) the Minister; and
- (c) if the appeal is against a decision or determination of the commission—the commission; and
- (d) any other person who the chief executive considers has an interest in the appeal.

(5) The Minister may direct that the operation of a decision or determination appealed against be stayed until the appeal is determined under section 25 if the Minister is satisfied that the integrity of gaming and the conduct of gaming will not be jeopardised and that the public interest will not be adversely affected.

(6) An appellant may, by written notice lodged with the chief executive, withdraw an appeal before it is determined under section 25.

(7) One-half of the fee lodged under section 24(2) is to be returned to the appellant upon the withdrawal of the appeal.

(8) An appeal under subsection (1)(b) may be made in respect of a decision or determination of the commission—

- (a) under section 38, refusing to grant a gaming machine licence; or

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- (b) under section 40(12); or
 - (c) under section 48(1)(b); or
 - (d) under section 49(1); or
 - (e) under section 56(5), refusing an application to increase the number of gaming machines provided to a licensee; or
 - (f) under section 56(5), in respect of the increased number of gaming machines to be provided to a licensee; or
 - (g) under section 57(1); or
 - (h) under section 64(12)(d); or
 - (i) under section 65(1); or
 - (j) under section 80(1), refusing to grant a licence under part 4; or
 - (k) under section 84; or
 - (l) under section 85(1); or
 - (m) under section 94(12)(d); or
 - (n) under section 95(1); or
 - (o) under section 134(1); or
 - (p) under section 134(3), refusing to approve that a person again be listed on the roll of recognised manufacturers and suppliers of gaming machines or the roll of recognised suppliers of restricted components.
- (9)** An appeal under subsection (1)(b) may be made in relation to—
- (a) a decision of the chief executive under section 72X¹⁰ refusing to renew an operator's licence; or
 - (b) a decision of the chief executive under section 72Y¹¹ refusing to replace an operator's licence.

¹⁰ Section 72X (Renewal of licence—decision)

¹¹ Section 72Y (Replacement of licence)

Minister's determination of appeals

25.(1) The Minister is to consider—

- (a) the contents of the appeal under section 24 and information or material lodged with the appeal; and
- (b) information or material that is—
 - (i) given to the Minister by the appellant; and
 - (ii) given to the Minister by any person referred to in section 24(4)(d); and
 - (iii) given to the Minister by the commission in respect of the appeal; and
 - (iv) given to the Minister by the chief executive in respect of the appeal;within 14 days of the lodging of the appeal; and
- (c) such other information or material as the Minister considers relevant;

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

- (d) that the appeal be disallowed; or
- (e) that the decision or determination appealed against be set aside or varied.

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

(3) The determination of the Minister upon an appeal instituted under section 24 is final.

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

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

Appeals to Magistrates Court

25A.(1) An applicant for an operator's licence may appeal against the commission's decision under section 72P¹² to refuse to grant the application for the licence.

(2) A licensed operator may appeal against the following decisions of the commission—

- (a) a decision under section 72Q¹³ to impose a condition on the licence;
- (b) a decision under section 72T¹⁴ to change a condition of the licence;
- (c) a decision under section 72ZO or 72ZQ¹⁵ to suspend the licence;
- (d) a decision under section 72ZO to cancel the licence.

(3) The appeal must be made to the Magistrates Court at Brisbane or nearest the place where the appellant carries on, or proposes to carry on, operations under the operator's licence.

(4) Sections 25B to 25F apply only to an appeal under this section.

Starting appeal

25B.(1) An appeal is started by—

- (a) filing a written notice of appeal with the clerk of the Magistrates Court; and
- (b) serving a copy of the notice on the commission.

(2) The notice of appeal must be filed within 28 days after the appellant receives notice of the decision.

(3) The court may at any time extend the period for filing the notice of appeal.

¹² Section 72P (Decision about application)

¹³ Section 72Q (Conditions of licences)

¹⁴ Section 72T (Changing conditions of licence)

¹⁵ Section 72ZO (Decision of commission) or 72ZQ (Immediate suspension)

(4) The notice of appeal must state fully the grounds of the appeal and the facts relied on.

Stay of operations of decisions

25C.(1) The Magistrates Court may grant a stay of the operation of a decision appealed against to secure the effectiveness of the appeal.

(2) A stay—

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

(3) The stay must not extend past the time when the court decides the appeal.

(4) An appeal against a decision affects the decision, or the carrying out of the decision, only if the decision is stayed.

Hearing procedures

25D.(1) In deciding an appeal, the Magistrates Court—

- (a) has the same powers as the commission; and
- (b) is not bound by the rules of evidence; and
- (c) must comply with natural justice; and
- (d) may hear the appeal in court or chambers.

(2) An appeal is by way of rehearing.

Powers of court on appeal

25E.(1) In deciding an appeal, the Magistrates Court may—

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

(2) If the court substitutes another decision, the substituted decision is, for this Act (other than section 25A), taken to be the commission's decision.

Appeal to District Court

25F. An appeal to a District Court from a decision of a Magistrates Court may be made only on a question of law.

Inspectors

26.(1) The chief executive may appoint public service officers as inspectors for the purposes of this Act.

(2) The chief executive is an inspector for the purposes of this Act.

Appointment of other persons

27.(1) In addition to appointments under section 26, the Governor in Council may appoint such other persons as are necessary for the effectual administration of this Act.

(2) The persons are to be employed under this Act, and not under the *Public Service Act 1996*.

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

(4) Subject to subsections (5) and (6) and to any applicable industrial award or industrial agreement, appointments referred to in subsection (1) are to be for such periods and subject to such conditions as to remuneration and otherwise as the Governor in Council thinks fit.

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

(6) Appointments may be renewed for a second or subsequent period not longer than 5 years in any case.

Assistance within department

28. In addition to appointments under sections 26 and 27, the chief executive is to make available such clerical and other staff assistance that may be necessary for the effectual administration of this Act.

Officers of division to be of good repute

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

(2) The Governor in Council is to cause due inquiry to be made before a person is appointed to be an officer of the division in order to be satisfied that the person is of good repute.

(3) The chief executive is to cause due inquiry to be made before a person is made available under section 28 in order to be satisfied that the person is of good repute.

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

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

(6) The officer must comply with the chief executive's requirement.

Maximum penalty for subsection (6)—200 penalty units or 1 year's imprisonment.

Machine Gaming Division

30. Officers of the division are responsible for performing all functions that are necessary in connection with the administration of this Act.

Delegation by chief executive

31. Before making a delegation under this Act to a person who is not an

officer of the division, the chief executive must make the necessary inquiries to ensure the person is of good repute.

Police assistance

34.(1) A regulation may approve arrangements for—

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

to officers of the division for the purposes of the effectual administration of this Act.

(2) The commissioner of the police service must ensure that effect is given to arrangements approved under subsection (1).

Secrecy

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

Maximum penalty—200 penalty units or 1 year's imprisonment.

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

- (a) must preserve and assist in preserving secrecy with regard to all information that comes to the persons knowledge in the exercise of functions under this or another Act; and
- (b) must not communicate or reveal the information except—
 - (i) in the exercise of powers or the performance of functions under this or another Act; or

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- (ii) with any other lawful excuse (proof of which is upon the person); or
- (iii) if authorised or approved under this section or another Act.

Maximum penalty—200 penalty units or 1 year's imprisonment.

(2A) A person who is or was a licensed operator must not communicate or reveal information about a licensee's operations that the person obtained in the course of the person's operations as a licensed operator.

Maximum penalty—200 penalty units or 1 year's imprisonment.

(2B) A person who is or was employed by a licensed operator or who works or worked for a licensed operator (whether in the capacity of a licensed key monitoring employee or another capacity), must not communicate or reveal information obtained by the person in carrying out the person's functions in that capacity.

Maximum penalty—200 penalty units or 1 year's imprisonment.

(2C) Subsections (2), (2A) and (2B) do not apply to the communication or revealing of information by a person—

- (a) for a purpose under this Act or a Gaming Act; or
- (b) with a lawful excuse; or
- (c) under an approval of the chief executive or commission under this section.

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

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

(5) A person referred to in subsection (2), (2A) or (2B), if the commission so approves, may communicate or reveal any information referred to in the subsection to any department of government of the State,

body, holder of an office or person as the commission specifies in the approval.

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

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

Identification cards

36.(1) Every inspector is to be furnished with an identification card, signed by the chief executive, that identifies the inspector as an inspector.

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

(3) An identification card must—

- (a) be in the approved form; and
- (b) contain a photograph and signature of the inspector or other officer, and anything else the approved form requires.

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

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

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

PART 3—GAMING MACHINE LICENCES

Gaming lawful and does not constitute nuisance

38.(1) Despite any other Act or law—

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

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

Application for gaming machine licences

39.(1) An application for a gaming machine licence may be made by—

- (a) a body corporate that holds a club liquor licence; or
- (b) the holder of a general liquor licence; or
- (c) the holder of a prescribed liquor licence; or
- (d) a body corporate that has applied to become the holder of—
 - (i) a general liquor licence; or
 - (ii) a club liquor licence; or
 - (iii) a prescribed liquor licence; or
- (e) an individual who has applied to become the holder of—
 - (i) a general liquor licence; or
 - (ii) a prescribed liquor licence.

(2) Application for a gaming machine licence may be made only in relation to—

- (a) if the application is made by an applicant mentioned in subsection (1)(a), (b) or (c)—premises specified in the applicant's

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liquor licence; or

- (b) if the application is made by an applicant mentioned in subsection (1)(d) or (e)—premises specified in the applicant's application for a liquor licence.

(3) An application for the grant of a gaming machine licence—

- (a) is to be made in the approved form; and
- (b) in the case of an application by a natural person—is to be signed by the applicant; and
- (c) in the case of an application by a body corporate—is to be—
 - (i) executed under the common seal of the body corporate and signed by 2 executive officers of the body corporate authorised in that behalf by the body corporate; or
 - (ii) if the chief executive considers that subparagraph (i) cannot reasonably be complied with—executed or signed in such other way as the chief executive allows; and
- (d) is to state the full name, address and date of birth—
 - (i) in the case of an application by a natural person—of the applicant; or
 - (ii) in the case of an application by a body corporate—of the secretary and each executive officer of the body corporate; and
- (e) in the case of an application by a body corporate—is to be accompanied by—
 - (i) a copy of the certificate of incorporation of the body corporate; and
 - (ii) a copy of the memorandum and articles of association, rules, constitution or other incorporating documents of the body corporate in force at the time of making the application certified as a true copy by the secretary of the body corporate or other person properly authorised in that behalf by the body corporate; and
 - (iii) a copy of the resolution or minute of the proceedings of the governing body of the body corporate by which approval

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was given to the making of the application, certified as a true copy by the person certifying the copy of the matters referred to in subparagraph (ii); and

- (iv) a copy of the last audited balance sheet or statement of the financial affairs of the body corporate; and
- (f) in the case of an application by a club—is also to be accompanied by—
 - (i) a statement detailing the number of members in each class of membership of the club; and
 - (ii) a statement detailing the hours and days when the club's premises are open for the sale of liquor; and
 - (iii) a statutory declaration by the principal executive officer of the club that the matters referred to in paragraph (e)(ii) or any other applicable rules or by-laws of the club—
 - (A) have been complied with in making the application; and
 - (B) do not prohibit the playing of gaming machines on the premises to which the application relates; and
- (g) is to be accompanied by—
 - (i) if the application is made by an applicant mentioned in subsection (1)(a), (b) or (c)—evidence, satisfactory to the chief executive, of the liquor licence held for the premises to which the application relates; or
 - (ii) if the application is made by an applicant mentioned in subsection (1)(d) or (e)—a copy of the application for a liquor licence made in relation to the premises to which the first application relates; and
- (h) is to be accompanied by a plan of the premises to which the application relates indicating the proposed locations on the premises where it is intended to install gaming machines; and
- (j) is to specify full particulars of the ownership and any intended ownership of the premises; and
- (k) is to specify the number of gaming machines in respect of which the licence is sought; and

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- (l) is to be accompanied by an affidavit under section 59; and
- (m) is to contain or be accompanied by such other information, records, reports, documents and writings relating to the application and applicant as are determined by the chief executive; and
- (n) is to be forwarded to or lodged with the chief executive; and
- (o) is to be accompanied by the fee prescribed.

Consideration of applications

40.(1) Upon receipt of an application for a gaming machine licence, and compliance by the applicant with this part, the chief executive must—

- (a) initiate and have followed through such investigations as the chief executive considers are necessary in relation to the application; and
- (b) consider the application and anything accompanying it together with the results of investigations made under paragraph (a) and make an assessment of—
 - (i) the suitability of the premises to which the application relates having regard to the size, layout and facilities of the premises; and
 - (ii) if the applicant is a natural person—the financial stability, general reputation and character of the applicant; and
 - (iii) if the applicant is a body corporate—the business reputation and financial stability of the body corporate and the general reputation and character of the secretary and executive officers of the body corporate; and
 - (iv) if any person is mentioned in an affidavit under section 59—the suitability of that person to be an associate of the applicant; and
 - (v) if the chief executive considers it appropriate—the suitability of any other associate of the applicant to be an associate of the applicant; and
 - (vi) the suitability of the applicant to be a licensee.

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(2) The chief executive must make a recommendation to the commission that a gaming machine licence be granted or refused.

(3) The chief executive is not to recommend that a gaming machine licence be granted if—

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

(4) If the chief executive considers that any proposed location indicated in the plan referred to in section 39(3)(h) is unsuitable for the installation of gaming machines, the chief executive is to—

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

as often as is necessary to satisfy the chief executive's requirements.

(5) If an applicant, within the time specified in the last request made under subsection (4), fails to amend and resubmit the plan the chief executive is not required to take any further action in respect to the application.

(6) If the chief executive recommends the grant of a gaming machine licence, the chief executive must advise the commission of the number of gaming machines considered appropriate for the premises the subject of the application.

(7) The chief executive is to have regard to—

- (a) the number of gaming machines requested in the application

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made under section 39; and

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

(8) The chief executive or commission may require the applicant, or any associate of the applicant, to submit such additional information or material as the chief executive or the commission considers is necessary in order to make a recommendation, decision or determination.

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

(10) The commission must not grant an application for a gaming machine licence made by a club if the commission considers—

- (a) that the club, including a voluntary association of persons from which it was formed—
 - (i) has not been operating for at least 2 years before the application was made; or
 - (ii) has not, during the whole of the period, been pursuing its objects or purposes in good faith; or
- (b) that payments for the rental or lease of the club's licensed premises are unreasonable; or
- (c) if a lease, agreement or arrangement made by the club provides that a person or voluntary association of persons is entitled to receive, or may receive, a payment, benefit or advantage during, or at the end of, the lease, agreement or arrangement—that the provision is unreasonable; or
- (d) if members of the executive, governing or management body

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(however described) of the club are required to be nominated, or may be nominated, by a person who is not a member of the club, or by a voluntary association of persons—that this is not in the best interests of the club’s members; or

- (e) if the club does not own the club’s licensed premises and an executive officer or employee of the club is also the lessor, or an associate of the lessor, of the club—that this is not in the best interests of the club’s members; or
- (f) if an executive officer or employee of the club is a creditor, or an associate of a creditor, of the club—that this is not in the best interests of the club’s members.

(11) Subsection (10)(a) does not apply if the commission considers that granting the application is—

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

(12) The commission is to determine the number of gaming machines to be provided by the chief executive to the applicant.

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

(14) The chief executive must immediately give the applicant written notice of—

- (a) the commission’s decision; and
- (b) if the application is refused—the reasons for the refusal.

(15) Upon the grant of a gaming machine licence, the gaming machine areas are those locations on licensed premises indicated in the plan referred to in section 39(3)(h) or that plan as last amended and resubmitted under subsection (4).

Clubs may be restricted to only 1 gaming machine licence

41. If a club is a licensee, the commission may grant an application by the club for another gaming machine licence (the “**new licence**”) only if—

- (a) the commission considers that the benefits to be offered to members of the club at the premises for which the new licence is sought (the “**new premises**”) are distinct in nature to the benefits offered to the members at the existing licensed premises of the club (the “**existing premises**”); and
- (b) the new premises are located in close proximity to the existing premises; and
- (c) the commission is satisfied that—
 - (i) it is in the best interests of the club’s members that the new licence be granted; and
 - (ii) the granting of the new licence is not contrary to the public interest.

Changes in circumstances of applicants for and holders of licences

42.(1) If a person applies for a licence under this part and, before the application is granted or refused, a change happens in any information contained in, or accompanying, the application or in a notice given under this subsection, the applicant must, within 7 days of the change, give the chief executive written notice of the change.

Maximum penalty—200 penalty units or 1 year’s imprisonment.

(2) If, after the grant of a licence under this part, an event mentioned in subsection (3) happens, the holder of the licence must, within 7 days of the event happening, give the chief executive written notice of the event.

Maximum penalty—200 penalty units or 1 year’s imprisonment.

(3) The events required to be notified by the holder of the licence are—

- (a) the holder of the licence changes name or address; or
- (b) the holder of the licence—
 - (i) is convicted of an offence against this Act; or
 - (ii) if the holder is an individual—fails to discharge the holder’s

financial commitments, becomes bankrupt or compounds with creditors or otherwise takes advantage of the laws about bankruptcy; or

- (iii) if the holder is a body corporate—is the subject of a winding-up (whether voluntarily or under a court order), appointment of a liquidator, appointment of a receiver or receiver and manager, or is placed under official management and an official manager appointed under the Corporations Law; or
- (iv) is convicted of an indictable offence (whether on indictment or summarily) punishable in the particular case by imprisonment for at least 1 year (irrespective of whether the offence is also punishable by a fine in addition, or as an alternative, to imprisonment).

Issue of gaming machine licences

43.(1) Where the commission grants a gaming machine licence, the chief executive must issue the licence.

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

- (a) the name of the licensee; and
- (b) the expiry date of the licence; and
- (c) any conditions imposed under section 48(1)(b).

Gaming machine licences to be displayed

45. A licensee is to display the licensee's gaming machine licence in a conspicuous position on the licensed premises in question unless the licence at any material time is in the possession of the chief executive.

Maximum penalty—40 penalty units.

Issue of copy gaming machine licences

46.(1) If the chief executive is satisfied that a gaming machine licence has

been damaged, lost or destroyed, the chief executive, upon payment of the fee prescribed, may issue to the licensee a copy of the gaming machine licence.

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

Term of gaming machine licences

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

(2) A gaming machine licence may be renewed.

Conditions of gaming machine licences

48.(1) A gaming machine licence is subject to—

- (a) such conditions as are prescribed; and
- (b) such other conditions (including any variation of the conditions made under section 49) as the commission may impose in the public interest or for the proper conduct of gaming at the time of granting the licence or under section 49.

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

Maximum penalty—200 penalty units or 1 year's imprisonment.

Imposition or variation of conditions

49.(1) Where the commission in the public interest or for the proper conduct of gaming, at any time after granting a gaming machine licence, considers that—

- (a) the imposition of conditions or further conditions on the licence; or
- (b) a variation to the conditions imposed on the licence under section 48(1)(b) or paragraph (a) of this subsection;

is warranted, the commission may impose the conditions or further

conditions or vary the conditions.

(2) Where the commission imposes or varies conditions under subsection (1), the chief executive must give the licensee, written notice of the conditions or varied conditions.

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

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

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

(5) After endorsing the gaming machine licence, the chief executive is to return it to the licensee.

Payment and recovery of amounts

50.(1) All amounts received by the chief executive under conditions referred to in section 48 must be paid into the consolidated fund.

(2) The chief executive, for any reason that the chief executive considers is sufficient, may forgive or refund any penalty payable under conditions referred to in section 48.

(3) All amounts payable by a licensee under conditions referred to in section 48 that remain unpaid may be recovered as a debt payable by the licensee to the Crown.

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

- (a) the gaming machine licence in relation to which the debt is payable has been cancelled or surrendered; and
- (b) the person who held the licence is not the holder of any other gaming machine licence.

Renewal and continuance of gaming machine licences

51.(1) A licensee may apply to the chief executive for renewal of the gaming machine licence.

(2) Application under subsection (1)—

- (a) is to be in the approved form; and
- (b) is to be accompanied by the fee prescribed; and
- (c) is to be made, unless the chief executive otherwise allows, at least 1 month before the expiration of the licence; and
- (d) in the case of an application by a body corporate—is to be accompanied by a list of the names, addresses and dates of birth of—
 - (i) the secretary of the body corporate; and
 - (ii) the executive officers of the body corporate; and
 - (iii) all other persons who have been the secretary or an executive officer of the body corporate since the licence was granted or last renewed; and
- (e) is to be accompanied by an affidavit under section 59.

(3) If the chief executive considers that special circumstances exist, the chief executive may extend the term of a gaming machine licence, or renewal of the licence, for 1 month from the date of its expiration to allow the licensee to comply with this section.

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

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

(6) If a licensee complies with this section, the chief executive must renew the licence for 2 years starting on—

- (a) the day after its last expiry; or
- (b) the day it would have last expired apart from its extension under subsection (3).

Gaming machine licences cannot be transferred

52. A gaming machine licence cannot be transferred to another person or to other premises.

Certain applications under Liquor Act 1992 subject to chief executive's certificate

53.(1) Despite anything in the *Liquor Act 1992*, if a person applies under that Act for the transfer of a club liquor licence, general liquor licence or prescribed liquor licence, the liquor licensing authority may transfer the licence only if the chief executive issues a certificate under subsection (2).

(2) The chief executive may issue the certificate only if—

- (a) the premises for which the application under the *Liquor Act 1992* was made are not licensed premises under this Act; or
- (b) if the premises for which the application was made are licensed premises under this Act—
 - (i) the commission is prepared to grant a gaming machine licence to the applicant; and
 - (ii) satisfactory arrangements have been made for payment of any amounts payable by the current licensee under conditions mentioned in section 48 or under part 8.

(3) If a person—

- (a) applies under the *Liquor Act 1992* for the transfer of a club liquor licence, general liquor licence or prescribed liquor licence; and
- (b) applies at the same time for a gaming machine licence for the premises to which the application mentioned in paragraph (a) relates; and
- (c) the liquor licensing authority is prepared to transfer the liquor licence; and
- (d) the commission is prepared to grant the gaming machine licence;

the chief executive and the liquor licensing authority are to make arrangements so that the transfer of the liquor licence and the issue of the gaming machine licence happen at the same time.

Chief executive may alter or remove gaming machines etc.

55.(1) The chief executive may at any time remove from licensed premises any or all of the gaming machines provided to a licensee and provide the licensee with another gaming machine or other gaming machines.

(2) The chief executive—

- (a) on application made by a licensee in the approved form and on payment of the fee prescribed may approve that a gaming machine; or
- (b) if the chief executive thinks fit to do so, may cause a gaming machine to;

be altered to change the game to be played on the gaming machine or change the gaming token denomination or betting unit of the gaming machine.

(3) Where—

- (a) the commission determines under section 57(1) that the number of gaming machines provided to a licensee be decreased; or
- (b) a gaming machine licence is cancelled;

the chief executive must remove from the premises in question the number of gaming machines so determined or, as the case may be, all gaming machines on the premises.

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

Increase in gaming machines

56.(1) A licensee may make application to the chief executive that the number of gaming machines provided to the licensee be increased.

(2) An application under subsection (1)—

- (a) is to be made in the approved form and signed or executed in the same way as is specified in section 39(3)(b) or (c); and

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- (b) is to specify the increased number of gaming machines sought and the total number of gaming machines that would then be on the licensee's licensed premises in question should the application be granted; and
- (c) where appropriate, is to be accompanied by an application under section 58; and
- (d) is to contain or be accompanied by such other information, records, reports, documents and writings relating to the application or the licensee as are determined by the chief executive; and
- (e) is to be accompanied by the fee prescribed.

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

- (a) the increased number of gaming machines applied for in the application; and
- (b) the liquor consumption on the premises; and
- (c) the monthly taxable metered win of existing gaming machines operated on the premises; and
- (d) the hours and days when the premises are open for the sale of liquor; and
- (e) the size, layout and facilities of the premises together with any proposed modification or relocation of the gaming machine areas of the premises; and
- (f) such other matters as the chief executive considers are relevant.

(4) The chief executive must make a recommendation to the commission that the application—

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

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

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

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

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

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

Decrease in gaming machines

57.(1) The commission, having regard to the chief executive's recommendation under subsection (3), may determine that the number of gaming machines provided to a licensee be decreased by such number as the commission thinks fit.

(2) If the commission makes a determination under subsection (1), the chief executive must immediately give the licensee written notice of, and the reasons for, the determination.

(3) The chief executive must make a recommendation to the commission as soon as practicable after receipt of—

- (a) an application made to the chief executive by a licensee that the number of gaming machines provided to the licensee be decreased, accompanied, where appropriate by an application under section 58; or
- (b) a written request from the liquor licensing authority, the commissioner of fire service or the relevant local authority that the number of gaming machines provided to the licensee be decreased; or
- (c) the written report of an inspector with respect to—

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- (i) any general change in conditions that have happened in the neighbourhood in which the licensee's licensed premises are located; or
- (ii) any change in the licensee's circumstances; or
- (iii) any change in any of the matters referred to in section 40(7);

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

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

- (a) advise the licensee by written notice of the relevant details of any request or report made under subsection (3); and
- (b) give the licensee the opportunity of making a written submission with respect to the request or report within such time as is specified in the notice.

(5) The licensee must surrender to the chief executive or to a person authorised in that behalf by the chief executive the number of gaming machines specified in a determination made under subsection (1).

Maximum penalty for subsection (5)—1 000 penalty units or 5 years imprisonment.

Relocation of gaming machine areas

58.(1) A licensee must not relocate the gaming machine areas of the licensee's licensed premises without the approval of the chief executive.

Maximum penalty—200 penalty units or 1 year's imprisonment.

(2) An application for an approval under subsection (1) is to be accompanied by a plan of the premises indicating the proposed locations on the premises where it is intended to install gaming machines.

(4) Where—

- (a) the commission determines that the number of gaming machines provided to a licensee be decreased; or

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- (b) the chief executive considers that it is necessary for the proper conduct of gaming that the gaming machine areas of licensed premises be relocated;

the chief executive may, by written notice, direct the licensee to relocate the gaming machine areas of the licensee's licensed premises in accordance with the direction.

- (5) The licensee must comply with the chief executive's direction.

Maximum penalty—200 penalty units or 1 year's imprisonment.

- (6) The chief executive may before—

- (a) granting an approval under subsection (1); or
- (b) giving a direction under subsection (4);

require the licensee to furnish such information as the chief executive considers appropriate, and the licensee must comply with the requirement.

Maximum penalty—200 penalty units or 1 year's imprisonment.

- (7) The chief executive, having regard to—

- (a) the size, layout and facilities of the licensee's licensed premises; and
- (b) such other matters as the chief executive considers are relevant;

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

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

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

Disclosure of influential or benefiting parties

59.(1) At the time of making an application for—

- (a) a gaming machine licence—the applicant; or
- (b) a renewal of a gaming machine licence—the licensee;

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must forward to or lodge with the chief executive an affidavit made under this section.

(2) An applicant or licensee who undergoes any change in circumstances in relation to information contained in the last affidavit forwarded or lodged under this section by the applicant or licensee must, within 7 days of the change, forward to or lodge with the chief executive a fresh affidavit made under this section.

Maximum penalty—200 penalty units or 1 year's imprisonment.

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

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

(4) An affidavit under this section is to be in the approved form and must disclose—

- (a) whether or not there is any person (other than, where the applicant or licensee is a body corporate, the secretary, an executive officer, a member or shareholder of the body corporate carrying out the duties or exercising the normal rights the person has as such secretary, executive officer, member or shareholder) who will by any lease, agreement or arrangement be able to influence any decision made—
 - (i) in the case of the applicant or licensee being a natural person—by that person; or
 - (ii) in the case of the applicant or licensee being a body corporate—by the body corporate or the secretary or an executive officer of the body corporate;

in relation to the conduct of gaming by the applicant or licensee;
and

- (b) whether or not there is any person other than the applicant or

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licensee who by any lease, agreement or arrangement may expect any benefit from the applicant or licensee in relation to the conduct of gaming by the applicant or licensee; and

- (c) if there are any persons able to influence as referred to in paragraph (a) or expect benefit as referred to in paragraph (b)—
 - (i) where any such person is a natural person—the person's full name, address and date of birth; and
 - (ii) where any such person is a body corporate other than a club—the name of the body corporate and the full name, address and date of birth of the secretary and each executive officer of the body corporate; and
 - (iii) where any such person is a club or other voluntary association of persons—
 - (A) the name of the club or voluntary association of persons; and
 - (B) the full name, address and date of birth of the secretary and each executive officer of the club or voluntary association of persons; and
 - (C) particulars of any liquor licence held by the club or voluntary association of persons; and
 - (D) details of the objectives (if any) of the club or voluntary association of persons and whether or not the club is a non-proprietary club or the voluntary association of persons conducts its business in the same way as a non-proprietary club; and
 - (iv) full and correct particulars of the lease, agreement or arrangement; and
- (d) in the case of the applicant or licensee being a body corporate other than a club—the names of all persons who are substantial shareholders of the body corporate under of the Corporations Law, section 708.

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

Investigation of licensees and associates

60.(1) At any time while a gaming machine licence is in force the chief executive may cause to be undertaken such investigations as the chief executive considers are necessary in order to be satisfied that the licensee or any associate of the licensee is a suitable person to be a licensee or an associate of the licensee.

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

(3) The person must comply with the chief executive's requirement under subsection (2).

Maximum penalty for subsection (3)—200 penalty units or 1 year's imprisonment.

Cessation or commencement of executive officer or secretary

61. If an applicant under section 39 or a licensee is a body corporate, the body corporate must notify the chief executive in the form determined by the chief executive—

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

within 7 days of such cessation or commencement.

Maximum penalty—200 penalty units or 1 year's imprisonment.

Surrender of gaming machine licences

62.(1) A licensee, at any time, by forwarding to or lodging with the chief executive notification in the approved form, and the licensee's gaming machine licence, may surrender the licence.

(2) The notification is to be signed or executed in the same way as that

specified for an application made under section 39(3)(b) or (c).

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

(4) The licensee must comply with the chief executive's requirement under subsection (3).

Maximum penalty—200 penalty units or 1 year's imprisonment.

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

(6) A surrender of a gaming machine licence takes effect from the time all gaming machines are removed from the licensee's licensed premises or another time decided by the chief executive.

Cancellation or suspension of gaming machine licences in certain circumstances

63. If the liquor licence for premises licensed under this Act is—

- (a) cancelled, transferred or surrendered—the gaming machine licence for the premises is cancelled; or
- (b) suspended—the gaming machine licence for the premises is suspended for the same period as the liquor licence is suspended.

Cancellation or suspension of gaming machine licences and letters of censure

64.(1) A ground for cancellation or suspension of a gaming machine licence arises if—

- (a) the licensee—
 - (i) ceases to use the licensed premises for the conduct of gaming; or
 - (ii) obtained the licence on false, erroneous or misleading information; or
 - (iii) acquires, installs or uses any gaming machine on the licensed premises contrary to this Act; or

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- (iv) fails to comply with any provision of part 8; or
 - (v) fails to comply with any condition to which the licence is subject under section 48; or
 - (vi) fails to forward or lodge an affidavit in accordance with section 59(2); or
- (b) the licensee or an associate of the licensee—
- (i) is convicted of an offence against this Act; or
 - (ii) fails to discharge the licensee's or associate's financial commitments, becomes bankrupt or compounds with creditors or otherwise takes advantage of the laws in force for the time being relating to bankruptcy; or
 - (iii) is the subject of a winding-up, either voluntarily or under a court order, appointment of a liquidator, appointment of a receiver or receiver and manager or is placed under official management and an official manager appointed under the Corporations Law; or
 - (iv) is convicted of an indictable offence, whether on indictment or summarily, punishable in the particular case by imprisonment for 1 year or more (irrespective of whether the offence is also punishable by a fine in addition, or as an alternative, to imprisonment); or
 - (v) is required to comply with any written direction given to the licensee or associate by the commission or chief executive, and fails to comply with the direction; or
 - (vi) is required under this Act to supply information or material to the commission, the chief executive or an inspector, and fails to supply the information or material or supplies information or material that to the knowledge of the licensee or associate is false, erroneous or misleading in a material particular; or
- (c) the chief executive—
- (i) considers that the licensee has not made all reasonable efforts to comply with section 126; or
 - (ii) considers that the licensee has not made all reasonable

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efforts to enforce rules required to be enforced under section 105; or

- (iii) considers that the licensee or an associate of the licensee is not a fit and proper person in respect of financial stability, general reputation, character or business reputation to be a licensee or to be an associate of the licensee; or
- (iv) becomes aware of any information or matter that, had it been known when the application for the licence was being considered, the chief executive is of the opinion that the recommendation under section 40(2) would have been that the licence be refused; or
- (v) if the licensee is a club—considers—
 - (A) that the club has ceased to be a non-proprietary club; or
 - (B) that the proceeds from the conduct of gaming are being applied in a way that does not promote the objectives of the club; or
 - (C) that payments for the rental or lease of the club's licensed premises are unreasonable; or
 - (D) if a lease, agreement or arrangement made by the club provides that a person or voluntary association of persons is entitled to receive, or may receive, a payment, benefit or advantage during, or at the end of, the lease, agreement or arrangement—that the provision is unreasonable; or
 - (E) if members of the executive, governing or management body (however described) of the club are required to be nominated, or may be nominated, by a person who is not a member of the club or by a voluntary association of persons—that this is not in the best interests of the club's members; or
 - (F) if the club does not own the club's licensed premises and an executive officer or employee of the club is also the lessor, or an associate of the lessor, of the club—that this is not in the best interests of the club's members; or

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- (G) if an executive officer or employee of the club is a creditor, or an associate of a creditor, of the club—that this is not in the best interests of the club’s members; or
- (H) that payments made under the club’s objects are not in the best interests of the club’s members; or
- (I) that payments made for things purchased by the club are unreasonable; or
- (J) that salaries, wages, allowances or benefits paid or payable by the club to the club’s executive officers or employees are unreasonable; or
- (K) that payments for services provided to the club are unreasonable or are on the basis of a percentage of the club’s income, profits or earnings from the conduct of gaming or spending related to the conduct of gaming.

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

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

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

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

(6) Each person to whom the notice is issued may give a written answer to the chief executive at any time not later than the date specified in the notice in that respect.

(7) Any person to whom a copy notice is issued under subsection (3) may make such written submissions to the chief executive as the person

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thinks fit at any time not later than the date specified under subsection (4).

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

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

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

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

(11) If the chief executive makes a recommendation to the commission, the chief executive must submit the notice to show cause and answers, any

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submissions made and such other information or material in the chief executive's possession as the chief executive considers is relevant to the recommendation.

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

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

(13) If the commission cancels or suspends a licence, the chief executive must immediately give the licensee written notice of, and the reasons for, the cancellation or suspension.

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

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

Maximum penalty—40 penalty units.

(16) The commission, having regard to any recommendation of the chief executive in that regard, may—

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

imposed under subsection (12)(d).

Suspension of gaming machine licence pending decision under s 64

65.(1) Where the commission, having regard to the advice of the chief executive, is of the opinion that any act, omission or other thing that constitutes a ground under section 64(1) is of such a serious nature that the integrity of gaming or the conduct of gaming is jeopardised or the public interest is adversely affected, the commission may suspend the gaming machine licence until any action taken, or to be taken, under section 64 is finally determined.

(2) Where the commission suspends a gaming machine licence under subsection (1), the chief executive—

- (a) must immediately give the licensee written notice of, and the reasons for, the suspension; and
- (b) is not to take any action under section 64(8)(a), (b), (c)(i) or (10), in respect of the licence without the approval of the commission.

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

(4) Without prejudice to a suspension under subsection (1), where the commission suspends a gaming machine licence under that subsection the chief executive is to take action under section 64 as if the chief executive had formed the opinion referred to in section 64(2) in respect of the act, omission or other thing that constitutes the ground referred to in subsection (1).

Effect of suspension of licence

66. The suspension of a gaming machine licence under section 63, 64(12) or 65(1) has the same effect as the cancellation of the licence but without prejudice to—

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

Gaming machines not to be played

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

Maximum penalty—1 000 penalty units or 5 years imprisonment.

Recovery of gaming machines etc.

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

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

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

Maximum penalty for subsection (2)—200 penalty units or 1 year's imprisonment.

Appointment of administrator instead of suspension

69.(1) Without derogating from section 64 or 65, the commission may, in respect of a club, instead of suspending a gaming machine licence under section 64(12) or 65(1), appoint a person to administer the affairs of the club.

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

Expenses of administration

70.(1) The expenses of and incidental to the administration of the affairs

of a club by a person appointed under section 69 are payable by the club.

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

Liability for losses incurred during administration

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

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

(2) Neither the Crown nor the commission is liable for any loss incurred by a club during the term of office of a person appointed under section 69 to administer the affairs of the club, whether or not the person is liable.

Continuance of licences in certain circumstances

72.(1) If, under the *Liquor Act 1992*, part 5, division 2, a person is authorised to conduct the business of a person who is a licensee under this Act, then, subject to this Act—

- (a) the licensee's gaming machine licence continues in force for the period of the authorisation; and
- (b) the first person is authorised to conduct gaming on the licensee's licensed premises for the period of the authorisation.

(2) A person authorised under subsection (1)(b)—

- (a) is subject to the same liabilities under this Act as a licensee; and
- (b) is taken, for the purposes of part 8, to be the licensee whose business the person is authorised to conduct.

PART 3A—LICENSING OF MONITORING OPERATORS

Division 1—Interpretation

References to operations of licensed operators

72A. In this Act, a reference to the operations of a licensed operator is a reference to the operator's operations as a licensed operator.

References to particular licensed operators

72B. In this Act, a reference to a licensed operator in association with a reference to an operator's licence is a reference to the licensed operator who holds the operator's licence.

References to particular monitoring operators' licences

72C. In this Act, a reference to an operator's licence in association with a reference to a licensed operator is a reference to the operator's licence held by the licensed operator.

Control action under the Corporations Law

72D. For this Act, a licensed operator, or an associate of a licensed operator, is affected by control action under the Corporations Law if the operator or associate—

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

*Division 2—Suitability of persons***Suitability of applicants for, and holders of, monitoring operators' licences**

72E.(1) This section applies to the chief executive in deciding whether—

- (a) an applicant (the **“involved body”**) for an operator's licence is a suitable person to be a licensed operator; or
- (b) a licensed operator (also the **“involved body”**) is a suitable person to hold an operator's licence.

(2) The chief executive must have regard to the following issues—

- (a) the involved body's business reputation;
- (b) the involved body's current financial position and financial background;
- (c) for the secretary and each executive officer of the involved body—
 - (i) the person's character; and
 - (ii) the person's current financial position and financial background;
- (d) the involved body's general suitability to be a licensed operator;
- (e) whether the involved body has, or has arranged, a satisfactory ownership, trust or corporate structure;
- (f) whether the involved body has, or is able to obtain, enough financial resources to ensure the financial viability of the operations of a licensed operator;
- (g) whether the involved body has, or is able to obtain, the services of persons with appropriate business ability to enable the involved body to successfully conduct operations as a licensed operator;
- (h) whether the involved body has, or is able to obtain, the services of persons with appropriate knowledge or experience to enable the involved body to successfully operate electronic monitoring systems;
- (i) if the involved body has a business association with another

entity—

- (i) the entity's character or business reputation; and
- (ii) the entity's current financial position and financial background;
- (j) any other issue prescribed under a regulation.

Suitability of associates

72F.(1) This section applies to the chief executive in deciding whether—

- (a) an associate of an applicant for an operator's licence is a suitable person to be an associate of a licensed operator; or
- (b) an associate of a licensed operator is a suitable person to be an associate of a licensed operator.

(2) The chief executive must have regard to the following issues—

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

Other issues about suitability

72G. Sections 72E and 72F do not limit the issues the chief executive may have regard to in deciding a matter to which the section relates.

***Division 3—Applications for, and issue of, monitoring operators’
licences***

Application for licence

72H.(1) An application for an operator’s licence may be made only by a body corporate.

(2) An application must—

- (a) be made to the chief executive; and
- (b) be in the approved form.

(3) An application must be accompanied by the following—

- (a) a copy of the certificate of registration or incorporation as a body corporate of the applicant;
- (b) a copy of the memorandum and articles of association, rules, constitution or other incorporating documents of the applicant, in force when making the application;
- (c) a copy of the resolution or minute of the proceedings of the governing body of the applicant giving approval for making the application;
- (d) a copy of the last audited balance sheet or statement of the financial affairs of the applicant;
- (e) a disclosure affidavit;¹⁶
- (f) the application fee prescribed under a regulation.

(4) The copy of a document mentioned in subsection (3)(b) or (c) must be certified as a true copy by the secretary of the applicant or another person authorised by the applicant to make the certification.

Further information to support application

72I.(1) The chief executive may, by written notice given to an applicant or an associate of an applicant for an operator’s licence, require the applicant

¹⁶ Section 72ZZ (Disclosure affidavits about persons having influence or receiving benefits) deals with the requirements for disclosure affidavits.

or associate to give the chief executive further information about the application within the reasonable time stated in the notice.

(2) A notice under subsection (1) must relate to information the chief executive considers reasonable for making a recommendation to the commission about the application.

Change in circumstances of applicant

72J.(1) This section applies to an applicant for an operator's licence if, before the application is granted or refused, a change happens affecting—

- (a) information contained in, or accompanying, the application (other than information contained in a disclosure affidavit); or
- (b) information contained in, or accompanying, a notice, or the last notice, given to the chief executive under this section by the applicant.

(2) Within 7 days after the change, the applicant must give written notice of the change to the chief executive.

Maximum penalty for subsection (2)—200 penalty units or 1 year's imprisonment.

Fresh disclosure affidavit by applicant

72K.(1) This section applies to an applicant for an operator's licence if, before the application is granted or refused, a change happens affecting information contained in—

- (a) the disclosure affidavit that accompanied the application; or
- (b) a disclosure affidavit, or the last disclosure affidavit, given to the chief executive under this section by the applicant.

(2) Within 7 days after the change, the applicant must give a fresh disclosure affidavit to the chief executive.¹⁷

Maximum penalty for subsection (2)—200 penalty units or 1 year's imprisonment.

¹⁷ Section 72ZZ (Disclosure affidavits about persons having influence or receiving benefits) deals with the requirements for disclosure affidavits.

Consideration of application

72L. The chief executive must consider an application for an operator's licence as soon as practicable after receiving the application.

Investigations about application

72M.(1) In considering an application for an operator's licence, the chief executive must conduct the investigations the chief executive considers are necessary to help the chief executive decide—

- (a) whether the applicant is a suitable person to be a licensed operator; and
- (b) for a person who is a disclosed associate of the applicant—whether the person is a suitable person to be an associate of a licensed operator.

(2) Without limiting subsection (1), the chief executive may conduct the investigations the chief executive considers are necessary to help the chief executive decide whether a general associate of the applicant is a suitable person to be an associate of a licensed operator.

Criminal history reports for investigation

72N.(1) If the chief executive, in conducting an investigation about a person asks the commissioner of the police service for a written report about the person's criminal history, the commissioner must give the report to the chief executive.

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

Recommendation about application

72O.(1) After completing the consideration of an application for an operator's licence, the chief executive must recommend to the commission the application be granted or refused.

(2) In making a recommendation, the chief executive must have regard to—

- (a) the suitability of the applicant to be a licensed operator; and
- (b) for a person who is a disclosed associate of the applicant—the suitability of the person to be an associate of a licensed operator.

(3) Also, if the chief executive considers it is appropriate, the chief executive may, in making a recommendation, have regard to the suitability of a general associate of the applicant to be an associate of a licensed operator.

(4) The chief executive may recommend the granting of an application only if the chief executive is satisfied the applicant is a suitable person to be a licensed operator.

(5) The chief executive may recommend the refusal of an application if—

- (a) the chief executive has given a notice to the applicant, or a disclosed associate of the applicant, requiring the applicant or associate to give further information about the application; and
- (b) the applicant or associate has failed, without reasonable excuse, to give the information to the chief executive within the time stated in the notice.

Decision about application

72P.(1) The commission may grant or refuse to grant an application for an operator's licence.

(2) Before making its decision, the commission may, by written notice given to the applicant, or a disclosed associate of the applicant, require the applicant or associate to give the commission further information about the application within the reasonable time stated in the notice.

(3) A notice under subsection (2) must relate to information the commission considers reasonable for making a decision about the application.

(4) In making its decision, the commission—

- (a) must have regard to the chief executive's recommendation; and
- (b) may have regard to other issues the commission considers relevant.

(5) The commission may grant an application only if it is satisfied the

grant is not contrary to the public interest.

(6) The commission may refuse to grant an application if—

- (a) the commission has given a notice to the applicant, or a disclosed associate of the applicant, requiring the applicant or associate to give further information about the application; and
- (b) the applicant or associate has failed without reasonable excuse, to give the information to the commission within the time stated in the notice.

(7) If the commission decides to grant an application for an operator's licence, the chief executive must promptly issue the licence to the applicant on payment of the licence fee prescribed under a regulation.

(8) If the commission decides to refuse to grant an application for an operator's licence, the chief executive must promptly give the applicant an information notice about the decision.

Conditions of licences

72Q.(1) An operator's licence is issued on the conditions the commission considers necessary or desirable—

- (a) in the public interest; or
- (b) for the proper conduct of gaming; or
- (c) for the proper conduct by the licensed operator of its operations involving electronic monitoring systems.

(2) If an operator's licence is issued on conditions, the chief executive must promptly give the applicant an information notice about the commission's decision to impose the conditions.

Form of licence

72R.(1) An operator's licence must be in the approved form.

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

- (a) the name and address of the holder of the licence;

- (b) the date of issue of the licence;
- (c) the expiry date of the licence;
- (d) the conditions of the licence;
- (e) other particulars prescribed under a regulation.

Duration of licence

72S. An operator's licence remains in force for 10 years from its date of issue.

Division 4—Dealings affecting operators' licences

Changing conditions of licence

72T.(1) The commission may change the conditions of an operator's licence if the commission considers it is necessary or desirable to make the change—

- (a) in the public interest; or
- (b) for the proper conduct of gaming; or
- (c) for the proper conduct by the licensed operator of its operations involving electronic operating systems.

(2) If the commission decides to change the conditions, the chief executive must promptly give the licensed operator an information notice about the decision.

(3) The change of the conditions—

- (a) has effect from the day stated in the notice; and
- (b) does not depend on the licence being amended to record the change, or a replacement licence recording the change being issued.

(4) The commission's power to change the conditions of an operator's licence includes the power to add conditions to an unconditional licence.

Recording change of conditions

72U.(1) A licensed operator who receives an information notice under section 72T(2) must return the operator's licence to the chief executive within 14 days after receiving the notice, unless the operator has a reasonable excuse.

Maximum penalty—40 penalty units.

- (2)** On receiving the licence, the chief executive must—
- (a) amend the licence in an appropriate way and return the amended licence to the licensed operator; or
 - (b) if the chief executive does not consider it is practical to amend the licence—issue another operator's licence, incorporating the changed conditions, to the licensed operator to replace the licence returned to the chief executive.

Extension of licence

72V.(1) A licensed operator may apply for an extension of the operator's licence.

- (2)** An application must—
- (a) be made to the chief executive; and
 - (b) be in the approved form; and
 - (c) be made at least 1 month before the licence expires; and
 - (d) be accompanied by the application fee prescribed under a regulation.
- (3)** The chief executive may, by written notice given to the licensed operator, extend the term of the licence—
- (a) only if the chief executive believes special circumstances exist to warrant the extension; and
 - (b) only for a maximum period of 1 month from the date the licence would, apart from this section, expire.

Renewal of licence—application

72W.(1) A licensed operator may apply for renewal of the operator's licence.

(2) An application must—

- (a) be made to the chief executive; and
- (b) be in the approved form; and
- (c) be made—
 - (i) at least 1 month before the licence expires; or
 - (ii) if, before the licence expires, the chief executive extends the term of the licence—within the extended period.

(3) An application must be accompanied by the following—

- (a) a list of the names, addresses and dates of birth of—
 - (i) the secretary of the applicant; and
 - (ii) the executive officers of the applicant; and
 - (iii) all other persons who have been the secretary or an executive officer of the applicant since the licence was issued or last renewed;
- (b) a disclosure affidavit;¹⁸
- (c) the application fee prescribed under a regulation.

Renewal of licence—decision

72X.(1) The chief executive must consider an application for renewal of an operator's licence and renew, or refuse to renew, the licence.

(2) The chief executive must renew the licence if the licensed operator complies with section 72W and pays the licence renewal fee prescribed under a regulation.

(3) If the chief executive refuses to renew the licence, the chief executive must promptly give the applicant a written notice stating—

¹⁸ Section 72ZZ (Disclosure affidavits about persons having influence or receiving benefits) deals with the requirements for disclosure affidavits.

- (a) the decision; and
 - (b) the reasons for the decision; and
 - (c) that the person may appeal against the decision to the Minister within 14 days of the notice being given.
- (4) The renewal of a licence is for 10 years starting on—
- (a) the day after its last expiry; or
 - (b) if the term of the licence has been extended—the day after the licence would have last expired apart from the extension.

Replacement of licence

72Y.(1) A licensed operator may apply to the chief executive for the replacement of a lost, stolen, destroyed or damaged operator's licence.

(2) The application must be accompanied by the fee prescribed under a regulation for issuing a replacement licence.

(3) The chief executive must consider the application and—

- (a) replace the licence by issuing another operator's licence to the applicant; or
- (b) refuse to replace the licence.

(4) The chief executive must replace the licence if the chief executive is satisfied the licence—

- (a) has been lost, stolen or destroyed; or
- (b) has been damaged in a way to require its replacement.

(5) If the chief executive refuses to replace the licence, the chief executive must promptly give the applicant a written notice stating—

- (a) the decision; and
- (b) the reasons for the decision; and
- (c) that the person may appeal against the decision to the Minister within 14 days of the notice being given.

(6) A replacement licence has the same effect for all purposes as the licence it replaces.

Licence not transferable

72Z. An operator's licence is not transferable.

Surrender of licence

72ZA.(1) A licensed operator may surrender the operator's licence by written notice given to the chief executive.

(2) The notice must—

- (a) be in the approved form; and
- (b) be accompanied by the licence.

(3) The chief executive must give the operator a notice stating the day the surrender is to take effect.

(4) The day stated by the chief executive must be—

- (a) at least 1 month after the day the notice was given; but
- (b) not longer than 3 months after the day the notice was given.

Division 5—Investigation of licensed operators and associates**Audit programs**

72ZB.(1) The Minister may approve an audit program for investigating licensed operators or associates of licensed operators.

(2) The chief executive is responsible for ensuring an investigation of a person under an approved audit program is conducted under the program.

(3) However, a person may be investigated under an approved audit program only once every 2 years.

Investigation of licensed operator

72ZC.(1) The chief executive may conduct an investigation the chief executive considers is necessary to help the chief executive decide whether a licensed operator is a suitable person to hold an operator's licence.

(2) However, the chief executive may conduct an investigation under this

section only if—

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

Investigation of associate

72ZD.(1) The chief executive may conduct an investigation the chief executive considers is necessary to help the chief executive decide whether an associate of a licensed operator is a suitable person to be an associate of a licensed operator.

(2) However, the chief executive may conduct an investigation under this section only if—

- (a) the chief executive reasonably suspects the associate is not a suitable person to be an associate of the licensed operator; or
- (b) the investigation is conducted under an audit program for associates of licensed operators approved by the Minister.

Requirement to give information or material for investigation

72ZE.(1) The chief executive may, by written notice given to a person to whom an investigation under this division relates, require the person to give the chief executive information or material the chief executive considers is relevant to the investigation.

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

Failure to give information or material for investigation

72ZF.(1) A person of whom a requirement is made under section 72ZE must comply with the requirement, unless the person has a reasonable excuse.

Maximum penalty—200 penalty units or 1 year's imprisonment.

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

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

Division 6—Suspension and cancellation of monitoring operators’ licences

Grounds for suspension or cancellation

72ZG.(1) A ground for suspending or cancelling an operator’s licence exists if the licensed operator, or an associate of the operator—

- (a) is not a suitable person—
 - (i) to hold an operator’s licence; or
 - (ii) to be an associate of a licensed operator; or
- (b) is convicted of an offence against this Act; or
- (c) is convicted of an indictable offence (whether on indictment or summarily) punishable by imprisonment for at least 1 year (irrespective of whether the offence is also punishable by a fine in addition, or as an alternative, to imprisonment); or
- (d) contravenes a provision of this Act (being a provision a contravention of which is not an offence against this Act); or
- (e) fails to discharge the operator’s or associate’s financial commitments; or
- (f) is affected by control action under the Corporations Law.

(2) Also, a ground for suspending or cancelling the licence exists if—

- (a) the licensed operator contravenes a condition of the licence; or
- (b) the licence was issued because of a materially false or misleading representation or declaration.

Show cause notice

72ZH.(1) This section applies if the chief executive believes—

- (a) a ground exists to suspend or cancel an operator’s licence; and
- (b) the act, omission or other thing constituting the ground is of a serious nature; and
- (c) either—
 - (i) the integrity of gaming or the conduct of gaming may be jeopardised; or
 - (ii) the public interest may be affected adversely.

(2) The chief executive must give the licensed operator a written notice (a “**show cause notice**”)—

- (a) stating that action (the “**proposed action**”) is proposed to be taken under this division about the operator’s licence; and
- (b) stating the grounds for the proposed action; and
- (c) outlining the facts and circumstances forming the basis for the grounds; and
- (d) inviting the operator to show within a stated period (the “**show cause period**”) why the proposed action should not be taken.

(3) The show cause period must end not less than 21 days after the show cause notice is given to the operator.

(4) The licensed operator may make written representations about the show cause notice to the chief executive in the show cause period.

Involvement of interested persons in show cause process

72ZI.(1) The chief executive must give a copy of the show cause notice to each person (an “**interested person**”) the chief executive considers has an interest in the operator’s licence.

(2) An interested person to whom a copy of the show cause notice is given may make written representations about the notice to the chief executive in the show cause period.

Consideration of representations

72ZJ. The chief executive must consider all written representations (the “**accepted representations**”) made in the show cause period by—

- (a) the licensed operator; or
- (b) an interested person to whom a copy of the show cause notice is given.

Ending show cause process without further action

72ZK.(1) This section applies if, after considering the accepted representations for the show cause notice, the chief executive no longer believes a ground exists to suspend or cancel the operator’s licence.

(2) The chief executive must not take further action about the show cause notice.

Censuring licensed operator

72ZL.(1) This section applies if, after considering the accepted representations for the show cause notice, the chief executive—

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

(2) This section also applies if the chief executive has not given a show cause notice to a licensed operator, but—

- (a) believes a ground exists to suspend or cancel the operator’s licence; and
- (b) does not believe the giving of a show cause notice is warranted.

(3) The chief executive may, by written notice given to the licensed operator, censure the operator for a matter relating to the ground for suspension or cancellation.

Direction to rectify

72ZM.(1) This section applies if, after considering the accepted representations for the show cause notice, the chief executive—

- (a) still believes a ground exists to suspend or cancel the operator's licence; and
- (b) believes further action, other than censuring of the licensed operator, is warranted.

(2) This section also applies if there are no accepted representations for the show cause notice.

(3) The chief executive may—

- (a) by written notice given to the licensed operator, direct the operator to rectify a matter relating to the ground for suspension or cancellation within the period stated in the notice; or
- (b) take action under section 72ZN.

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

(5) The chief executive may direct the licensed operator to rectify a matter only if the chief executive considers—

- (a) the matter is reasonably capable of being rectified; and
- (b) it is appropriate to give the operator an opportunity to rectify the matter.

Recommendation to suspend or cancel

72ZN.(1) This section applies if—

- (a) the circumstances mentioned in section 72ZM(1) or (2) exist and the chief executive has not directed the licensed operator to rectify a matter; or
- (b) the licensed operator fails to comply with a direction to rectify a matter within the period stated in the relevant notice.

(2) The chief executive may recommend to the commission that the operator's licence be suspended or cancelled.

(3) The chief executive must give to the commission with the recommendation—

- (a) a copy of the show cause notice; and
- (b) the accepted representations for the show cause notice; and
- (c) any other information or material in the chief executive's possession the chief executive considers is relevant to the recommendation.

Decision of commission

72ZO.(1) On receiving a recommendation from the chief executive, the commission may—

- (a) decide not to take any action in relation to the licensed operator or operator's licence; or
- (b) by written notice given to the licensed operator, censure the operator for a matter relevant to the show cause notice; or
- (c) if the commission considers a matter relevant to the show cause notice is reasonably capable of being rectified—by written notice given to the licensed operator, direct the operator to rectify the matter within the reasonable period stated in the commission's notice; or
- (d) suspend the operator's licence for the period the commission considers appropriate; or
- (e) cancel the operator's licence.

(2) In making its decision under subsection (1), the commission—

- (a) must have regard to—
 - (i) the chief executive's recommendation; and
 - (ii) the accepted representations, and any other information or material, given to the commission by the chief executive with the recommendation; and
- (b) may have regard to any other information or material the commission considers is relevant.

(3) If the commission directs the licensed operator to rectify a matter and

the operator fails to comply with the direction within the period stated in the relevant notice, the commission may—

- (a) suspend the operator's licence for the period the commission considers appropriate; or
- (b) cancel the operator's licence.

Suspension or cancellation

72ZP.(1) If the commission decides to suspend or cancel an operator's licence, the chief executive must promptly give the licensed operator an information notice about the decision.

(2) The decision takes effect on—

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

(3) If an operator's licence is cancelled, the person to whom the information notice about the decision is given must, within 14 days after receiving the notice, return the licence to the chief executive.

Maximum penalty—200 penalty units or 1 year's imprisonment.

(4) At any time a suspension of an operator's licence is in force, the commission may, by written notice given to the operator, for any remaining period of suspension—

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

(5) In making its decision under subsection (4), the commission must have regard to any relevant recommendation of the chief executive.

Immediate suspension

72ZQ.(1) The commission may suspend an operator's licence if the commission believes—

- (a) a ground exists to suspend or cancel the licence; and
- (b) the act, omission or other thing constituting the ground is of a serious nature; and

(c) either—

- (i) the integrity of gaming or the conduct of gaming is jeopardised; or
- (ii) the public interest is affected adversely.

(2) In making a decision to suspend an operator's licence, the commission must have regard to any advice about the suspension given to it by the chief executive.

(3) If the commission decides to suspend an operator's licence, the chief executive—

- (a) must promptly give the licensed operator an information notice; and
- (b) must give the operator a show cause notice as if the chief executive had formed the belief mentioned in section 72ZH(1)¹⁹ about the act, omission or other thing constituting the ground for suspending the licence; and
- (c) must not, without the commission's agreement—
 - (i) make a decision under section 72ZK; or²⁰
 - (ii) take action under section 72ZL or 72ZM.²¹

(4) The suspension of an operator's licence—

- (a) takes effect—
 - (i) when the information notice is given to the licensed operator; or
 - (ii) if an earlier notice of the suspension is given orally to the licensed operator by the chief executive—when the oral notice is given to the licensed operator; and
- (b) continues to operate until the show cause notice is finally dealt with.

¹⁹ Section 72ZH (Show cause notice)

²⁰ Section 72ZK (Ending show cause process without further action)

²¹ Section 72ZL (Censuring licensed operator) or 72ZM (Direction to rectify)

(5) The giving of a show cause notice does not affect a suspension under subsection (1).

Effect of suspension

72ZR. The suspension of an operator's licence has the same effect as the cancellation of the licence, but does not affect—

- (a) a penalty or liability incurred by the licensed operator; or
- (b) the exercise of the powers of the commission, the chief executive or an inspector.

Notices to interested persons

72ZS. If under any of the following sections, the chief executive or the commission is required to take, or not to take, action or the chief executive or the commission decides to take or not to take action, the chief executive must, as soon as practicable, give written notice of the requirement or decision to each interested person—

- (a) section 72ZK(2);
- (b) section 72ZL(3);
- (c) section 72ZM(5);
- (d) section 72ZO(1);
- (e) section 72ZQ(3)(a) and (b).

Division 7—Obligations of licensed operators

Change in circumstances of licensed operator

72ZT.(1) A licensed operator must, within 7 days after the happening of an event mentioned in subsection (2), give written notice of the event to the chief executive.

Maximum penalty—200 penalty units or 1 year's imprisonment.

(2) The events required to be notified by the licensed operator are as follows—

- (a) the operator changes its name or address;
- (b) the operator is convicted of—
 - (i) an offence against this Act; or
 - (ii) an indictable offence (whether on indictment or summarily) punishable by imprisonment for at least 1 year (irrespective of whether the offence is also punishable by a fine in addition, or as an alternative, to imprisonment);
- (c) the operator is affected by control action under the Corporations Law.

Fresh disclosure affidavit by licensed operator

72ZU.(1) This section applies to a licensed operator if a change happens affecting information contained in—

- (a) the disclosure affidavit that accompanied the application for the operator's licence; or
- (b) a disclosure affidavit, or the last disclosure affidavit, given to the chief executive under section 72K²² by the operator; or
- (c) a disclosure affidavit, or the last disclosure affidavit, given to the chief executive under this section by the operator.

(2) Within 7 days after the change, the licensed operator must give a fresh disclosure affidavit to the chief executive.

Maximum penalty for subsection (2)—200 penalty units or 1 year's imprisonment.

Change of officers of licensed operator

72ZV.(1) This section applies to a licensed operator if a change happens by which a person stops being, or becomes, the secretary or an executive officer of the operator.

(2) The licensed operator must, as required by this section, notify the chief executive of—

²² Section 72K (Fresh disclosure affidavit by applicant)

- (a) the change; and
- (b) the name, address and date of birth of the person involved in the change.

Maximum penalty—200 penalty units or 1 year's imprisonment.

(3) The notice must—

- (a) be in the approved form; and
- (b) be given within 7 days after the change.

Returns about licensed key monitoring employees

72ZW.(1) A licensed operator must give the chief executive a return as required by this section stating the name and licence number of each person employed by the operator as a licensed key monitoring employee when the return is given.

Maximum penalty—40 penalty units.

(2) The return must be in the approved form and must be given—

- (a) within 7 days after the operator's licence is issued; and
- (b) each time the licensed operator applies for renewal of the licence.

(3) The chief executive may also request a return at other times.

(4) A return under subsection (3) must also be in the approved form and must be given within 7 days of the chief executive's request.

(5) A request under subsection (3) must not be made within 3 months of the last request made to the licensed operator under subsection (3).

Change of licensed key monitoring employees

72ZX.(1) This section applies to a licensed operator if—

- (a) a person becomes employed by the operator as a licensed key monitoring employee; or
- (b) a person stops being employed by the operator as a licensed key monitoring employee.

(2) The licensed operator must give the chief executive a notice as

required by this section stating—

- (a) the person's name and licence number; and
- (b) the name and licence number of each other person employed by the operator as a licensed key monitoring employee when the notice is given.

Maximum penalty—40 penalty units.

(3) The notice must—

- (a) be in the approved form; and
- (b) be given within 7 days after the person becoming, or stopping to be, employed by the licensed operator as a licensed key monitoring employee.

Ending person's employment

72ZY.(1) If a licensed operator becomes aware a person employed by the operator as a licensed key monitoring employee is not a licensed key monitoring employee, the operator must immediately end the person's employment as a licensed key monitoring employee.

Maximum penalty—200 penalty units or 1 year's imprisonment.

(2) Subsection (1) applies despite another Act or law or any award or agreement of an industrial nature.

(3) A licensed operator does not incur any liability because the operator ends the employment of a person under subsection (1).

Division 8—Other matters

Disclosure affidavits about persons having influence or receiving benefits

72ZZ.(1) This section applies to each of the following affidavits (a "disclosure affidavit")—

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- (a) an affidavit required by section 72H(3)²³ to accompany an application made by a person for an operator's licence;
- (b) an affidavit required by section 72K²⁴ to be given to the chief executive by an applicant for an operator's licence;
- (c) an affidavit required by section 72W²⁵ to accompany an application for renewal of an operator's licence made by the licensed operator;
- (d) an affidavit required by section 72ZU²⁶ to be given to the chief executive by a licensed operator.

(2) In this section, a reference to the responsible body is a reference to each of the following—

- (a) a person mentioned in subsection (1)(a);
- (b) an applicant mentioned in subsection (1)(b);
- (c) a licensed operator mentioned in subsection (1)(c) or (d).

(3) The affidavit must be made by—

- (a) the principal executive officer of the responsible body; or
- (b) if the principal executive officer does not have knowledge of the relevant facts—another person who has the knowledge and is authorised by the responsible body to make the affidavit.

(4) The affidavit must disclose the following—

- (a) whether or not a person (other than an authorised involved person of the responsible body) may, under an agreement, be able to influence a decision made by the responsible body, or the secretary or an executive officer of the responsible body, about the performance of the general functions that are, or are to be, permitted by the operator's licence;
- (b) whether or not a person (other than the responsible body) may,

²³ Section 72H (Application for licence)

²⁴ Section 72K (Fresh disclosure affidavit by applicant)

²⁵ Section 72W (Renewal of licence—application)

²⁶ Section 72ZU (Fresh disclosure affidavit by licensed operator)

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under an agreement, expect to receive a benefit from the responsible body because of the performance of the general functions that are, or are to be, permitted by the operator's licence;

- (c) the names of all persons who are substantial shareholders of the responsible body under the Corporations Law, section 708.²⁷

(5) Also, if there is a person who satisfies a description mentioned in subsection (4)(a) or (b), the affidavit must disclose—

- (a) if the person is an individual—the person's name, address and date of birth; and
- (b) if the person is a body corporate—
 - (i) the body corporate's name; and
 - (ii) the name, address and date of birth of the secretary and each executive officer of the body corporate; and
- (c) full and correct particulars of the agreement.

(6) Despite subsections (4) and (5), the affidavit need not disclose anything prescribed under a regulation as being exempt from the operation of this section.

(7) In this section—

“agreement” includes a lease or arrangement.

“authorised involved person”, of a responsible body, means the secretary, or an executive officer, member or shareholder, of the responsible body carrying out the duties, or exercising the normal rights, the person has in that capacity.

²⁷ Corporations Law, section 708 (Substantial shareholdings and substantial shareholders)

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

Unlicensed persons not to install etc. gaming equipment

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

Maximum penalty—200 penalty units or 1 year's imprisonment.

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

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

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

Maximum penalty—200 penalty units or 1 year's imprisonment.

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

Unlicensed persons not to be service contractors

74.(1) A person must not enter into a service contract with a licensee, a person on behalf of a licensee or the chief executive unless the first person is—

- (a) a licensed service contractor; or
- (b) a licensed repairer carrying on the business of a licensed repairer in the person's own right and not as a partner in a partnership.

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

- (a) a licensed service contractor; or
- (b) a licensed repairer referred to in subsection (1)(b);

to subcontract from the licensed service contractor or licensed repairer a service contract unless the person is a licensed service contractor or a

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

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

- (a) a licensed service contractor; or
- (b) a licensed repairer referred to in subsection (1)(b).

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

Maximum penalty—200 penalty units or 1 year's imprisonment.

Unlicensed persons not to be machine managers

75.(1) Subject to subsections (4) and (6), such duties as are prescribed for the purposes of this subsection must be carried out only by a licensed machine manager who is employed under subsection (3) to carry out the duties in respect of the licensee's licensed premises.

Maximum penalty—200 penalty units or 1 year's imprisonment.

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

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

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

Maximum penalty—200 penalty units or 1 year's imprisonment.

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

Maximum penalty—200 penalty units or 1 year's imprisonment.

(4) If a licensee is unable to comply with subsection (3), the licensee, with the approval of the chief executive, may employ a sufficient number of persons (who are applicants for a machine manager's licence) so that there are at least 2 persons who are licensed machine managers or applicants for a

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machine manager's licence to carry out the duties prescribed for the purposes of subsection (1) in respect of each of the licensee's licensed premises.

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

Maximum penalty—200 penalty units or 1 year's imprisonment.

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

(7) Until a licensee is able to comply with subsection (5) or obtains the chief executive's approval under subsection (6), the licensee must cease the conduct of gaming on the licensee's licensed premises.

Maximum penalty—200 penalty units or 1 year's imprisonment.

Unlicensed persons not to be key monitoring employees

75A.(1) A person must not carry out a function of a key monitoring employee unless the person is a licensed key monitoring employee.

Maximum penalty—200 penalty units or 1 year's imprisonment.

(2) A licensed operator must not—

- (a) employ, or use the services of, a person to carry out a function of a key monitoring employee unless the person is a licensed key monitoring employee; or
- (b) allocate, or permit to be allocated, to a person the carrying out of any function of a key monitoring employee unless the person is a licensed key monitoring employee.

Maximum penalty for subsection (2)—200 penalty units or 1 year's imprisonment.

Certain persons must apply for machine manager's licence

76.(1) Where the commission, having regard to the advice of the chief executive, considers that any person connected with, or who is an employee of, a licensee—

- (a) has the power to exercise a significant influence over the conduct of gaming by the licensee; or
- (b) because of—
 - (i) that person's remuneration or policy making position; or
 - (ii) any other criteria determined by the Minister;

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

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

(2) The commission must cause a copy of the notice to be served on the licensee.

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

Maximum penalty—200 penalty units or 1 year's imprisonment.

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

(5) The licensee immediately a notice under subsection (4) is served, despite any other Act or law or any industrial award or agreement, must terminate the connection with or employment of the person.

Maximum penalty—200 penalty units or 1 year's imprisonment.

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

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- (a) that person, on receipt of notification of the refusal, must cease to be connected or employed as referred to in subsection (1); and
- (b) the licensee, on receipt of the notification of the refusal, must terminate the connection or employment.

Maximum penalty—200 penalty units or 1 year’s imprisonment.

(7) A licensee does not incur any liability in respect of the termination under this section of any connection or employment referred to in subsection (1).

Certain persons must apply for key monitoring employee’s licence

76A.(1) If the commission, having regard to any relevant advice of the chief executive, considers a person is a key officer of a licensed operator, the commission must, by written notice given to the person, require the person, within 7 days after receiving the notice, either—

- (a) to apply for a key monitoring employee’s licence; or
- (b) to stop being a key officer of the operator.

(2) The commission must give a copy of the notice to the licensed operator.

(3) The person to whom the notice is given must, within 7 days after receiving the notice, comply with the requirement (the “**licensing requirement**”) stated in the notice, unless the person has a reasonable excuse.

Maximum penalty—200 penalty units or 1 year’s imprisonment.

(4) If the person fails to comply with the licensing requirement, the commission must give written notice of the failure to the licensed operator.

(5) The licensed operator must, immediately on receipt of the notice under subsection (4), end the association with, or employment of, the person.

Maximum penalty—200 penalty units or 1 year’s imprisonment.

(6) If the person complies with the licensing requirement by applying for a key monitoring employee’s licence but the commission refuses to grant the application—

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- (a) on receipt by the person of notice of the refusal—the person must stop being a key officer of the licensed operator; and
- (b) on receipt by the operator of notice of the refusal—the operator must end the association with, or employment of, the person.

Maximum penalty—200 penalty units or 1 year's imprisonment.

(7) Subsections (5) and (6)(b) apply to the licensed operator despite another Act or law or any award or agreement of an industrial nature.

(8) A licensed operator does not incur any liability because the operator ends an association with, or the employment of, a person under this section.

Applications for licences under this part

77.(1) An application for the grant of a repairer's, service contractor's, machine manager's or key monitoring employee's licence—

- (a) is to be made in the approved form; and
- (b) in the case of an application by a natural person—is to be signed by the applicant; and
- (c) in the case of an application by a body corporate—is to be—
 - (i) executed under the common seal of the body corporate and signed by 2 executive officers of the body corporate authorised in that behalf by the body corporate; or
 - (ii) if the chief executive considers that subparagraph (i) cannot reasonably be complied with, executed or signed in such other way as the chief executive allows; and
- (d) is to state the full name, address and date of birth—
 - (i) in the case of an application by a natural person—of the applicant; and
 - (ii) in the case of an application by a body corporate—of the secretary and each executive officer of the body corporate; and
- (e) in the case of an application for a repairer's, machine manager's or key monitoring employee's licence—is to be accompanied by photographs of the applicant, of such type and number as are

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determined by the chief executive and certified in such way as is so determined; and

- (f) in the case of an application by a body corporate—is to be accompanied by—
 - (i) a copy of the certificate of incorporation of the body corporate; and
 - (ii) a copy of the memorandum and articles of association, rules, constitution or other incorporating documents in force at the time of making the application certified as a true copy by the secretary of the body corporate or other person properly authorised in that behalf by the body corporate; and
 - (iii) a copy of the resolution or minute of the proceedings of the governing body of the body corporate by which approval was given to the making of the application, certified as a true copy by the person certifying the copy of the matters referred to in subparagraph (ii); and
 - (iv) a copy of the last audited balance sheet or statement of the financial affairs of the body corporate; and
- (g) in the case of an application for a repairer's or service contractor's licence—is to be accompanied by an affidavit under section 89; and
- (h) is to contain or be accompanied by such other information, records, reports, documents and writings relating to the application and applicant as are determined by the chief executive; and
- (i) is to be forwarded to or lodged with the chief executive; and
- (j) is to be accompanied by the fee prescribed.

(2) It is a condition precedent to consideration of an application for a repairer's, machine manager's or key monitoring employee's licence that the applicant is agreeable to the applicant's fingerprints and palm prints being taken by or on behalf of the chief executive.

Changes in circumstances of applicants for and holders of licences

78.(1) If a person applies for a licence under this part and, before the application is granted or refused, a change happens in any information contained in, or accompanying, the application or in a notice given under this subsection, the applicant must, within 7 days of the change, give the chief executive written notice of the change.

Maximum penalty—200 penalty units or 1 year's imprisonment.

(2) If, after the grant of a licence under this part, an event mentioned in subsection (3) happens, the holder of the licence must, within 7 days of the happening of the event, give the chief executive written notice of the event.

Maximum penalty—200 penalty units or 1 year's imprisonment.

(3) The events required to be notified by the holder of the licence are—

- (a) the holder of the licence changes name or address; or
- (b) the holder of the licence—
 - (i) is convicted of an offence against this Act; or
 - (ii) if the holder is an individual—fails to discharge the holder's financial commitments, becomes bankrupt or compounds with creditors or otherwise takes advantage of the laws about bankruptcy; or
 - (iii) if the holder is a body corporate—is the subject of a winding-up (whether voluntarily or under a court order), appointment of a liquidator, appointment of a receiver or receiver and manager, or is placed under official management and an official manager appointed under the Corporations Law; or
 - (iv) is convicted of an indictable offence (whether on indictment or summarily) punishable in the particular case by imprisonment for at least 1 year (irrespective of whether the offence is also punishable by a fine in addition, or as an alternative, to imprisonment).

Consideration of applications

79.(1) Upon receipt of an application for a licence under this part, and

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compliance by the applicant with this part in relation to the application, the chief executive must—

- (a) if the application is for a repairer's, machine manager's or key monitoring employee's licence—cause the fingerprints and palm prints of the applicant to be taken; and
- (b) initiate and have followed through such investigations as the chief executive considers are necessary in relation to the application; and
- (c) consider the application and anything accompanying it together with the results of investigations made under paragraph (b) and make an assessment of—
 - (i) if the applicant is a natural person—the financial stability, general reputation and character of the applicant; and
 - (ii) if the applicant is a body corporate—the business reputation and financial stability of the body corporate and the general reputation, financial stability and character of the secretary and executive officers of the body corporate; and
 - (iii) if any person is mentioned in an affidavit under section 89—the suitability of that person to be an associate of the applicant; and
 - (iv) if the chief executive considers it appropriate, the suitability of any other associate of the applicant to be an associate of the applicant; and
 - (v) the suitability of the applicant to be a holder of the licence for which application is made.

(2) The chief executive must make a recommendation to the commission that a licence under this part be granted or refused.

(3) The chief executive is not to recommend that a licence be granted if—

- (a) if the applicant is an individual—
 - (i) the applicant is not 18; or
 - (ii) the applicant has failed to have fingerprints and palm prints taken under subsection (1)(a) or section 77(2);
- (b) in the case of an application by a body corporate—the secretary or

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any of the executive officers of the body corporate has not attained the age of 18 years;

- (c) the applicant, or an associate of the applicant, has failed to submit information or material required by the chief executive or the commission under subsection (4).

(4) The chief executive or commission may require the applicant, or any associate of the applicant, to submit such additional information or material as the chief executive or the commission considers is necessary in order to make a recommendation or decision.

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

(6) Where—

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

any fingerprints and palm prints of the applicant or person taken under subsection (1)(a), in respect of that application or licence, are to be destroyed as soon as practicable.

Commission may grant or refuse to grant licences

80.(1) The commission, having regard to the recommendation of the chief executive and to such other information or material as the commission considers is relevant, may grant or refuse to grant licences under this part.

(2) The chief executive must immediately give the applicant written notice of—

- (a) the commission's decision; and
- (b) if the application is refused—the reasons for the refusal.

(3) If the chief executive grants an approval under section 75(4), the chief executive is to give a copy of the notification under subsection (2) to the licensee to whom the approval was granted.

Issue of licences

81.(1) Where the commission grants a licence under this part, the chief executive must issue the licence.

(2) The licence is to be in the approved form for the licence in question and is to—

- (a) specify the name of the holder of the licence; and
- (b) in the case of a repairer's licence, machine manager's or key monitoring employee's licence—show on the licence the photograph of the holder of the licence; and
- (c) specify the expiry date of the licence; and
- (d) specify any conditions imposed under section 84.

Issue of copy licence

82.(1) If the chief executive is satisfied that a licence under this part that is in force has been damaged, lost or destroyed, the chief executive, upon payment of the fee prescribed, may issue to the holder of the licence a copy of the licence.

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

Term of licences

83.(1) Subject to this Act, a licence under this part remains in force for 2 years from the date of issue of the licence.

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

Conditions of licences

84. A licence under this part is subject to such conditions (including any variation of the conditions made under section 85) as the commission may impose in the public interest or for the proper conduct of gaming at the time of granting the licence or under section 85.

Variation of conditions imposed on a licence

85.(1) Where the commission in the public interest or for the proper conduct of gaming, at any time after granting a licence under this part, considers that—

- (a) the imposition of conditions or further conditions on the licence; or
- (b) a variation to the conditions imposed on the licence under section 84 or paragraph (a) of this subsection;

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

(2) If the commission imposes or varies conditions under subsection (1), the chief executive must immediately give the holder of the licence written notice of—

- (a) the conditions or varied conditions; and
- (b) reasons for the imposition or variation.

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

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

Maximum penalty—40 penalty units.

(5) After endorsing the licence, the chief executive is to return it to the holder of the licence.

Renewal and continuance of licences

86.(1) A holder of a licence under this part may apply to the chief executive for renewal of the licence.

(2) Application under subsection (1)—

- (a) is to be in the approved form; and
- (b) in the case of a repairer's, machine manager's or key monitoring employee's licence—is to be accompanied by photographs of the

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applicant, of such type and number as are required under the form; and

- (c) is to be accompanied by the fee prescribed; and
- (d) is to be made, unless the chief executive otherwise allows, at least 1 month before the expiration of the licence; and
- (e) in the case of an application by a body corporate—is to be accompanied by a list of the names, addresses and dates of birth of—
 - (i) the secretary of the body corporate; and
 - (ii) the executive officers of the body corporate; and
 - (iii) all other persons who have been the secretary or an executive officer of the body corporate since the licence was granted or last renewed; and
- (f) in the case of a repairer's or service contractor's licence—is to be accompanied by an affidavit under section 89.

(3) If the chief executive considers that special circumstances exist, the chief executive may extend the term of a licence under this part, or renewal of the licence, for 1 month from the date of its expiration to allow the holder of the licence to comply with this section.

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

(5) If a licensee complies with this section, the chief executive must renew the licence for 2 years starting on—

- (a) the day after its last expiry; or
- (b) the day it would have last expired apart from its extension under subsection (3).

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

Licences not to be transferred

87. A licence under this part is not to be transferred.

Display of certain licences

88.(1) A licensed repairer must at all times whilst installing, altering, adjusting, maintaining or repairing gaming equipment on licensed premises display the licensed repairer's licence currently in force on the licensed repairer's person in such way as to be visible to other persons unless the licence at any material time is in the possession of the chief executive.

Maximum penalty—40 penalty units.

(2) A licensed key monitoring employee carrying out functions as a key monitoring employee must, if asked by another person, produce the key monitoring employee's licence held by the employee for the other person's inspection, unless, at the material time, the licence is in the chief executive's possession.

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

Disclosure of influential or benefiting parties

89.(1) At the time of making an application for—

- (a) a repairer's or service contractor's licence—the applicant; or
- (b) a renewal of a repairer's or service contractor's licence—the licensed repairer or licensed service contractor;

must forward to or lodge with the chief executive an affidavit made under this section.

(2) An applicant or a licensed repairer or licensed service contractor who undergoes any change in circumstances in relation to information contained in the last affidavit forwarded or lodged under this section by the applicant or holder of the licence must, within 7 days of the change, forward to or lodge with the chief executive a fresh affidavit made under this section.

Maximum penalty—200 penalty units or 1 year's imprisonment.

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

- (a) in the case of any applicant for or holder of the licence being a natural person—that person; or
- (b) in the case of any applicant for or holder of the licence being a body corporate—

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- (i) the principal executive officer of the body corporate; or
- (ii) if that officer does not have knowledge of the facts—some other person who has knowledge of the facts and who is authorised by the body corporate to make the affidavit.

(4) An affidavit under this section is to be in the approved form and must disclose—

- (a) whether or not there is any person (other than, where the applicant or holder of the licence is a body corporate, the secretary, an executive officer, a member or shareholder of the body corporate carrying out the duties or exercising the normal rights the person has as such secretary, executive officer, member or shareholder) who will by any lease, agreement or arrangement be able to influence any decision made—

- (i) in the case of the applicant or holder of the licence being a natural person—by that person; or
- (ii) in the case of the applicant or holder of the licence being a body corporate—by the body corporate or the secretary or an executive officer of the body corporate;

in relation to the performance of the general functions that are, or are to be, permitted by the licence; and

- (b) whether or not there is any person other than the applicant or holder of the licence who by any lease, agreement or arrangement may expect any benefit from the applicant or holder in relation to the performance of the general functions that are, or are to be, permitted by the licence; and

- (c) if there is any person able to influence as referred to in paragraph (a) or expect benefit as referred to in paragraph (b)—

- (i) where any such person is a natural person—the person's full name, address and date of birth; and
- (ii) where any such person is a body corporate—the name of the body corporate and the full name, address and date of birth of the secretary and each executive officer of the body corporate; and

- (iii) full and correct particulars of the lease, agreement or

arrangement; and

- (d) in the case of the applicant or holder of the licence being a body corporate—the names of all persons who are substantial shareholders of the body corporate under the Corporations Law, section 708.

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

Investigations of holders of licences and associates

90.(1) At any time while a licence under this part is in force, the chief executive may cause to be undertaken such investigations as the chief executive considers are necessary in order to be satisfied that the holder of the licence, or any associate of the holder, is a suitable person to be a holder of a licence under this part or an associate of the holder.

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

(3) The person must comply with the requirement of the chief executive under subsection (2).

Maximum penalty for subsection (3)—200 penalty units or 1 year's imprisonment.

Cessation or commencement of executive officer or secretary

91. A licensed service contractor that is a body corporate must notify the chief executive in the approved form—

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

within 7 days of ceasing or starting.

Maximum penalty—200 penalty units or 1 year's imprisonment.

Notifications re employment and agreements

92.(1) In this section—

“employer” means a licensee, licensed repairer or licensed service contractor.

(2) An employer—

- (a) within 7 days of being granted the licence; and
- (b) each time application for renewal of the licence is made;

must notify the chief executive in the approved form of the names, and licence numbers under this Act, of all persons employed by the employer as licensed repairers at the time of making the notification.

Maximum penalty—40 penalty units.

(3) An employer within 7 days—

- (a) of starting to employ a person as a licensed repairer; or
- (b) of such a person ceasing to be employed by the employer as a licensed repairer;

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

Maximum penalty—40 penalty units.

(4) An employer—

- (a) within 7 days of being granted the licence; and
- (b) each time application for renewal of the licence is made;

must notify the chief executive in the form determined by the chief executive of the name, and licence number under this Act, of all other persons with whom the employer has a service contract at the time of making the notification.

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Maximum penalty—40 penalty units.

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

Maximum penalty—40 penalty units.

(6) A licensee—

- (a) within 7 days of being granted the licence; and
- (b) each time application for renewal of the licence is made;

must notify the chief executive in the form determined by the chief executive of—

- (c) the names and licence numbers under this Act of all licensed machine managers who are employed under section 75(3) in respect of the licensee's licensed premises in question at the time of making the notification; and
- (d) the names of all persons who are applicants for a machine manager's licence, who are employed under section 75(4) in respect of the licensee's licensed premises in question at the time of making the notification.

Maximum penalty—40 penalty units.

(7) A licensee within 7 days of—

- (a) employing a licensed machine manager under section 75(3); or
- (b) any person ceasing to be employed by the licensee under section 75(3) or 75(4);

must notify the chief executive in the form determined by the chief executive of—

- (c) the name of that licensed machine manager or person and the licence number under this Act of that licensed machine manager; and
- (d) the name and licence number under this Act, of all other licensed

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machine managers who are employed under section 75(3) in respect of the licensee's licensed premises in question at the time of making the notification; and

- (e) the names of all other persons who are applicants for a machine manager's licence who are employed under section 75(4) in respect of the licensee's licensed premises in question at the time of making the notification.

Maximum penalty—40 penalty units.

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

Maximum penalty—200 penalty units or 1 year's imprisonment.

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

Maximum penalty—200 penalty units or 1 year's imprisonment.

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

Maximum penalty—200 penalty units or 1 year's imprisonment.

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

- (a) a person employed by the licensee under section 75(3) is not a licensed machine manager; or
- (b) the application of a person employed by the licensee under section 75(4) has been refused;

the licensee must immediately terminate the employment under section 75(3) or (4).

Maximum penalty—200 penalty units or 1 year's imprisonment.

(12) The provisions of subsection (8), (9), (10) or (11) is sufficient authority to terminate the employment or service contract referred to in that

subsection, despite any other Act or law or any industrial award or agreement.

(13) No right of action arises against any person because of that termination.

Surrender of licences

93.(1) The holder of a licence under this part, at any time, by forwarding to or lodging with the chief executive notification in the approved form, and the licence under this part, may surrender the licence.

(2) The notification is to be signed or executed in the same way as that specified for an application made under section 77(1)(b) or (c).

Cancellation or suspension of licences under this part

94.(1) A ground for cancellation or suspension of a licence under this part arises if—

- (a) the holder of the licence—
 - (i) obtained the licence on false, erroneous or misleading information; or
 - (ii) fails to comply with any condition to which the licence is subject under section 84; or
 - (iii) fails to forward or lodge an affidavit in accordance with section 89(2); or
- (b) the holder of the licence or an associate of the holder—
 - (i) is convicted of an offence against this Act; or
 - (ii) fails to discharge the holder's or associate's financial commitments, becomes bankrupt or compounds with creditors or otherwise takes advantage of the laws in force for the time being relating to bankruptcy; or
 - (iii) is the subject of a winding-up, either voluntarily or under a court order, appointment of a liquidator, appointment of a receiver or receiver and manager or is placed under official management and an official manager appointed under the

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Corporations Law; or

- (iv) is convicted of an indictable offence, whether on indictment or summarily, punishable in the particular case by imprisonment for 1 year or more (irrespective of whether the offence is also punishable by a fine in addition, or as an alternative, to imprisonment); or
 - (v) is required to comply with any written direction given to the holder or associate by the commission or chief executive, and fails to comply with the direction; or
 - (vi) is required under this Act to supply information or material to the commission, the chief executive or an inspector, and fails to supply the information or material or supplies information or material that to the knowledge of the holder or associate is false, erroneous or misleading in a material particular; or
- (c) the chief executive—
- (i) considers that the holder of the licence or an associate of the holder is not a fit and proper person in respect of financial stability, general reputation, character or business reputation to be a holder of a licence or to be an associate of the holder of a licence; or
 - (ii) becomes aware of any information or matter that, had it been known when the application for the licence was being considered, the chief executive is of the opinion that the recommendation under section 79(1) would have been that the licence be refused.

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

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

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

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

(6) Each person to whom the notice is issued may give a written answer to the chief executive at any time not later than the date specified in the notice in that respect.

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

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

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

(9) If a direction given by the chief executive under subsection (8)(c)(i) is

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not complied with within the time specified in the notice, the chief executive may recommend to the commission that the licence be cancelled or suspended.

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

(11) If the chief executive makes a recommendation to the commission, the chief executive must submit the notice to show cause and answers, any submissions made and such other information or material in the chief executive's possession as the chief executive considers is relevant to the recommendation.

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

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

(13) If the commission cancels or suspends a licence, the chief executive must immediately give the applicant written notice of, and the reasons for, the cancellation or suspension.

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

(15) Upon receipt of a notice of cancellation under subsection (13), the

person to whom the notice is addressed must cause the licence to be delivered to the chief executive within 14 days.

Maximum penalty—200 penalty units or 1 year's imprisonment.

(16) The commission, at any time, having regard to any recommendation of the chief executive in that regard, may—

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

imposed under subsection (12)(d).

Suspension of licences pending decision under s 94

95.(1) Where the commission, having regard to the advice of the chief executive, is of the opinion that any act, omission or other thing that constitutes a ground under section 94(1) is of such a serious nature that the integrity of gaming or the conduct of gaming is jeopardised or the public interest is adversely affected, the commission may suspend a licence under this part until any action taken, or to be taken, under section 94 is finally determined.

(2) Where the commission suspends a licence under subsection (1), the chief executive—

- (a) must immediately give the holder of the licence written notice of, and the reasons for, the suspension; and
- (b) is not to take any action under section 94(8)(a), (b) or (c)(i) or (10) in respect of the licence without the approval of the commission.

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

(4) Without prejudice to a suspension under subsection (1), where the commission suspends a licence under that subsection the chief executive is to take action under section 94 as if the chief executive had formed the

opinion referred to in section 94(2) in respect of the act, omission or other thing that constitutes the ground referred to in subsection (1).

Effect of suspension of licence

96. The suspension under section 94(12) or 95(1) of a licence under this part has the same effect as the cancellation of the licence but without prejudice to—

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

Provisional licences

97.(1) The commission may grant to an applicant for a licence under this part a provisional licence if the commission considers that—

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

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

(3) Where the commission grants a provisional licence, the chief executive must issue the licence in the approved form and endorse on the licence any conditions imposed under subsection (2).

(4) A provisional licence remains in force until—

- (a) a repairer's licence, service contractor's licence, machine manager's or key monitoring employee's licence is granted and issued or the commission refuses to grant the licence; or
- (b) it is surrendered by its holder; or
- (c) it is cancelled by the commission.

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

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

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

PART 5—SUPERVISION AND MANAGEMENT OF GAMING

Installation and storage of gaming machines by licensees

98.(1) Subject to subsection (2), a licensee must install a gaming machine provided to the licensee under section 55 in a gaming machine area on the licensee's licensed premises.

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

Maximum penalty—200 penalty units or 1 year's imprisonment.

(3) A licensee must not store a gaming machine for more than 1 month without the chief executive's written approval.

Maximum penalty for subsection (3)—200 penalty units or 1 year's imprisonment.

Licensee's register of gaming machines

98A.(1) Each licensee must keep a register listing all gaming machines on the licensee's licensed premises.

Maximum penalty—200 penalty units or 1 year's imprisonment.

(2) The register must be in the approved form and must show if each gaming machine—

- (a) is owned or leased by the licensee; and
- (b) is, or is not, connected to an electronic monitoring system.

(3) In this section—

“**leased**” includes supplied under a hire-purchase agreement under the *Hire-purchase Act 1959*.

Gaming machines not to be played if not installed in gaming machine area

99.(1) Subject to subsection (2), a person who plays or allows another person to play a gaming machine—

- (a) that is provided by the chief executive, a licensed operator or an approved financier to a licensee; and
- (b) that is not installed in a gaming machine area;

commits an offence against this Act.

Maximum penalty—1 000 penalty units or 5 years imprisonment.

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

- (a) that is provided to a licensee; and
- (b) that is not installed in a gaming machine area;

in the course of altering, adjusting, maintaining, repairing or testing the gaming machine.

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

Gaming equipment not to be an annoyance etc.

100.(1) A licensee must not locate, or allow to be located, gaming equipment on the licensee’s licensed premises in such a way as to be an annoyance due to the location of the gaming equipment, the noise generated

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by the operation of the equipment or for any other reason.

Maximum penalty—40 penalty units.

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

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

Maximum penalty—40 penalty units.

(3) Other than as may be provided by the game of a gaming machine or any arrangement or system approved under section 149, a person must not—

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

Maximum penalty—200 penalty units or 1 year's imprisonment.

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

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

(5) A listed person, licensee or person who fails to comply with a

direction given under subsection (4) commits an offence against this Act.

Maximum penalty—200 penalty units or 1 year's imprisonment.

Installation of electronic monitoring systems

101.(1) A licensee must not install or operate, or cause to be installed or operated, an electronic monitoring system or centralised credit system on the licensee's licensed premises—

- (a) without the chief executive's written approval; and
- (b) unless the system is installed by the chief executive or a licensed operator.

Maximum penalty—200 penalty units or 1 year's imprisonment.

(2) The chief executive or a licensed operator may—

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

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

Maximum penalty—200 penalty units or 1 year's imprisonment.

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

- (a) locations, to the satisfaction of the chief executive or a licensed operator, for the installation of equipment connected with; and
- (b) any electricity or other operating requirements of;

an electronic monitoring system installed on the licensee's licensed premises under subsection (2).

Maximum penalty—200 penalty units or 1 year's imprisonment.

(5) A licensee must, at the licensee's expense, provide the chief executive or a licensed operator, continuous, free and unfettered access to—

- (a) any data held in or available from; and
- (b) the operation of;

an electronic monitoring system approved under subsection (1) or installed under subsection (2).

Maximum penalty—200 penalty units or 1 year's imprisonment.

Basic monitoring fees

101A. If a licensed operator supplies basic monitoring services to a licensee, the licensed operator must not charge the licensee more than the basic monitoring fee prescribed under a regulation for supplying basic monitoring services.

Maintenance of facilities etc.

102.(1) A licensee must—

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

Maximum penalty—200 penalty units or 1 year's imprisonment.

(2) A licensee must not—

- (a) employ or allow; or
- (b) cause or allow any other person to employ or allow;

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

Maximum penalty—40 penalty units.

Hours of gaming

103. A licensee must not conduct gaming, or allow gaming to be conducted, in any part of the licensee's licensed premises—

- (a) when, under the liquor licence relating to the premises, liquor is not permitted to be consumed in the part of the premises; or
- (b) when the licensee or an employee of the licensee is not in the part of the premises to supervise gaming; or
- (c) during a period prescribed for the purposes of this section.

Maximum penalty—200 penalty units or 1 year's imprisonment.

Rules ancillary to gaming

104.(1) Activities ancillary to gaming are subject to rules known as rules ancillary to gaming.

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

- (a) such rules ancillary to gaming as are prescribed; or
- (b) those rules as amended, added to, repealed or substituted under subsection (3).

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

- (a) amend, add to or repeal; or
- (b) substitute a rule or other rules for;

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

(4) If the chief executive takes action under subsection (3) (other than by way of approval), the chief executive by written notice, must advise the licensee accordingly.

(5) Any amendment, addition, repeal or substitution made under subsection (3) takes effect from the date specified for the purpose in the chief executive's written notice or approval.

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

Rules ancillary to gaming to be displayed and enforced

105. A licensee, when gaming is being conducted on the licensee's licensed premises, must cause the rules ancillary to gaming that are, at that time, the rules for the licensed premises—

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

Maximum penalty—40 penalty units.

Licensees not to extend credit

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

Maximum penalty—200 penalty units or 1 year's imprisonment.

Gaming tokens

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

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

Maximum penalty—200 penalty units or 1 year's imprisonment.

Gaming tokens that are not Australian currency

108.(1) This section does not apply to a gaming token that—

- (a) has no value marked on the gaming token; and
- (b) forms part of a centralised credit system approved under section 101(1).

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

- (a) during the time the person is a licensee; and
- (b) for 1 year after the person ceases to be a licensee;

redeem the gaming token for the value that is marked on the gaming token.

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

- (a) the gaming token is approved by the chief executive for use on the licensee's licensed premises; and
- (b) the value (in Australian currency) that the gaming token represents for the purpose of gaming on the licensee's licensed premises is approved by the chief executive; and
- (c) the gaming token is of the physical characteristics approved by the chief executive; and
- (d) there is marked on the gaming token, in such a way as is approved by the chief executive—
 - (i) the value approved under paragraph (b); and
 - (ii) the name of the licensee or a symbol, approved by the chief executive, that clearly identifies the licensee from all other licensees; and
 - (iii) the name of the licensed premises or a symbol, approved by the chief executive, that clearly identifies the licensed premises from all other licensed premises; and
- (e) the gaming token is in good condition.

(4) Before placing an order to purchase gaming tokens that are not Australian currency with a manufacturer of gaming tokens, a licensee must

obtain from the chief executive approval for the purchase of the gaming tokens.

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

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

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

Maximum penalty—200 penalty units or 1 year's imprisonment.

Payments in connection with gaming

109.(1) A licensee must make a payment in connection with—

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

with Australian currency unless the payment—

- (c) is required to be made in another way—
 - (i) that is prescribed; or
 - (ii) in accordance with the rules for the licensee's licensed premises required to be displayed and enforced under section 105; or
- (d) is to be made under subsection (2).

Maximum penalty—200 penalty units or 1 year's imprisonment.

(2) A licensee, if requested by a person entitled to a payment referred to in subsection (1) (other than a payment to which subsection (1)(c) applies) and if the licensee thinks fit to do so, may make the payment by—

- (a) gaming tokens (other than Australian currency); or

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

Entitlement of players

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

Maximum penalty—200 penalty units or 1 year's imprisonment.

Malfunction of gaming machines

111.(1) A machine manager may refuse—

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

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

(2) Subsection (1) applies irrespective of the reason for the failure of the gaming machine to function in the way in which it was designed and programmed to function.

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

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

Maximum penalty—200 penalty units or 1 year’s imprisonment.

(4) A licensee—

- (a) may, on review of the copy of the report referred to in subsection (3); or
- (b) must, if so directed by the chief executive;

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

Maximum penalty for subsection (4)(b)—200 penalty units or 1 year’s imprisonment.

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

Defective gaming machines not allowed

112.(1) In this section—

“**licensee**” includes—

- (a) a machine manager in respect of the licensed premises in question; and
- (b) if the licensee is a body corporate—the secretary or any executive officer of the body corporate; and
- (c) any person employed by the licensee who may be required by the licensee to—
 - (i) supervise gaming; or
 - (ii) attend to gaming machines; or
 - (iii) sell or redeem gaming tokens; or
 - (iv) carry out centralised credit transactions;on the licensee’s licensed premises in question.

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

- (a) that is installed on the licensee’s licensed premises; and
- (b) that does not function in the way in which it was designed and

programmed to function;

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

Maximum penalty—200 penalty units or 1 year's imprisonment.

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

- (a) had taken all reasonable precautions to ensure that the gaming machine was functioning in the way in which it was designed and programmed to function; and
- (b) at the time of the alleged offence did not know, and ought not to have known, that the gaming machine was not functioning in the way in which it was designed and programmed to function.

Security of keys etc.

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

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

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

requirements prescribed in relation to the key or other device.

Maximum penalty—200 penalty units or 1 year's imprisonment.

Certain persons only to have access etc. to gaming machines

114. A person must not, in relation to a gaming machine on licensed premises—

- (a) open the gaming machine; or
- (b) check gaming tokens contained inside the gaming machine; or
- (c) remove gaming tokens from the cabinet or drop box of the

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gaming machine; or

- (d) place gaming tokens into the gaming machine (other than for the purpose of playing a game upon the gaming machine);

unless the person is—

- (e) the licensee of the licensed premises; or
- (f) where the licensee is a body corporate—the secretary or executive officer of the body corporate in the genuine execution of the duties of such secretary or executive officer; or
- (g) a machine manager in respect of the licensed premises; or
- (h) an employee of the licensee who is employed wholly or in part to attend to gaming machines; or
- (i) an employee of the licensee who is assisting in carrying out money clearances; or
- (j) a licensed repairer in the performance of duties as a licensed repairer; or
- (k) performing duties under a contract approved under section 115(1); or
- (l) an inspector in the performance of functions under this Act.

Maximum penalty—200 penalty units or 1 year's imprisonment.

Contracts for certain services to be approved

115.(1) Subject to subsection (2), a licensee, any person acting on behalf of a licensee or any other person must not, without the approval of the commission, enter into any agreement for the provision of any service in relation to—

- (a) the sale and redemption of gaming tokens on the licensee's licensed premises; or
- (b) the supervision of gaming on the licensee's licensed premises; or
- (c) attending to gaming machines or carrying out centralised credit transactions on the licensee's licensed premises; or
- (d) carrying out on the licensee's licensed premises—

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- (i) money clearances; or
- (ii) any function resulting from money clearances; or
- (iii) any function, required to be carried out under section 156(2) or 157(2); or
- (e) keeping and maintaining accounts under section 158; or
- (f) making monthly gaming machine reconciliation reports under section 159; or
- (g) any other function prescribed to be a function to which this section applies.

Maximum penalty—200 penalty units or 1 year's imprisonment.

(2) Subsection (1) does not apply to—

- (a) the employment of an individual by a licensee to carry out, on the licensee's licensed premises, a service mentioned in subsection (1); or
- (b) an agreement between a licensee and a licensed operator for electronically monitoring the licensee's gaming machines in conjunction with supplying a service mentioned in subsection (1).

Licenses to keep records of certain employees

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

- (a) supervise gaming; and
- (b) attend to gaming machines or carry out centralised credit transactions; and
- (c) carry out—
 - (i) money clearances; or
 - (ii) any function resulting from money clearances; or
 - (iii) any function required by this Act to be carried out in

conjunction with a money clearance; and

- (d) carry out any other function that is prescribed as being a function to which this section applies;

on the licensed premises in question.

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

Maximum penalty—200 penalty units or 1 year's imprisonment.

Minors cannot be employed

117. A licensee must not employ a minor in any capacity in relation to the operation of gaming machines.

Maximum penalty—250 penalty units.

Minors cannot play gaming machines

118. A minor must not play a gaming machine on licensed premises.

Maximum penalty—25 penalty units.

Minors cannot be allowed to game

119.(1) A person must not allow a minor to play a gaming machine on licensed premises.

(2) A person who contravenes subsection (1) commits an offence punishable on conviction by a maximum penalty of a fine of—

- (a) if the person is the licensee or a machine manager of the premises—250 penalty units;
- (b) in any other case—40 penalty units.

False representation of age

120.(1) A person must not falsely represent himself or herself to have attained 18 years with the intent of playing a gaming machine.

Maximum penalty—25 penalty units.

(2) A person must not—

- (a) make a false document that could reasonably be taken to be genuine acceptable evidence of age for the purposes of this Act; or
- (b) give such a false document to another person;

knowing the document to be false and with intent that the document be used as acceptable evidence of age for the purposes of this Act.

Maximum penalty—

- (a) in the case of a minor—25 penalty units; and
- (b) in the case of an adult—40 penalty units.

Wrongful dealing with genuine evidence of age

121.(1) A person must not knowingly give a document that is evidence of age of the person mentioned in the document (the “**specified person**”) to someone else, if the person giving the document knows or has reasonable grounds to suspect that the document may be used—

- (a) as evidence of age for this Act of someone other than the specified person; or
- (b) to obtain a document that is acceptable evidence of age for this Act of someone other than the specified person.

Maximum penalty—40 penalty units.

(2) A person must not wilfully or negligently deface or interfere with a document that is, for the purposes of this Act, acceptable evidence of age of the person or another person.

Maximum penalty—40 penalty units.

Seizure of document wrongly used as evidence of age

122.(1) If a contravention of section 120 consists in production of—

- (a) a genuine document that is, for the purposes of this Act, acceptable evidence of age of the person specified in the document; or
- (b) a false document that could reasonably be taken, for the purposes of this Act, to be genuine acceptable evidence of age;

the person to whom the document is produced must seize and confiscate the document and give it to an inspector or a police officer.

Maximum penalty—25 penalty units.

(2) A person does not commit an offence by contravening subsection (1) if the person is not aware of the falsity of the representation as to age made by producing the document.

Ascertainment of age

123.(1) For the purposes of this Act, an authorised person may, on licensed premises, require another person whom the authorised person suspects on reasonable grounds to be a minor and to be contravening a provision of this Act—

- (a) to state all relevant particulars concerning the other person's age; and
- (b) to produce evidence of the other person's age.

(2) If a person required under subsection (1) refuses to state particulars, or to produce evidence, as to age the authorised person must prohibit the suspected minor from playing gaming machines on the licensed premises.

(3) In this section—

“authorised person” includes—

- (a) the licensee of the licensed premises; and
- (b) a machine manager of the licensed premises; and
- (c) an employee of the licensee of the licensed premises; and

- (d) an inspector; and
- (e) a police officer.

Seizure of material associated with representation of age

124. If an inspector or a police officer reasonably believes or suspects that a person—

- (a) has made, or caused to be made, a false document in contravention of section 120(2)(a); or
- (b) is in possession of a document given to the person in contravention of section 120(2)(b) or 121(1); or
- (c) is in possession of a document defaced or interfered with in contravention of section 121(2);

the inspector or police officer may seize and confiscate—

- (d) in the case specified in paragraph (a)—
 - (i) all documents made in contravention of section 120(2)(a) in the person's possession; and
 - (ii) all equipment and materials in the person's possession reasonably suspected by the inspector or officer to have been used, or to be intended for use, in contravening section 121(2)(a); or
- (e) in the case specified in paragraph (b) or (c)—the document in respect of which section 120(2)(b) or 121(1) or (2) appears to have been contravened.

Defence to charge if age material

125.(1) If the age of a person is material to a charge of an offence against this Act, it is a defence to prove that, at the time of the offence, the defendant (if the defendant is the actual offender) or an agent or employee (if the defendant is charged merely because of being principal or employer of the actual offender)—

- (a) honestly and reasonably believed that the person whose age is material to the offence had attained 18 years; or

- (b) had sighted acceptable evidence of age of the person whose age is material to the offence that indicated the person had attained 18 years;

and the operation of the Criminal Code, section 24 is excluded.

(2) Evidence that the defendant (if the defendant is the actual offender) or an agent or employee (if the defendant is charged merely because of being principal or employer of the actual offender) did not request the person whose age is material to the offence to produce acceptable evidence of age is evidence that any belief that the person had attained 18 years was not reasonable.

Licenses to prohibit certain persons from gaming

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

Removal of certain persons

127.(1) A licensee may cause a person to be removed from, or refuse to allow a person to enter, the licensee's licensed premises if the person—

- (a) breaches the rules for the licensed premises required to be displayed and enforced under section 105; or
- (b) damages or physically abuses a gaming machine; or
- (c) behaves in a way likely to cause offence to other persons; or
- (d) is suspected on reasonable grounds of being on the premises for the purpose of committing an offence or aiding another person to commit an offence against this Act.

(2) A licensee must cause to be removed from the licensee's licensed premises a person who is prohibited under section 123(2) or 126 from playing gaming machines on the premises if the person plays, or induces another person to play, a gaming machine on behalf of the first person.

Maximum penalty—250 penalty units.

(3) A licensee, or other person acting for a licensee, may use such force and assistance as are necessary and reasonable in removing a person from, or preventing a person from entering, the licensee's licensed premises under subsection (1) or (2).

Obstruction to removal from licensed premises

128. If a person is seeking under section 127(1) or (2) to remove a person from licensed premises, the person whose removal is sought must not—

- (a) refuse to leave the premises when required by the first person; or
- (b) resist the first person.

Maximum penalty—25 penalty units.

Obstruction generally

129. A person must not obstruct or hinder a licensee, machine manager or any other employee of a licensee in the exercise of a power or performance of a function under this Act.

Maximum penalty—100 penalty units.

PART 6—CONTROL OF GAMING MACHINES

Recognised manufacturers and suppliers of gaming machines

130.(1) The chief executive must cause to be maintained in the division a roll of recognised manufacturers and suppliers of gaming machines.

(2) The chief executive must cause to be listed on the roll—

- (a) the name of any tenderer under section 144 who the chief executive considers complies with this Act; and
- (b) the name of any other person who the chief executive considers is an appropriate person to be listed on the roll.

(3) A person can not be an appropriate person for subsection (2)(b) unless the person has submitted a gaming machine type or game for evaluation under section 146 and the gaming machine type or game was approved under the section.

Recognised suppliers of restricted components

131.(1) The chief executive must cause to be maintained in the division a roll of recognised suppliers of restricted components.

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

Maximum penalty—200 penalty units or 1 year's imprisonment.

(3) A person who intends to operate a genuine business as a supplier of restricted components must notify the chief executive in writing.

Maximum penalty—200 penalty units or 1 year's imprisonment.

(4) Subject to section 134, the chief executive must cause the name of a person who is the subject of a notification under subsection (2) or (3) to be listed on the roll of recognised suppliers of restricted components.

Application for removal from a roll under this part

132.(1) A listed person may make application in writing to the chief executive for removal of the person's name from the roll of recognised manufacturers and suppliers of gaming machines or the roll of recognised suppliers of restricted components.

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

(3) The chief executive, if an application under subsection (1) is granted, must cause the name of the applicant to be removed from the roll of recognised manufacturers and suppliers of gaming machines or the roll of recognised suppliers of restricted components.

Investigations of suitability of listed persons

133.(1) At any time the chief executive may cause to be undertaken such investigations as the chief executive considers are necessary in order to satisfy the commission that a listed person or any associate of the listed person is a suitable person to be a listed person or an associate of the listed person.

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

(3) The person must comply with the requirement of the chief executive under subsection (2).

Maximum penalty—200 penalty units or 1 year's imprisonment.

Commission may order removal of names of persons from a roll under this part

134.(1) The commission may order the chief executive to remove the name of a listed person from the roll of recognised manufacturers and suppliers of gaming machines or the roll of recognised suppliers of restricted components—

- (a) if the listed person or an associate of the listed person—
 - (i) is convicted of an offence against this Act; or
 - (ii) fails to discharge the listed person's or associate's financial commitments, becomes bankrupt or compounds with creditors or otherwise takes advantage of the laws in force for the time being relating to bankruptcy; or
 - (iii) is the subject of a winding-up, either voluntarily or under a court order, appointment of a liquidator, appointment of a receiver or receiver and manager or is placed under official management and an official manager appointed under the Corporations Law; or
 - (iv) is convicted of an indictable offence, whether on indictment or summarily, punishable in the particular case by imprisonment for 1 year or more (irrespective of whether the offence is also punishable by a fine in addition, or as an

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alternative, to imprisonment); or

- (v) is required to comply with any written direction given to the listed person or associate by the commission or the chief executive, and refuses or fails to comply with the direction and the commission is of the opinion that the refusal or failure jeopardises the integrity of gaming or the conduct of gaming or adversely affects the public interest; or
 - (vi) is required under this Act to supply information or material to the commission, the chief executive or an inspector, and fails to supply the information or material, or supplies information or material that to the knowledge of the listed person or associate is false, erroneous or misleading in a material particular; or
- (b) if at any time the commission considers that the listed person or an associate of the listed person is not a fit and proper person to continue to be a listed person or an associate of the listed person.

(2) Where the commission orders the chief executive to remove the name of a person from a roll under this part, the chief executive must remove the name of the person from the roll of recognised manufacturers and suppliers of gaming machines or the roll of recognised suppliers of restricted components and immediately give the person written notice of, and the reasons for, the removal.

(3) A person whose name has been removed under section 132 or this section from a roll under this part must not again be listed on a roll under this part without the approval of the commission.

(4) If the commission refuses to approve that the name of a person whose name has been removed under this section or section 132 from a roll under this part be again listed, the chief executive must immediately give the person written notice of, and the reasons for, the refusal.

Manufacture, sale, supply, obtaining or possession of gaming machines

135.(1) A person must not manufacture, sell, supply, obtain or be in possession of—

- (a) a gaming machine; or

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

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

Maximum penalty—1 000 penalty units or 5 years imprisonment.

(1A) A licensed operator, approved financier, licensee or a gaming trainer may, with the chief executive's written approval, buy a gaming machine from the chief executive or a recognised manufacturer or supplier of gaming machines.

(1B) However, if a gaming machine was last used, or is being used, by a licensee for the conduct of gaming or by a gaming trainer for conducting a genuine training course relating to the conduct of gaming and the owner of the machine is a licensed operator, approved financier, licensee or a gaming trainer, the operator, financier, licensee or trainer may, with the approval of the chief executive, sell the machine to a licensed operator, approved financier, licensee, licensed service contractor, licensed repairer or gaming trainer.

(1C) The purchase of a gaming machine under subsection (1A) or the sale of a gaming machine under subsection (1B) may be only for the purpose of—

- (a) if the buyer is a licensed operator—
 - (i) selling, or owning and leasing, the machine to a licensee for the conduct of gaming or a gaming trainer for conducting a genuine training course relating to the conduct of gaming; or
 - (ii) owning and leasing the machine to another licensed operator for subleasing the machine to a licensee for the conduct of gaming or a gaming trainer for conducting a genuine training course relating to the conduct of gaming; or
- (b) if the buyer is an approved financier—owning and leasing the machine to—
 - (i) a licensed operator for subleasing the machine to a licensee for the conduct of gaming or a gaming trainer for conducting a genuine training course relating to the conduct of

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gaming; or

- (ii) another approved financier for subleasing to—
 - (A) a licensed operator for further subleasing by the operator to a licensee for the conduct of gaming or a gaming trainer for conducting a genuine training course relating to the conduct of gaming; or
 - (B) a licensee for the conduct of gaming; or
 - (C) a gaming trainer for conducting a genuine training course relating to the conduct of gaming; or
- (iii) a licensee for the conduct of gaming; or
- (iv) a gaming trainer for conducting a genuine training course relating to the conduct of gaming; or
- (c) if the buyer is a licensee—owning the machine for the conduct of gaming; or
- (d) if the buyer is a licensed service contractor or licensed repairer—owning the machine for the purpose of using it for spare parts; or
- (e) if the buyer is a gaming trainer—owning the machine for conducting a genuine training course relating to the conduct of gaming.

(1D) To avoid doubt, it is declared that—

- (a) a licensed operator can sublease a gaming machine only to a licensee or a gaming trainer; and
- (b) an approved financier can sublease a gaming machine only to a licensed operator, licensee or gaming trainer; and
- (c) a licensee and a gaming trainer cannot lease a gaming machine to another person.

(1E) A licensed operator's right to sublease or further sublease a gaming machine to someone else is subject to the lease or sublease under which the operator leases the gaming machine.

(1F) An approved financier's right to sublease a gaming machine to someone else is subject to the lease under which the financier leases the

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gaming machine.

(2) A person must not manufacture, sell, supply, obtain or be in possession of a restricted component except under and in accordance with the authority of a licence or any other authorisation under this Act.

Maximum penalty—400 penalty units or 2 years imprisonment.

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

- (a) the manufacturing, selling, supplying, obtaining or possession of a restricted component was not related to the manufacture, assembly, installation, alteration, operation, use, adjustment, maintenance or repair of gaming equipment; and
- (b) the restricted component was not intended to be used to interfere with the normal operation of gaming equipment.

(4) Despite any other Act or law, the possession of anything referred to in subsection (1) or (2) in accordance with the authority of a licence or any other authorisation under this Act is lawful.

(5) This Act does not apply so as to affect the lawful obtaining, possession or use of anything referred to in subsection (1) or (2) by a licensed casino operator in accordance with the *Casino Control Act 1982*.

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

- (a) subject to this Act; and
- (b) taken to extend to a person in the genuine employ of the holder of such licence or authorisation to such extent as is necessary for the employee to carry out the duties of the employee on behalf of the holder.

(6A) In this section—

“**leasing**” includes supplying under a hire-purchase agreement under the *Hire-purchase Act 1959*.

(7) For the purposes of this section and sections 136 to 142—

“**gaming machine**” includes any incomplete device that was a gaming machine or that is, or was, intended to be made into a gaming machine

and to which there is affixed an identification plate with the manufacturer's serial number displayed on the plate.

Possession etc. of gaming machines and restricted components by recognised manufacturers or suppliers of gaming machines

136.(1) A recognised manufacturer or supplier of gaming machines is authorised to—

- (a) manufacture, obtain and be in possession of gaming machines, linked jackpot arrangements and restricted components; and
- (b) sell or supply, on written order—
 - (i) gaming machines or linked jackpot arrangements to the chief executive or a recognised manufacturer or supplier of gaming machines; and
 - (ia) gaming machines, with the chief executive's written approval, to a licensed operator, an approved financier, a licensee or a gaming trainer; and
 - (ii) restricted components to a person authorised under this Act to obtain and be in possession of the restricted components; and
- (c) sell or supply, on written order, gaming machines, linked jackpot arrangements or restricted components to a person in another State or a Territory or a country where possession of such gaming machines, linked jackpot arrangements or restricted components by that person is lawful; and
- (d) sell or supply gaming machines, linked jackpot arrangements or restricted components under a lawful order from a holder of a casino licence under the *Casino Control Act 1982*.

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

Maximum penalty—200 penalty units or 1 year's imprisonment.

(3) A recognised manufacturer or supplier of gaming machines must not

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manufacture, obtain or be in possession of gaming machines or restricted components unless such manufacturing, obtaining or possession is for the purpose of—

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

Maximum penalty—1 000 penalty units or 5 years imprisonment.

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

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

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

Maximum penalty—200 penalty units or 1 year's imprisonment.

Possession etc. of restricted components by recognised suppliers of restricted components

137.(1) A recognised supplier of restricted components is authorised to—

- (a) manufacture, obtain and be in possession of restricted components; and
- (b) sell or supply, on written order, restricted components to a person authorised under this Act to obtain and be in possession of such restricted components; and
- (c) sell or supply, on written order, restricted components to a person in another State or a Territory or a country where possession of

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such restricted components by that person is lawful; and

- (d) sell or supply restricted components under a lawful order from a holder of a casino licence under the *Casino Control Act 1982*.

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

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

Maximum penalty for subsection (2)—400 penalty units or 2 years imprisonment.

Possession etc. of gaming machines and restricted components by licensed repairers

138. A licensed repairer is authorised to—

- (a) obtain and be in possession of restricted components to such extent as is necessary to do so as a licensed repairer; and
- (b) supply restricted components to a licensed repairer employed by him or her as a licensed repairer; and
- (c) sell or supply, on written order, restricted components to another person authorised under this Act to obtain and be in possession of such restricted components; and
- (d) be in possession of a gaming machine or linked jackpot arrangement to the extent necessary to install, repair, remove or reinstate the machine or arrangement; and
- (e) be in possession of a linked jackpot arrangement, or with the chief executive's written approval, a gaming machine for the purpose of using the arrangement or machine for spare parts.

Possession etc. of restricted components by licensed service contractors

139. A licensed service contractor is authorised to—

- (a) obtain and be in possession of restricted components to such extent as is necessary to do so as a licensed service contractor; and
- (b) supply restricted components to a licensed repairer employed by the licensed service contractor as a licensed repairer; and
- (c) sell or supply, on written order, restricted components to another person authorised under this Act to obtain and be in possession of such restricted components; and
- (d) be in possession of a gaming machine or linked jackpot arrangement to the extent necessary to install, repair, remove or reinstate the machine or arrangement; and
- (e) be in possession of a linked jackpot arrangement, or with the chief executive's written approval, a gaming machine, for the purpose of using the arrangement or machine for spare parts.

Possession etc. of gaming machines and restricted components by licensees

140.(1) A licensee is authorised to—

- (a) be in possession of gaming machines and linked jackpot arrangements, on the licensee's licensed premises, that are provided to the licensee by the chief executive, a licensed operator or an approved financier; and
- (b) obtain and be in possession of restricted components, on the licensee's licensed premises, to such extent as is necessary for the efficient conduct of gaming on the licensed premises; and
- (c) supply restricted components to—
 - (i) a licensed repairer employed by the licensee as a licensed repairer; or
 - (ii) a person authorised under section 141(1) to have the restricted components; or

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(iii) another licensee.

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

- (a) a gaming machine that is not provided to the licensee by the chief executive, a licensed operator or an approved financier for gaming on the licensed premises; or
- (b) a gaming machine that is not in accordance with the game, gaming token denomination or betting unit of the gaming machine as provided by the chief executive, a licensed operator or an approved financier or, if the gaming machine has been altered under section 55(2), the game, gaming token denomination or betting unit as last altered under that subsection.

Maximum penalty—1 000 penalty units or 5 years imprisonment.

(3) If a licensee's gaming machine licence is suspended, the licensee may, during the suspension, be in possession of gaming machines and restricted components supplied to the licensee under this section.

Possession etc. of gaming machines etc. by other persons

141.(1) A person who carries out any installation, alteration, adjustment, maintenance or repair that is prescribed for the purposes of section 73(3), is authorised to obtain and be in possession of restricted components to such extent as is necessary to carry out such installation, alteration, adjustment, maintenance or repair.

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

(3) A gaming trainer is authorised to be in possession of gaming machines, linked jackpot arrangements and restricted components subject to—

- (a) such gaming machines, linked jackpot arrangements and

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restricted components being provided by the chief executive, a licensed operator or an approved financier; and

- (b) compliance with all conditions (including the payment of fees) as may be imposed by the chief executive.

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

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

Gaming equipment not to be encumbered

141A.(1) An encumbrance over gaming equipment is of no effect.

(2) Subsection (1) does not apply to an encumbrance given by—

- (a) a licensed operator to an approved financier; or
(b) a licensee or gaming trainer to a licensed operator or approved financier.

Repossession of gaming machines

141B. A licensed operator or approved financier must not repossess a gaming machine without first obtaining the chief executive's written approval.

Maximum penalty—200 penalty units or 1 year's imprisonment.

Storage of gaming machines by operators and financiers

141C.(1) Each licensed operator and approved financier must keep all

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gaming machines in the possession of the operator or financier stored on premises, and in a way, approved by the chief executive.

(2) A licensed operator must not store a gaming machine for more than 1 year without the chief executive's written approval.

Maximum penalty for subsection (2)—200 penalty units or 1 year's imprisonment.

(3) An approved financier must not store a gaming machine for more than 1 month without the chief executive's written approval.

Maximum penalty for subsection (3)—200 penalty units or 1 year's imprisonment.

(4) The chief executive may, within the period mentioned in subsection (2) or (3), extend the period.

Licensed operators and approved financiers must keep registers of gaming machines

141D.(1) A licensed operator and an approved financier must each keep a register listing—

- (a) for a licensed operator—all gaming machines owned or monitored by the operator or leased or subleased by the operator from another person; and
- (b) for an approved financier—all gaming machines owned by the financier or leased by the financier from another approved financier.

Maximum penalty—200 penalty units or 1 year's imprisonment.

(2) The register must be in the approved form.

(3) In this section—

“**leased**” includes supplied under a hire-purchase agreement under the *Hire-purchase Act 1959*.

Consignment or movement of gaming machines

142.(1) A recognised manufacturer or supplier of gaming machines must advise the chief executive, in the approved form, at least 3 days before

gaming machines are moved by, or on behalf of, the recognised manufacturer or supplier of gaming machines—

- (a) to or from any premises approved under section 136(2); or
- (b) to any place within Queensland from outside Queensland.

(2) An advice under subsection (1) must include—

- (a) the number of gaming machines; and
- (b) the gaming machine type and manufacturer's serial number of each of the gaming machines; and
- (c) the origin and destination of the gaming machines; and
- (d) the intended dates of transport; and
- (e) the way the gaming machines are to be transported; and
- (f) the name of the carrier; and
- (g) such other particulars as are specified in the form.

Maximum penalty—200 penalty units or 1 year's imprisonment.

Destruction of gaming machines

142A. A licensed operator, approved financier, licensee or gaming trainer must not, without the chief executive's written approval, destroy a gaming machine.

Maximum penalty for subsection—200 penalty units or 1 year's imprisonment.

Purchase of gaming machines etc.

143.(1) Subject to this Act and the *Financial Administration and Audit Act 1977* the chief executive is authorised to—

- (a) cause expressions of interest to be called from persons interested in supplying gaming machines through subsequent invitations of tender; and
- (b) cause tenders to be called for the supply of gaming machines; and
- (c) purchase gaming machines under a determination by the

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Governor in Council under section 145(10); and

- (d) purchase, lease, rent or otherwise obtain—
 - (i) restricted components, gaming equipment (other than gaming machines) and ancillary or related items; and
 - (ii) gaming equipment, restricted components and ancillary or related items for the purpose of providing such equipment, components and items under paragraph (e)(ii); and
- (e) provide—
 - (i) gaming machines, linked jackpot arrangements and linked jackpot equipment to a licensee; and
 - (ii) gaming machines, linked jackpot arrangements and restricted components to a person conducting a genuine training course relating to the conduct of gaming; and
- (f) sell restricted components to a person authorised under this Act to obtain and be in possession of the restricted components; and
- (g) sell gaming equipment (other than gaming machines or linked jackpot arrangements) and ancillary or related items; and
- (h) contract for the service and maintenance of gaming equipment and ancillary or related items that are the property of the Crown; and
- (i) for the purpose of disposing of obsolete devices, sell gaming machines and linked jackpot arrangements to a person authorised to obtain and be in possession of gaming machines and linked jackpot arrangements.

(2) If the chief executive causes expressions of interest to be called under subsection (1)(a), any expressions of interest submitted are to be taken for the purposes of section 144(2) and (3) and section 145(1) to (6) to be tenders submitted in response to a call under section 144(1) and those sections apply to the expressions of interest accordingly.

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

(4) If the chief executive under subsection (3) causes tenders to be called,

then any tenders submitted are taken for the purposes of section 144(2) and (3) and section 145 to be tenders submitted in response to a call under section 144(1) and those sections apply to the tenders accordingly.

(5) For the purpose of that application, those sections are taken to have commenced on the date of the calling of the tenders under subsection (3).

Submission of tenders for supply of gaming machines

144.(1) At any time the chief executive may cause tenders to be called for the supply of gaming machines.

(2) A tender submitted for evaluation, in response to a call referred to in subsection (1), must—

- (a) be in accordance with any specifications and conditions contained in the tender documents as issued by the chief executive; and
- (b) contain or be accompanied by such information, records, reports, documents and writings relating to the tender and tenderer as are specified in the tender documents.

(3) The chief executive may limit a tender to gaming machine types and games approved by the chief executive.

Procedure for determination of tenders

145.(1) Subject to subsection (2), as soon as practicable after the close of tenders called under section 144(1), the chief executive must in relation to each tender submitted—

- (a) initiate and have followed through such investigations as the chief executive considers are necessary in relation to the tender; and
- (b) evaluate each gaming machine type submitted and either approve the gaming machine type or reject it; and
- (c) evaluate each game submitted, in relation to a gaming machine type approved under paragraph (b) and either approve the game or reject it; and
- (d) consider the tender and matters accompanying it together with the results of investigations made in relation to the tenders and matters and make an assessment of—

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- (i) if the tenderer is a natural person—the financial stability, general reputation and character of the tenderer; and
- (ii) if the tenderer is a body corporate—the business reputation and financial stability of the body corporate and the general reputation, financial stability and character of the secretary and executive officers of the body corporate; and
- (iii) if the chief executive considers it appropriate, the suitability of any associate of the tenderer to be an associate of the tenderer; and
- (iv) the ability of the tenderer to fulfil an order that may result from the tender; and
- (v) the ability of the tenderer to provide ongoing technical support and replacement parts.

(2) If the chief executive has previously evaluated a gaming machine type or game and has either approved the gaming machine type or game or rejected it, the chief executive may determine that a further evaluation of the gaming machine type or game is not required under this section.

(3) The chief executive may by written notice require a tenderer, or an associate of the tenderer, to submit to the chief executive any additional information or material the chief executive considers is necessary in order to make an evaluation or assessment under subsection (1).

(4) The person must comply with the requirement of the chief executive under subsection (3).

(5) Where a tenderer, or an associate of the tenderer, fails to comply to the satisfaction of the chief executive with section 144(2) or a requirement under subsection (3), the chief executive may, without derogating from subsection (6), reject a gaming machine type or game submitted by the tenderer without causing any evaluation or assessment referred to in subsection (1) to be made.

(6) Any person who, in relation to a tender submitted in response to a call under section 144(1) or a requirement under subsection (3), provides or submits information or material knowing it to be false, erroneous or misleading in a material particular commits an offence against this Act.

Maximum penalty—400 penalty units or 2 years imprisonment.

(7) Upon completion of the procedure in subsection (1) the chief executive must furnish to the commission—

- (a) all relevant tender price information; and
- (b) a report on each tender submitted; and
- (c) a report on the number of gaming machines required to be purchased.

(8) The commission following consideration of—

- (a) tender price information; and
- (b) the reports of the chief executive;

referred to in subsection (7) and to such other information or material as the commission considers relevant must make a recommendation to the Minister in respect of the tender.

(9) The Minister must submit the recommendation made under subsection (8) to the Governor in Council.

(10) The Governor in Council may make a determination in regard to gaming machines of each gaming machine type to be purchased and the tenderers with which orders are to be placed.

(11) The Governor in Council is not bound to accept the lowest or any tender submitted in accordance with an invitation to tender under this Act.

(12) The chief executive must—

- (a) implement; and
- (b) except where the chief executive is otherwise ordered by the commission, determine the game, gaming token denomination and betting unit of each gaming machine to be purchased under;

the determination made under subsection (10).

Acceptance by chief executive of gaming machines and games for evaluation

146.(1) Without derogating from sections 144 and 145, the chief executive may, subject to payment of the fee prescribed, accept for evaluation gaming machine types and games.

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(2) If the chief executive accepts a gaming machine type or game for evaluation under subsection (1), the chief executive must, after evaluation of the gaming machine type or game, either approve the gaming machine type or game or reject it.

(3) Where, under subsection (1), the chief executive accepts for evaluation a gaming machine type or game, the chief executive may require the person that submitted the gaming machine type or game to provide such additional information or material as the chief executive considers is necessary in order to make the evaluation.

(4) Where the requirement is not complied with to the satisfaction of the chief executive, the chief executive may reject the gaming machine type or game without evaluation.

Changes to approved games

146A.(1) A licensed operator or licensee may change, or cause to be changed, the percentage return to player for a game approved under section 146.

(2) A person must not make, or cause to be made, a change under subsection (1) for a game more than once in the period prescribed under a regulation.

Maximum penalty for subsection (2)—200 penalty units or 1 year's imprisonment.

Withdrawal of approval of gaming machine types and games

147.(1) If the chief executive, under section 191(2) withdraws the approval of an approved gaming machine type or game, the chief executive must immediately give written notice of, and reasons for the withdrawal to—

- (a) the person who submitted the gaming machine type or game under section 144 or 146; and
- (b) licensees provided with any gaming machine of that gaming machine type or game.

(2) A licensee who permits gaming on a gaming machine of a gaming machine type or game specified in a notice given to the licensee under

subsection (1) commits an offence against this Act.

Maximum penalty for subsection (2)—200 penalty units or 1 year's imprisonment.

Gaming machines supplied to be in accordance with approval

148. A recognised manufacturer or supplier of gaming machines must not, without the approval of the chief executive, supply a gaming machine that is in any material particular different from the gaming machine type or game approved by the chief executive.

Maximum penalty—200 penalty units or 1 year's imprisonment.

Approval of linked jackpot arrangements

149.(1) A licensee on the licensee's licensed premises, or licensed operator, must not, without the approval of the chief executive—

- (a) install or operate or cause or allow to be installed or operated a single site linked jackpot arrangement; or
- (b) install or operate or cause or allow to be installed or operated or participate in the operation of, a multiple site linked jackpot arrangement.

Maximum penalty—200 penalty units or 1 year's imprisonment.

(2) A licensee or licensed operator applying for an approval under subsection (1) must pay the fee prescribed under a regulation.

(3) An approval under subsection (1) must be given an identifying approval number.

(4) A licensee or a licensed operator approved to operate, or participate in the operation of, an arrangement under subsection (1) must not stop operating, or participating in the operation of, the arrangement without the chief executive's approval.

Maximum penalty—200 penalty units or 1 year's imprisonment.

(5) A licensee or licensed operator operating, or participating in the operation of, any arrangement approved under subsection (1) who fails to comply with—

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- (a) any condition to which the approval is subject; or
- (b) any requirement prescribed in relation to the conduct or operation of any arrangement approved under subsection (1);

commits an offence against this Act.

Maximum penalty—400 penalty units or 2 years imprisonment.

(6) The licensed operator for a multiple site linked jackpot arrangement must not allow the arrangement to operate in licensed premises until the operator has established an approved trust account for the arrangement.

(7) In each assessment period for licensed premises, a licensed operator must—

- (a) pay into the approved trust account—
 - (i) all multiple site jackpot increments for the arrangement for the previous assessment period; and
 - (ii) interest earned on the account; and
- (b) pay out of the approved trust account amounts prescribed under a regulation.

(7A) A licensed operator must not pay an amount out of an approved trust account unless the amount is prescribed under a regulation.

Maximum penalty—400 penalty units or 2 years imprisonment.

(8) If the arrangement stops operating and the approved trust account still contains an amount, the licensed operator must, after deducting amounts to be paid out under subsection (7)(b), send the amount to the chief executive, for payment into the consolidated fund, within 7 days after the day the account stops operating.

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

Gaming machines to be labelled with chief executive's identification number

150.(1) The chief executive must cause an identification number to be issued for each gaming machine.

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(2) The chief executive may, at any time after the issue of an identification number for a gaming machine, cause the issue of a new identification number for that gaming machine.

(3) The chief executive must cause each gaming machine to have securely affixed to the machine, by an inspector or other person properly authorised by the chief executive in that behalf, a label showing—

- (a) the identification number issued under subsection (1) or (2); and
- (b) such other particulars as the chief executive considers appropriate;

on 1 internal and 1 external surface of the cabinet of the gaming machine.

(4) A label affixed under this section is to be made of such material, and be affixed, as the chief executive considers appropriate.

(5) A licensee must not allow a gaming machine to be used for the conduct of gaming on the licensee's premises unless a label mentioned in subsection (3) is securely affixed to the machine.

Maximum penalty for subsection (5)—200 penalty units or 1 year's imprisonment.

Gaming prohibited on unprotected devices

151.(1) A licensee must not without lawful excuse be in possession of or permit gaming on a gaming machine unless the computer cabinet of the gaming machine is securely sealed with a seal affixed by—

- (a) an inspector; or
- (b) a licensed repairer acting under this Act; or
- (c) a person properly authorised in that behalf under section 153(4).

Maximum penalty—1 000 penalty units or 5 years imprisonment.

(2) Subject to subsection (3), at any time when a seal on a computer cabinet has been removed, broken or damaged, the licensee must not permit gaming on the gaming machine until the gaming machine has been examined by an inspector or other person properly authorised by the chief executive in that behalf and the computer cabinet has been sealed.

Maximum penalty—1 000 penalty units or 5 years imprisonment.

(3) Subsection (2) does not apply to a gaming machine that is not

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available for gaming due to the gaming machine undergoing—

- (a) repairs by a licensed repairer acting under this Act; or
- (b) an alteration to effect a change of game, gaming token denomination or betting unit approved, or caused, by the chief executive under section 55(2).

Unlawful interference with gaming equipment

152.(1) Subject to subsection (2), a person must not—

- (a) have possession of any device made or adapted, or intended by the person to be used, for interfering with the normal operation of gaming equipment on licensed premises; or
- (b) do any act or thing calculated, or likely, to interfere with the normal operation of gaming equipment on licensed premises; or
- (c) except as provided in section 149, do any act or thing calculated to interfere with gaming equipment under which the return to a player for a result obtained on a gaming machine on licensed premises is different to the return provided for that result by the game as approved by the chief executive; or
- (d) do any act or thing calculated to render a gaming machine on licensed premises, either temporarily or otherwise, incapable of producing a winning combination; or
- (e) insert, or cause to be inserted, in a gaming machine on licensed premises anything other than a gaming token of the denomination or type displayed on the gaming machine as a gaming token to be used in order to operate or gain credit on the gaming machine.

Maximum penalty—1 000 penalty units or 5 years imprisonment.

(2) Subsection (1) does not apply to any act or thing done in good faith in connection with—

- (a) the installation, alteration, adjustment, maintenance or repair of gaming equipment by a licensed repairer; or
- (b) the carrying out of any installation, alteration, adjustment, maintenance or repair prescribed for the purposes of section 73(3); or

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- (c) an alteration to a gaming machine to effect a change of game, gaming token denomination or betting unit approved, or caused, by the chief executive under section 55(2); or
- (d) the performance by an inspector of functions under this Act.

(3) A person must not knowingly, because of fraudulent computer programming, gain for that person or another person any advantage in the operation of gaming equipment.

Maximum penalty—1 000 penalty units or 5 years imprisonment.

(4) A person who dishonestly, or because of gross negligence, during the design, manufacture or assembly of gaming equipment, makes provision to subsequently gain for that person or another person any advantage in the operation of the gaming equipment commits an offence against this Act.

Maximum penalty—1 000 penalty units or 5 years imprisonment.

Protection of sensitive areas of gaming equipment

153.(1) Subject to subsections (2), (4) and (6), a person who is not an inspector must not—

- (a) break a seal securing a computer cabinet or gain access to anything within the computer cabinet; or
- (b) affix a seal to a computer cabinet; or
- (c) break a seal protecting the integrity of the game program of a gaming machine; or
- (d) remove, replace or in any way affect or interfere with the operation of a computer cabinet or anything within the computer cabinet; or
- (e) remove or interfere with a security device of a gaming machine; or
- (f) interfere with the normal operation of the reel assemblies of a gaming machine; or
- (g) interfere with information stored or transmitted electronically by a gaming machine, linked jackpot arrangement or electronic monitoring system; or

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- (h) affix a mark or seal to gaming equipment to preserve the integrity of operation of the gaming equipment; or
- (i) remove or interfere with a mark or seal affixed to gaming equipment to preserve the integrity of operation of the gaming equipment; or
- (j) remove, alter or otherwise interfere with the manufacturer's identification plate or the manufacturer's serial number of a gaming machine; or
- (k) remove, alter or otherwise interfere with an identification label affixed to a gaming machine under section 150; or
- (l) affix anything capable of being taken as a label mentioned in section 150 to a gaming machine or a device capable of being taken as a gaming machine.

Maximum penalty—1 000 penalty units or 5 years imprisonment.

(2) A licensed repairer is authorised, to such extent as is necessary, in the performance of duties as a licensed repairer to do things mentioned in subsection (1)(a) to (i) if—

- (a) a conversion report is submitted under subsection (5) or the licensed repairer immediately submits a repairer's report to the chief executive in the approved form; and
- (b) the licensed repairer does not—
 - (i) break a seal securing a computer cabinet; or
 - (ii) affix a seal to a computer cabinet; or
 - (iii) remove or interfere with a mark or seal affixed to gaming equipment to preserve the integrity of operation of the gaming equipment; or
 - (iv) affix a mark or seal to gaming equipment to preserve the integrity of operation of the gaming equipment;

without the approval of the chief executive.

(3) If the licensed repairer breaks a seal securing a computer cabinet, the licensed repairer must ensure that the gaming machine is not played (other than for testing purposes) until the computer cabinet is again secured with a seal provided by the chief executive for the purpose.

Maximum penalty—1 000 penalty units or 5 years imprisonment.

(4) The chief executive may authorise a person to do anything mentioned in subsection (1).

(5) A person may do something to a gaming machine that is the property of the Crown to change the game to be played on the gaming machine or change the gaming token denomination or betting unit of the gaming machine only if—

- (a) the alteration is approved, or caused, by the chief executive under section 55(2); and
- (b) if the gaming machine is provided to a licensee—the person performing the alteration immediately submits a conversion report to the chief executive in the form determined by the chief executive.

Maximum penalty—1 000 penalty units or 5 years imprisonment.

(6) Subsection (1)(a) to (j) does not apply to—

- (a) an electronic monitoring system not on licensed premises; or
- (b) another type of gaming equipment—
 - (i) not connected to an electronic monitoring system; and
 - (ii) not installed in a gaming machine area.

Wilful damage of gaming equipment

154. A person must not wilfully damage or deface gaming equipment on licensed premises.

Maximum penalty—200 penalty units or 1 year's imprisonment.

Use of gaming machines not provided to licensees

155.(1) A person who is not an officer of the division or any person referred to in subsection (2) must not play or allow another person to play a gaming machine that is not provided by the chief executive to a licensee.

Maximum penalty—1 000 penalty units or 5 years imprisonment.

(2) A person who has possession of a gaming machine—

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- (a) for the purpose of conducting—
 - (i) a training course referred to in section 136(3)(d) or 141(3); or
 - (ii) genuine testing or development work referred to in section 136(3)(c); or
- (b) under an authority under section 141(5), and such authority so permits;

may play or allow another person to play the gaming machine only for the purpose of simulating gaming.

(3) A person who—

- (a) plays, or allows another person to play, a gaming machine referred to in subsection (2) by the use of a gaming token which is—
 - (i) Australian currency; or
 - (ii) approved under section 108(3); or
 - (iii) in any way negotiable; or
- (b) allows any winnings to become payable because of playing a gaming machine referred to in subsection (2);

commits an offence against this Act.

Maximum penalty—1 000 penalty units or 5 years imprisonment.

PART 7—ACCOUNTING PROCEDURES

Monthly money clearances

156.(1) Subject to subsection (2), a licensee must carry out a money clearance of all gaming machines installed on the licensee's licensed premises—

- (a) after the end of the operation of gaming machines that started on the last day of each month; and

- (b) before the start of the operation of gaming machines on the first day of the next month.

(2) The chief executive may, either verbally or by written notice, direct a licensee to carry out the money clearance mentioned in subsection (1) during such period as the chief executive determines, and the licensee must comply with the direction.

(3) A licensee must, in conjunction with a money clearance carried out under this section, carry out such functions as are prescribed to be carried out in conjunction with the money clearance.

Maximum penalty—200 penalty units or 1 year's imprisonment.

Weekly money clearances

157.(1) A licensee, at least once in every 7 days, must carry out a money clearance of each gaming machine installed on the licensee's licensed premises.

(2) A licensee, in conjunction with carrying out a money clearance under subsection (1), must carry out such functions as are prescribed to be carried out in conjunction with such a money clearance.

Maximum penalty—200 penalty units or 1 year's imprisonment.

Accounts and analyses

158.(1) A licensee must keep and maintain such accounting records, in the way prescribed and in the approved form, as correctly record and explain the licensee's financial operations in respect of, or connected with, gaming and the conduct of gaming on the licensee's licensed premises.

(1A) A licensed operator must keep, in the approved form, accounting records that correctly record and explain the operator's financial operations relating to gaming and the conduct of gaming.

(2) A licensee or licensed monitoring operator must carry out such accounting analysis as is prescribed.

Maximum penalty—200 penalty units or 1 year's imprisonment.

Monthly gaming machine reconciliation reports to be submitted

159.(1) A licensee must lodge with the chief executive on or before the day prescribed of each month a monthly gaming machine reconciliation report in respect of each of the licensee's licensed premises.

(2) Each monthly gaming machine reconciliation report must—

- (a) be made in the way prescribed and in the approved form; and
- (b) give an accurate account of the matters contained in the report in relation to gaming and the conduct of gaming on the premises to which it relates—
 - (i) in the case of the first report after the issue of the licence—during the period from the issue of the licence to the end of the period covered by the report; or
 - (ii) in the case of any subsequent report—during the period from the end of the period covered by the last report lodged in respect of the licensed premises to the end of the period covered by the report in question.

Maximum penalty—200 penalty units or 1 year's imprisonment.

Records not to be falsified etc.

160. A person must not, with intent to defraud—

- (a) destroy, alter, mutilate or falsify any accounting record or report; or
- (b) make, or cause to be made, a false, erroneous or misleading entry in, or omit or alter, or cause to be omitted or altered, an entry in any accounting record or report;

required to be kept, maintained or lodged by a licensee under this part.

Maximum penalty—400 penalty units or 2 years imprisonment.

Audit of accounts of licensee

161.(1) In this section—

“**accountant**” means—

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- (a) a member of the Institute of Chartered Accountants in Australia who holds a current Certificate of Public Practice issued by the institute; or
- (b) a member of the Australian Society of Certified Practising Accountants who holds a current Public Practice Certificate issued by the society; or
- (c) a person registered as an auditor under the Corporations Law; or
- (d) in a particular case—a member of an accounting body mentioned in paragraph (a) or (b) who—
 - (i) does not hold the current certificate mentioned in the paragraph; and
 - (ii) is approved as an accountant for the case by the chief executive.

“prescribed licensee” means a licensee prescribed under a regulation.

(2) A prescribed licensee, in respect of each of the licensee’s licensed premises, at the licensee’s own expense and within 3 months of the expiration of each financial year, must—

- (a) prepare, or cause to be prepared, a statement of receipts and payments relating to gaming and the conduct of gaming on the licensee’s licensed premises in question during that year; and
- (b) cause the accounts relating to such gaming and conduct of gaming to be audited by an accountant.

Maximum penalty—200 penalty units or 1 year’s imprisonment.

(3) If a prescribed licensee ceases to be a licensee under this Act, the person (the **“former licensee”**) must, at the former licensee’s own expense and within 1 month of ceasing to be a licensee or a further period approved in writing by the chief executive—

- (a) prepare a statement of receipts and payments for gaming and the conduct of gaming on the former licensee’s licensed premises for the period—
 - (i) if an audit under subsection (2)(b) has been done—starting on the day to which the accounts were last audited under subsection (2)(b) and ending on the day the former licensee

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ceased to be a licensee; or

(ii) if an audit under subsection (2)(b) has not been done—starting on the day gaming started and ending on the day the former licensee ceased to be a licensee; and

(b) cause the accounts for the gaming and the conduct of gaming to be audited by an accountant.

Maximum penalty—200 penalty units or 1 year's imprisonment.

(4) Immediately upon completion of an audit under subsection (2) or (3), the accountant must submit a report on the audit to the chief executive.

Maximum penalty—200 penalty units or 1 year's imprisonment.

(5) A prescribed licensee or former licensee, within 28 days after the preparation of a statement of receipts and payments under subsection (2)(a) or (3)(a) must lodge with the chief executive a copy of the statement certified as being correct by the accountant who performed the audit under subsection (2)(b) or (3)(b).

Maximum penalty—200 penalty units or 1 year's imprisonment.

(6) Subsection (7) applies to a prescribed licensee who is a corporation and to whom the subsection is, under a regulation, stated to apply.

(7) A prescribed licensee must, with the copy of the statement submitted under subsection (5), also submit—

- (a) a statement specifying the number of members in each class of membership of the licensee at the end of the financial year; and
- (b) if the licensee is an incorporated association under the *Associations Incorporation Act 1981*—the statement of affairs for the association last prepared and audited under section 59 of that Act; and
- (c) a copy of the annual report of the licensee; and
- (d) a statutory declaration signed by the principal executive officer of the licensee declaring that the proceeds from the conduct of gaming were spent promoting the objects of the licensee; and
- (e) other things prescribed under a regulation.

Maximum penalty for subsection (7)—200 penalty units or 1 year's imprisonment.

Audit of accounts of licensed operators

161A.(1) As soon as practicable after the end of each financial year, a licensed operator must, at the operator's own expense, cause the operator's books, accounts and financial statements for the operator's operations relating to gaming and the conduct of gaming for the financial year to be audited by a registered company auditor approved by the chief executive.

Maximum penalty—200 penalty units or 1 year's imprisonment.

(2) The auditor must—

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

Maximum penalty—200 penalty units or 1 year's imprisonment.

(3) Subsection (2)(a) does not apply to the auditor if, in the circumstances, it would be unreasonable to require the auditor to comply with the paragraph.

(4) On receiving a copy of the audit report, the chief executive may, by written notice given to the licensed operator, require the operator to give the chief executive, within a reasonable time stated in the notice, further information about a matter relating to the operator's operations mentioned in the audit report.

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

Maximum penalty for subsection (5)—200 penalty units or 1 year's imprisonment.

Books, records etc. to be kept for 7 years

162. Subject to section 181, any accounting record required to be kept and maintained by a licensee under this part must be retained by the licensee

for not less than 7 years from the date of the latest entry in the accounting record.

Maximum penalty—200 penalty units or 1 year's imprisonment.

PART 8—TAXES, LEVIES AND FEES

Monthly taxable metered win

163.(1) Each month the chief executive is to make, or cause to be made, in respect of the preceding month, an assessment of the monthly taxable metered win of each licensed premises and such assessment, subject to section 175, is taken to be, for the preceding month, the monthly taxable metered win of the licensed premises in question.

(2) If an assessment is made under subsection (1) by way of an electronic monitoring system installed on the licensee's licensed premises, the period covered by the assessment—

- (a) for the month in which the system is installed—starts when the system first reports data from the premises to the chief executive and ends when the system first reports data from the premises to the chief executive in the next month; and
- (b) for each month after the month in which the system is installed—starts when the system first reports data from the premises to the chief executive for the month and ends when the system first reports data from the premises to the chief executive in the next month.

Monthly fees

164.(1) A licensee must pay monthly fees to the chief executive for gaming machines used in the licensee's licensed premises.

(2) The monthly fees must be paid on or before the day, prescribed under a regulation, of the month next following the month for which it is payable.

(3) The amount of monthly fees to be paid for each licensed premises is to be calculated as prescribed under a regulation.

Gaming machine tax

165.(1) A licensee must pay a gaming machine tax to the chief executive each month in respect of the licensee's licensed premises.

(2) The gaming machine tax must be paid on or before the day prescribed of the month next following the month in respect of which it is payable.

(3) The amount of gaming machine tax that is to be paid in respect of licensed premises is to be such amount as is represented by the percentage prescribed, applicable to that category of licensed premises to which the licensed premises belongs, of the monthly taxable metered win of the licensed premises for the month in respect of which the tax is payable.

Sport and recreation benefit fund

166. There is to be established and maintained in the Treasury a fund called the sport and recreation benefit fund.

Charities and rehabilitation benefit fund

167. There is to be established and maintained in the Treasury a fund called the charities and rehabilitation benefit fund.

Gaming machine community benefit fund

168.(1) There is to be established and kept in the Treasury a fund called the gaming machine community benefit fund.

(2) Each month, the chief executive must pay into the fund a percentage of all gaming machine tax for the previous month paid to the chief executive by all licensees.

(3) The percentage mentioned in subsection (2) is the percentage prescribed under a regulation.

Gaming Machine Community Benefit Committee

169. The Minister responsible for the administration of the gaming machine community benefit fund—

- (a) must establish a committee called the Gaming Machine Community Benefit Committee; and
- (b) may decide—
 - (i) the membership of the committee; and
 - (ii) how it is to operate.

Payment of monthly fees, taxes etc.

170.(1) A licensee, in respect of each of the licensee's licensed premises, must ensure that the chief executive receives on or before the day prescribed of each month an amount not less than the total amount of—

- (a) the monthly fees and gaming tax; and
- (b) any penalty payable under section 171 on or before that day; and
- (c) any monthly fees, gaming tax or penalty payable and remaining unpaid at the end of the day, prescribed under a regulation, of the preceding month.

Maximum penalty—200 penalty units or 1 year's imprisonment.

(2) Payments to the chief executive in respect of monthly fees, gaming machine tax or penalty under section 171 must be identifiable as being in respect of a single licensed premises and exclusive of payments for any other licensee or purpose.

Maximum penalty—200 penalty units or 1 year's imprisonment.

(3) Where a payment to the chief executive that does not comply with subsection (2) is made, the chief executive is to determine the licensed premises or purpose for which the payment was made and this Act applies to the payment as if the payment had been made and identified for the licensed premises or purpose so determined.

Penalty for late payment

171.(1) Where, in respect of any licensed premises, by the end of the day prescribed of a month (or at the discretion of the chief executive by a time not more than 7 days later than the end of the day prescribed) the amount received by the chief executive under section 170(1) is less than the total amount referred to in section 170(1) in respect of that month—

- (a) the chief executive must cause to be imposed on the licensee in question a penalty to be calculated by applying the percentage prescribed on the difference between those 2 amounts; and
- (b) the amount received is to be credited as prescribed.

(2) A penalty imposed under subsection (1)(a) is due and payable, by the licensee in question, on or before the day prescribed of the month following the date on which it is imposed.

(3) The chief executive, for any reason that the chief executive considers is sufficient, may forgive or refund any penalty payable under this section.

Forgiven or overpaid money

172. Where—

- (a) under conditions referred to in section 48(1)(a), the chief executive determines that part of any monthly fee payable is to be forgiven, the amount so forgiven, if paid before the determination; or
- (b) the amount received by the chief executive in any month under section 170(1) is greater than the total amount referred to in section 170(1), the difference; or
- (c) under section 171(3), the chief executive determines all or part of any penalty payable is to be forgiven, the amount so forgiven, if paid before the determination;

is to be either—

- (d) taken to be a payment forming part of the payment to be made for the following month under section 170(1) in respect of the licensed premises; or

- (e) at the discretion of the chief executive, forwarded to the licensee, upon written application by the licensee.

Statement and report by the chief executive

173.(1) The chief executive must forward to a licensee as soon as practicable after the receipt of each monthly gaming machine reconciliation report from the licensee or, if a complete report is not received by the expiration of 10 days after the date on which the report is due, as soon as practicable after that expiration—

- (a) a financial statement; and
- (b) a gaming machine performance report;

containing such particulars as the chief executive considers appropriate in respect of the licensee's licensed premises in question.

(2) The chief executive, by written notice, may require a licensee to furnish to the chief executive an explanation, by a machine manager, in relation to any matter contained in a statement or report mentioned in subsection (1).

(3) A licensee must on receipt of a statement or report mentioned in subsection (1) cause the report to be reviewed and signed by a machine manager in respect of the licensed premises in question.

Maximum penalty for subsection (3)—200 penalty units or 1 year's imprisonment.

Disposition of fees etc.

174.(1) All fees and charges payable under this Act, other than a payment referred to in subsection (2), received by the chief executive must be paid into the consolidated fund.

(2) A payment in respect of a monthly fee, gaming machine tax or penalty under section 171, must on its receipt be paid into an account established in the Treasury for the purpose of holding such payments until an assessment is made on the amounts of such payment under subsection (3).

(3) A payment mentioned in subsection (2) must, as soon as practicable

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after the licensee receives a financial statement under section 173(1)(a), be withdrawn from the account mentioned in subsection (2) and the part of the payment assessed by the chief executive as the monthly fees, gaming tax or a penalty under section 171, must be paid by the chief executive into the consolidated fund.

(4) The Minister who is charged with the administration of the Sport and Recreation Benefit Fund may cause amounts to be paid out of the fund for the benefit of sport and recreation.

(5) The Minister who is charged with the administration of the Charities and Rehabilitation Benefit Fund may cause amounts to be paid out of the fund for charitable, rehabilitative or social development purposes.

(6) The Minister responsible for the administration of the Gaming Machine Community Benefit Fund may, having regard to the recommendation of the Gaming Machine Community Benefit Committee, cause amounts to be paid out of the fund for the benefit of the community.

Adjustment of monthly fees etc. in certain circumstances

175. If the chief executive forms the opinion, in respect of a licensed premises, that an assessment of the monthly taxable metered win or a calculation of monthly fees, gaming machine tax or penalty under section 171 for a month in respect of which the chief executive has previously forwarded a statement under section 173(1), is in error, the chief executive may—

- (a) cause to be made an amended assessment or an amended calculation and, if an amount previously calculated as being payable—
 - (i) is less than the amount of the chief executive's amended calculation the difference is to be added to; or
 - (ii) is more than the amount of the chief executive's amended calculation the difference is to be deducted from;

the applicable amount of monthly fees, gaming machine tax or penalty under section 171, which becomes due and payable by the day prescribed of the month next following the month in which

- the amended calculation is made; and
- (b) advise the licensee accordingly.

Recovery of fees and taxes

176.(1) Any monthly fees, gaming machine tax or penalty payable under section 171 that remains unpaid may be recovered as a debt payable by the licensee to the Crown.

(2) The chief executive, instead of proceeding with or continuing an action under to subsection (1), may accept in full payment of any debt payable, an amount that is less than the amount payable or remaining unpaid where—

- (a) the gaming machine licence in relation to which the debt is payable has been cancelled or surrendered; and
- (b) the person who held the licence is not the holder of any other gaming machine licence.

Offences relating to revenue

177.(1) A licensee who—

- (a) wilfully evades the payment, in whole or part, of any monthly fees or gaming machine tax payable under this part or any penalty payable under section 171; or
- (b) makes or furnishes, or authorises or permits the making or furnishing to the chief executive of a monthly gaming machine reconciliation report knowing the report to be false, erroneous or misleading in a material particular;

commits an offence against this Act.

Maximum penalty—400 penalty units or 2 years imprisonment.

(2) A licensee who—

- (a) makes or furnishes, or authorises or permits the making or furnishing to the chief executive of a monthly gaming machine reconciliation report that is false, erroneous or misleading in a material particular, without having taken reasonable steps to

ensure that the report was not false, erroneous or misleading in a material particular; or

- (b) knowingly lodges or causes to be lodged with the chief executive a remittance of an amount less than the amount due and payable under with section 170(1);

commits an offence against this Act.

Maximum penalty—200 penalty units or 1 year’s imprisonment.

Offences relating to explanations

178.(1) A licensee who, when required under section 173(2) to furnish a written explanation—

- (a) fails to furnish a written explanation; or
- (b) knowingly furnishes an explanation that is false, erroneous or misleading in a material particular;

commits an offence against this Act.

(2) A machine manager who knowingly makes a written explanation, for the purposes of a requirement under section 173(2), that is false, erroneous or misleading in a material particular commits an offence against this Act.

Maximum penalty—400 penalty units or 2 years imprisonment.

PART 9—DIRECTIONS, POWERS ETC.

Interpretation

179. In this part—

“**article**” means—

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

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- (d) anything capable of forming gaming equipment; or
- (e) anything inserted, or capable of being inserted, into a gaming machine in order to operate or gain credit on the gaming machine (other than a gaming token of the denomination or type displayed on the gaming machine); or
- (f) any device intended for use, or capable of being used, to interfere with the normal operation of gaming equipment; or
- (g) anything that permits or facilitates cheating or stealing; or
- (h) a gaming token; or
- (i) any lock or key; or
- (j) any counter of or apparatus for weighing gaming tokens; or
- (k) any other item related to—
 - (i) gaming or the conduct of gaming; or
 - (ii) the manufacture, assembly, sale, supply, installation, alteration, obtaining, possession, operation, use, adjustment, maintenance or repair of gaming equipment.

“records” means any books, accounts, records or documents, in any form, which are related to—

- (a) the conduct of gaming; or
- (b) the manufacture, assembly, sale, supply, installation, alteration, obtaining, possession, operation, use, adjustment, maintenance or repair of gaming equipment; or
- (c) the administration of licensed premises.

Directions to licensees and licensed operators

180.(1) The commission or chief executive may, by written notice, give directions to—

- (a) a licensee about the conduct of gaming or the administration of the licensee’s licensed premises; and
- (b) a licensed operator about the conduct of gaming or supplying basic monitoring services to a licensee.

(2) A licensee or licensed operator to whom a notice is given must comply with the directions of the commission or chief executive under subsection (1).

Maximum penalty—200 penalty units or 1 year's imprisonment.

(3) If a licensee or licensed operator who has been convicted of an offence of failing to comply with directions given under subsection (1), continues to fail to so comply, the licensee commits an offence against this Act.

Maximum penalty—20 penalty units for each day on which the failure continues.

Powers of inspectors

181.(1) An inspector, who, on reasonable grounds, that it is necessary in the performance of the inspector's functions under this Act, may, subject to subsections (2) and (7) enter, be and remain on licensed premises or any other place in or at which the inspector believes on reasonable grounds any—

- (a) article is manufactured, assembled, sold, supplied, stored, transported, handled, installed, altered, obtained, possessed, operated, used, adjusted, maintained, repaired or kept; or
- (b) records are made, maintained, prepared, handled, stored or kept;

and may—

- (c) make such investigations and inquiries as are necessary to ascertain whether this Act is being complied with; and
- (d) make an inspection of the licensed premises or other place and of—
 - (i) any articles, records, fittings and fixtures; or
 - (ii) any other thing of any kind apparently used, or capable of being used, in connection with—
 - (A) gaming or the conduct of gaming; or
 - (B) the manufacture, assembly, sale, supply, installation, alteration, obtaining, possession, operation, use, adjustment, maintenance or repair of gaming

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equipment; and

- (e) open, or order to be opened—
 - (i) any container or other receptacle of any kind; or
 - (ii) a door of any container or other receptacle of any kind;
used for the storage or conveyance of any article or records or that the inspector believes on reasonable grounds contains any article or records; and
- (f) search for and seize and retain any article, records or other thing that the inspector considers will afford evidence as to the commission of an offence against this Act or any other Act or law suspected by the inspector on reasonable grounds to have been committed; and
- (g) open or order to be opened any gaming equipment; and
- (h) inspect and test any gaming equipment or part of the gaming equipment and order the withdrawal from use of any gaming equipment or part considered by the inspector to be unsatisfactory for use; and
- (i) take such photographs, or films or audio or visual recordings that he or she considers may afford evidence as to the commission of an offence against this Act or any other Act or law suspected by the inspector on reasonable grounds to have been, or to be likely to be, committed; and
- (j) require a person to produce to the inspector any licence, registration, permit, approval, certificate or authorisation under this Act granted or issued to that person or alleged by that person to have been granted or issued to that person; and
- (k) when so required by the chief executive—
 - (i) provide gaming machines and linked jackpot equipment to a licensee; or
 - (ii) alter a gaming machine to effect a change in the game, gaming token denomination or betting unit; or
 - (iii) take possession of and remove any gaming equipment or ancillary or related property of the Crown and do such

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works and actions as are required in order to do so; and

- (1) in all other respects, exercise the inspector's powers and perform the inspector's functions under this Act.

(2) Where an act referred to in subsection (1)(a) or (b) is carried out during the night time, an entry and inspection under subsection (1) may be made at all reasonable times during the day time or night time but otherwise such entry and inspection must be made at all reasonable times during the day time.

(3) An inspector, who believes, on reasonable grounds, that it is necessary in the performance of the inspector's functions under this Act, may—

- (a) require any person who has in the person's possession or under the person's control any article or records to—
 - (i) produce for the inspector's inspection any such article or records; and
 - (ii) attend before the inspector at a time and place named and then and there to answer any questions or supply any information with respect to any article or records or any entry in any article or records; and
- (b) inspect any article or records referred to in paragraph (a) and take such notes or copies of or in relation to such records or take extracts from such records as the inspector considers are necessary; and
- (c) for the purpose of obtaining evidence for production in possible subsequent proceedings against any person for an offence committed against this Act or any other Act or law, seize and retain any article or records inspected by the inspector under paragraph (b); and
- (d) require any person responsible for or connected with—
 - (i) the conduct of gaming; or
 - (ii) the manufacture, assembly, sale, supply, installation, alteration, obtaining, possession, operation, use, adjustment, maintenance or repair of gaming equipment; or
 - (iii) the administration of licensed premises;

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to attend before the inspector at a time and place named and then and there to answer any questions or supply any information with respect to the matters referred to in this paragraph; and

- (e) require a person to state the person's full name, the address of the person's usual place of residence and the person's date of birth or any of those particulars; and
- (f) require a person referred to in paragraph (e) to produce evidence of the correctness of any particular stated in answer to a requirement made under that paragraph if the inspector suspects that the particular is false; and
- (g) receive and investigate complaints from any person with respect to—
 - (i) gaming; or
 - (ii) the conduct of gaming; or
 - (iii) the manufacture, assembly, sale, supply, installation, alteration, obtaining, possession, operation, use, adjustment, maintenance or repair of gaming equipment; or
 - (iv) the administration of licensed premises;and advise the person the results of the investigations; and
- (h) stop and search any vehicle or vessel used or that the inspector believes on reasonable grounds has been, is being, or is likely to be, used for the conveyance of any article, records or other thing that the inspector considers will afford evidence as to the commission of an offence against this Act; and
- (i) call to the inspector's aid—
 - (i) another inspector or a police officer; or
 - (ii) a person whom the inspector thinks is competent to assist the inspector in the exercise of the inspector's powers or the performance of the inspector's functions under this Act; and
- (j) use such force as is reasonably necessary in the circumstances in the exercise of the inspector's powers or in the performance of the inspector's functions under this Act; and
- (k) in order to identify or protect the integrity of any article, records

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or other thing, mark, fasten, secure or seal—

- (i) the article, records or other thing; or
 - (ii) any door, gate or opening that the inspector believes on reasonable grounds affords access to the article, records or other thing; and
- (l) exercise such other powers and authorities and perform such other functions as are prescribed.

(4) Any—

- (a) article, records or other thing seized and retained under subsection (1)(f); or
- (b) article or records seized and retained under subsection (3)(c);

may be detained for such period as the inspector, on reasonable grounds, thinks fit and, where any proceedings are started for the purpose of which the article or records or other thing was or were retained, must be detained until the final determination of those proceedings including any appeal in respect of those proceedings.

(5) Where under subsection (1)(f) or (3)(c) records are seized and retained, the person entitled to possession of the records, on application to the inspector who retained the records and within a reasonable time after the seizure, is to be furnished by the inspector with a correct copy of the records.

(6) A copy of records furnished under subsection (5) certified by the inspector as being a correct copy is admissible as evidence in any court and has the same effect as if it were the original of the records.

(7) Before an inspector enters any premises that are used or any part of premises that is used exclusively as a dwelling house, the inspector must, except where the inspector has the permission of the occupier of the premises or part of the premises to the entry, obtain from a justice a warrant to enter the premises or part.

(8) For the purposes of subsections (6) to (10), premises used as a dwelling house do not include the curtilage of those premises.

(9) A justice who is satisfied upon the complaint of an inspector that there is reasonable cause to suspect that any article, records or other thing relevant to the administration of this Act is or are on premises or a part of

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premises used exclusively as a dwelling house and that—

- (a) in respect of the article, records or thing an offence against this Act or any other Act or law has been, is being or is likely to be, committed; or
- (b) it is or they are likely to be or provide evidence for production in possible subsequent proceedings against any person for an offence committed against this Act or any other Act or law;

may issue a warrant, directed to the inspector, to enter the premises or part of premises specified in the warrant for the purpose of exercising the inspector's powers and performing the inspector's functions under this Act.

(10) For 1 month from the date of its issue, a warrant is sufficient authority for the inspector and any person acting in aid of the inspector—

- (a) to enter the premises or part of premises specified in the warrant; and
- (b) to exercise the inspector's powers and perform the inspector's functions under this Act.

(11) For the purpose of gaining entry to any place that the inspector is authorised under this Act to enter, an inspector and all persons acting in aid of the inspector may use such force as is reasonable in the circumstances.

(12) A person who is acting in aid of an inspector has and may exercise all or any of the powers of an inspector and perform the functions of an inspector.

(13) A requirement by an inspector under this section may be made verbally or given in writing directed to the person to or on whom it is made.

(14) A requirement made to a person by an inspector under this section to produce records is, where the records are not written, or are not written in the English language, a requirement to produce (at that person's expense)—

- (a) such records; and
- (b) a statement, written in the English language, setting forth such information in the records as is not written or is not written in the English language.

(15) A person is not required, in respect of any matter within the

application of this Act, to answer any question or give any information tending to incriminate the person.

Offences relating to inspectors

182. A person must not—

- (a) assault, obstruct, hinder, threaten, abuse, insult or intimidate any inspector or person acting in aid of an inspector who is exercising powers or performing functions under this Act or attempting to do so; or
- (b) when required under this Act to produce—
 - (i) for inspection any article or records; or
 - (ii) any licence, registration, permit, approval, certificate or authorisation under this Act granted or issued to the person;fail without lawful excuse to produce any such thing in accordance with such requirement; or
- (c) when required under this Act to attend before an inspector, fail without lawful excuse to so attend in accordance with such requirement; or
- (d) when required under section 181(3)(a) or (d) to answer any question or supply any information with respect to—
 - (i) any article, records or any entry in such records; or
 - (ii) the conduct of gaming; or
 - (iii) the manufacture, assembly, sale, supply, installation, alteration, obtaining, possession, operation, use, adjustment, maintenance or repair of gaming equipment; or
 - (iv) the administration of licensed premises;or, knowing or being in a position to know the answer or information required, fail to answer that question or supply that information or supply information that is to the person's knowledge false, erroneous or misleading in a material particular; or
- (e) when required under section 181(3)(e) to state the person's full

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name, the address of the person's usual place of residence and the person's date of birth or any of those particulars—

- (i) fail to immediately state any such particular; or
 - (ii) state any false particular; or
- (f) when required under section 181(3)(f) to produce evidence of the correctness of any particular—
- (i) fail to produce that evidence; or
 - (ii) produce false evidence with respect to that particular; or
- (g) retake any article, records or other thing seized and retained under this Act; or
- (h) tamper with—
- (i) any article, records or other thing; or
 - (ii) any door, gate or opening that the inspector believes on reasonable grounds affords access to any article, records or other thing;
- marked, fastened, secured or sealed under this Act; or
- (i) fail to open any container or other receptacle of any kind, a door of a container or other receptacle of any kind or any gaming equipment when ordered to do so by an inspector acting under this Act; or
 - (j) fail to withdraw from use any gaming equipment or part of the gaming equipment considered by an inspector to be unsatisfactory for use when ordered to do so by an inspector acting under this Act; or
 - (k) prevent, directly or indirectly, a person from attending before an inspector, or producing to an inspector any article, or records or answering any question or supplying any information to an inspector when that person is required to do so under this Act.

Maximum penalty—400 penalty units or 2 years imprisonment.

Minister may order inquiry

183.(1) The Minister may, if the Minister thinks fit, nominate and appoint in writing the commission, a commissioner, the chief executive or any other person to hold an inquiry into any or all aspects of—

- (a) gaming; or
- (b) the conduct of gaming; or
- (c) the manufacture, assembly, sale, supply, installation, alteration, obtaining, possession, operation, use, adjustment, maintenance or repair of gaming equipment; or
- (d) the administration of licensed premises.

(2) In the holding of the inquiry the commission, commissioner, chief executive or other person has and may exercise all the powers, rights, privileges, protection and jurisdiction of a commission of inquiry under the *Commissions of Inquiry Act 1950* except such as are provided by sections 4, 4A, 5A, 5B, 10(3), 13, 14(1A), 19A, 19B, 19C and 26 to 32 of that Act.

(3) Nothing contained in this section affects any other powers that a commissioner or the chief executive has as an inspector under this Act or, where the other person is an inspector, that the other person has as an inspector under this Act.

Review and termination of agreements

184.(1) A listed person or a holder of a licence under this Act, if directed by the chief executive to do so, must furnish to the chief executive within the time stipulated in the direction such information or material as the chief executive thinks fit with respect to any lease, agreement or arrangement (“**the agreement**”) that the listed person or holder has with any other person relating to the conduct of the business of the listed person or holder.

Maximum penalty—200 penalty units or 1 year’s imprisonment.

(2) Without limiting subsection (1), matters concerning which the chief executive may direct the furnishing of information or material include—

- (a) names of persons entering into the agreement; and
- (b) description of any property, goods or other things or any services

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provided or to be provided; and

- (c) value, type or nature of consideration; and
- (d) period of the agreement.

(3) A listed person or a holder of a licence under this Act, if directed by the chief executive to do so, must furnish to the chief executive within the time stipulated in the direction a copy of the agreement (if it is in writing).

Maximum penalty—200 penalty units or 1 year's imprisonment.

(4) If the chief executive, after reviewing information or material furnished under this section, considers (having regard to the terms of the agreement and such other information or material as the chief executive considers is relevant) that the continuation of the agreement—

- (a) is not in the public interest; or
- (b) jeopardises the integrity of—
 - (i) gaming; or
 - (ii) the conduct of gaming; or
 - (iii) the manufacture, assembly, sale, supply, installation, alteration, obtaining, possession, operation, use, adjustment, maintenance or repair of gaming equipment;

the chief executive may issue to a listed person or a holder of a licence under this Act who is the party to the agreement a written notice to show cause why the agreement should not be terminated.

(5) Notice under subsection (4) is to set out the grounds for its issue and is to stipulate a date, not less than 21 days after its issue, on or before which cause is to be shown.

(6) Copy of the notice under subsection (4) is to be given to the other party to the agreement.

(7) A listed person or a holder of a licence under this Act to whom notice under subsection (4) is issued may give a written answer to the chief executive to show cause at any time not later than the date stipulated in the notice in that respect.

(8) The other party may make such written submissions to the chief executive as the party thinks fit at any time not later than that stipulated date.

(9) The chief executive is to consider any answers given in reply to the notice to show cause and any submissions made under subsection (8) and, if the chief executive considers that—

- (a) satisfactory answers are given or submissions made in reply to or in respect of the notice—the chief executive is not to take any action or any further action in relation to the notice; or
- (b) answers given or submissions made in reply to or in respect of the notice are not satisfactory or if no answers are given and no submissions are made—the chief executive may recommend to the commission that the agreement be terminated.

(10) If the chief executive makes a recommendation to the commission, the chief executive must submit the notice to show cause and answers, any submissions made and such other information or material in the chief executive's possession as the chief executive considers is relevant to the recommendation.

(11) The commission, having regard to the recommendation of the chief executive, other matters referred to in subsection (10) and to such other information or material as the commission considers is relevant, may—

- (a) take no action with respect to the agreement if the commission considers action is not warranted; or
- (b) direct the termination of the agreement.

(12) The commission's direction referred to in subsection (11)(b) is to be given in writing to the parties to the agreement and is to specify the reasons for the termination and a date on which the agreement is terminated under this Act if not sooner terminated.

(13) The agreement in question, if not sooner terminated by the parties to the agreement, is terminated by force of this Act on the date specified for the purpose in the direction.

(14) The termination of the agreement by force of this Act does not affect the rights and obligations of the parties to the agreement up to the time of such termination.

(15) No liability for breach of the agreement attaches to any party to the agreement because of its termination by force of this Act.

Financial institution may be required to furnish particulars

185.(1) The manager or other principal officer of a financial institution in which a licensee keeps and maintains an account in relation to the operation of the licensee's licensed premises must, when so required in writing by an inspector, furnish to the inspector a statement of account and any other particulars required by the inspector to be so furnished, including copies of cheques or records relevant to the account.

Maximum penalty—200 penalty units or 1 year's imprisonment.

(2) No liability is incurred by the financial institution or the manager or other principal officer of the financial institution in respect of any breach of trust or otherwise because of the furnishing of any statement or particulars or copies under this section.

(3) An inspector must not, without the approval of the chief executive, make a requirement under subsection (1).

PART 10—GENERAL**Certain persons not to play gaming machines**

186.(1) A licensed repairer must not play gaming machines installed on licensed premises except to such extent as is necessary for the repairer to do so to alter, adjust, maintain, repair or test the gaming machines.

Maximum penalty—200 penalty units or 1 year's imprisonment.

(2) A person who is a licensee or machine manager must not play gaming machines installed on licensed premises of which that person is licensee or machine manager—

- (a) during the period that the person is the licensee or machine manager of the licensed premises, except to such extent as is necessary to do so in the course of carrying out duties as such licensee or machine manager; and
- (b) for the period of 30 days after ceasing to be such licensee or machine manager.

Maximum penalty—40 penalty units.

(2A) A licensed key monitoring employee must not play gaming machines installed on licensed premises that are connected to an electronic monitoring system operated by the licensed operator for whom the employee is a licensed key monitoring employee.

Maximum penalty—40 penalty units.

(2B) A former employee must not, for 30 days after becoming a former employee, play gaming machines installed on licensed premises that are connected to an electronic monitoring system operated by the licensed operator for whom the person was a licensed key monitoring employee when the person became a former employee.

Maximum penalty—40 penalty units.

(3) Where winnings become payable because of playing a machine as authorised by this section, those winnings remain the property of the licensee and are not payable to any person.

(4) In this section—

“**former employee**” means a person who was a licensed key monitoring employee.

Officers of division may be prohibited from playing gaming machines

187.(1) An officer of the division, if so directed in writing by the chief executive, must not play gaming machines provided to a licensee except to such extent as is necessary for the officer to do so in the course of carrying out duties as an officer of the division.

(2) A direction given under subsection (1) may be made subject to such conditions as the chief executive thinks fit.

Prohibition on control of applications by clubs

188. A person must not have or gain—

- (a) control over, or the ability to control—
 - (i) whether or not a club makes an application under part 3; or
 - (ii) the content of any application made by a club under part 3;

or

- (b) the ability to interpose between a club and the chief executive in respect to an application made by the club under part 3;

unless the person is the secretary, an executive officer or a member of the club carrying out the duties or exercising the normal rights that person has as such secretary, executive officer or member.

Maximum penalty—200 penalty units or 1 year's imprisonment.

Restriction on certain agreements

189.(1) A licensee or any other person must not enter into, or be a party to, any lease, agreement or arrangement for a person to lease, let, lend or otherwise provide any property or thing or to furnish any service to the licensee in return for any direct or indirect interest in or percentage or share of—

- (a) the amount bet for the purpose of gaming; or
- (b) moneys, revenues, profits or earnings from the conduct of gaming;

on the licensee's licensed premises.

Maximum penalty—200 penalty units or 1 year's imprisonment.

(2) If a licensee or any other person, before the issue of the licensee's gaming machine licence has entered into or has in any way become a party to any lease, agreement or arrangement referred to in subsection (1), the lease, agreement or arrangement on and from the issue of the gaming machine licence, to the extent that it contravenes or is inconsistent with subsection (1), is void.

(3) No right of action arises against any person because of the operation of subsection (2).

(4) The commission, where the commission is of the opinion that it is in the public interest to do so, may exempt in writing any lease, agreement or arrangement referred to in subsection (1) and subject such exemption to such conditions as the commission considers appropriate.

(5) Any exemption under subsection (4) may, at any time, be revoked by the commission.

(6) This section does not apply to an agreement entered into between a licensee and a licensed operator for electronically monitoring the licensee's gaming machines in conjunction with the supply of services relating to the installation or operation of a linked jackpot arrangement on the licensee's licensed premises.

Exemption of devices etc.

190.(1) The chief executive may declare that anything is not a gaming machine or a device capable of being represented as being a gaming machine for the purposes of this Act.

(2) The chief executive may declare that anything is not a restricted component for the purposes of this Act.

(3) Any declaration under this section may, at any time, be revoked by the chief executive.

Approvals and authorities under this Act

191.(1) Where this Act provides that any act or thing must not be done except with, or may be done with, the approval or authorisation of the Minister, commission or chief executive, that approval or authorisation may be granted by the Minister, commission, chief executive or director by instrument in writing.

(2) A person referred to in subsection (1) may in respect of any approval or authorisation by the person—

- (a) subject such approval or authorisation to conditions; and
- (b) at any time—
 - (i) subject the approval or authorisation to further conditions; and
 - (ii) vary the conditions or further conditions; and
 - (iii) withdraw such approval or authorisation;

if the person considers it necessary or appropriate in the public interest or for the proper conduct of gaming.

(3) Without derogating from section 149(5), a person must not fail to

comply with any condition to which an approval or authorisation is subject.

Maximum penalty—200 penalty units or 1 year's imprisonment.

(4) A person must not—

- (a) modify anything subject to an approval or authorisation from; or
- (b) fail to maintain anything subject to an approval or authorisation in;

the form, state or condition in which it was approved or authorised except in order to comply with conditions to which the approval or authorisation is subject.

Maximum penalty—200 penalty units or 1 year's imprisonment.

Signatories to approvals and written requirements etc. of the commission

192. An approval or authorisation or any written requirement, notification, direction, exemption or order by the commission is to be signed by the chairperson and 2 other commissioners.

Bribery of commissioners or officers of division

193.(1) Any commissioner or officer of the division who corruptly asks for, receives, or obtains or agrees to receive or obtain any money, property or benefit of any kind for the commissioner or officer or any other person—

- (a) so that the commissioner or officer will forego or neglect functions under this Act or in order to influence the commissioner or officer in the performance of functions under this Act; or
- (b) because of anything already done or omitted to be done or to be afterwards done or omitted to be done by the commissioner or officer in the performance of functions under this Act; or
- (c) for the commissioner or officer to use or take advantage of the commissioner's or officer's position improperly to gain any benefit or advantage for or facilitate the commission of an offence by another person;

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commits an offence against this Act.

(2) Any person who corruptly gives, confers or procures or promises or offers to give, confer or procure to, upon or for any commissioner or officer of the division or any other person any money, property or benefit of any kind—

- (a) so that the commissioner or officer will forego or neglect functions under this Act or in order to influence the commissioner or officer in the performance of functions under this Act; or
- (b) because of anything already done or omitted to be done or to be afterwards done or omitted to be done by the commissioner or officer in the performance of functions under this Act; or
- (c) for the commissioner or officer to use or take advantage of the commissioner's or officer's position improperly to gain any benefit or advantage for or facilitate the commission of an offence by the first person or any other person;

commits an offence against this Act.

Maximum penalty—400 penalty units or 2 years imprisonment.

Financial connections and interests of officers of the division

194.(1) An officer of the division—

- (a) must not knowingly have, directly or indirectly—
 - (i) any business or financial connection with; or
 - (ii) any business or financial interest in any matter in conjunction with;
a listed person or a holder of a licence under this Act; or
- (b) must not—
 - (i) be; or
 - (ii) be an employee in any capacity of; or
 - (iii) hold the position of executive officer or secretary of a body corporate which is;

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a listed person or a holder of a licence under this Act; or

- (c) must not, without the approval of the chief executive, solicit or accept employment from, be an employee in any capacity of, or have a business or financial connection with a listed person or a holder of a licence under this Act within a period of 1 year after the officer ceases to be an officer of the division.

Maximum penalty—200 penalty units or 1 year's imprisonment.

(2) A listed person or a holder of a licence under this Act—

- (a) must not knowingly have, directly or indirectly—
 - (i) any business or financial connection with; or
 - (ii) any business or financial interest in any matter in conjunction with;
 - an officer of the division; or
- (b) must not employ in any capacity an officer of the division; or
- (c) must not, without the approval of the chief executive, employ in any capacity or have a business or financial connection with a person who was an officer of the division within a period of 1 year after that person ceases to be an officer of the division.

Maximum penalty—200 penalty units or 1 year's imprisonment.

(3) An officer of the division who has directly or indirectly—

- (a) any business or financial connection with; or
- (b) any business or financial interest in any matter in conjunction with;

a person who becomes a listed person, a holder of a licence under this Act or an applicant for a licence under this Act must, immediately upon becoming aware that the person has so become listed, licensed or an applicant—

- (c) notify the chief executive of such connection or interest; and
- (d) if directed by the chief executive, terminate the connection or relinquish the interest within a time specified by the chief executive.

Maximum penalty—200 penalty units or 1 year's imprisonment.

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(4) This section does not apply so as to prohibit an officer of the division—

- (a) from being a financial member of a club that is a licensee, or having such other financial connection with the club as is generally had by other members of the club; or
- (b) from having any business or financial connection (being a connection that is not related to the manufacture, assembly, sale, supply, installation, alteration, obtaining, possession, adjustment, maintenance or repair of gaming equipment) with a listed person or holder of a licence under this Act such as is generally had by members of the public.

(5) An officer of the division must, immediately upon making application for membership of a club that is a licensee or an applicant for a gaming machine licence, notify the chief executive of the making of the application.

Maximum penalty—200 penalty units or 1 year's imprisonment.

(6) In subsections (3), (4) and (5)—

“officer of the division” includes a person who has ceased to be an officer of the division if less than 1 year has elapsed since the person ceased to be an officer.

Reporting of accounting discrepancies and criminal activity

195.(1) A licensee or machine manager who becomes aware or suspects that a person by fraud, misrepresentation or theft has obtained a benefit for the person or another person in relation to gaming or the conduct of gaming must, within 3 days of so becoming aware or suspecting, advise the chief executive in writing of all facts known to the licensee or machine manager in relation to the fraud, misrepresentation or theft.

(2) A person who—

- (a) terminates the employment or otherwise prejudices the career of; or
- (b) prejudices the safety of; or
- (c) intimidates or harasses;

any licensee, machine manager or other person because the licensee or machine manager has advised, or may advise, the chief executive under subsection (1) commits an offence against this Act.

Maximum penalty—200 penalty units or 1 year’s imprisonment.

Cheating

196.(1) A person must not dishonestly—

- (a) by a scheme or practice; or
- (b) by the use of gaming equipment; or
- (c) by the use of an instrument or article of a type used in connection with gaming, or appearing to be of a type used in connection with gaming, or of any other thing;

in relation to gaming or the conduct of gaming, induce a licensee, or a person acting on behalf of the licensee, to deliver, give or credit to the person or another person, any money, gaming tokens, gaming machine credits, benefit, advantage, valuable consideration or security.

(2) A licensee must not dishonestly—

- (a) by a scheme or practice; or
- (b) by the use of gaming equipment; or
- (c) by the use of an instrument or article of a type used in connection with gaming, or appearing to be of a type used in connection with gaming, or of any other thing;

in relation to gaming or the conduct of gaming, induce a person to deliver, give or credit to the licensee or another person, any money, gaming tokens, gaming machine credits, benefit, advantage, valuable consideration or security.

(3) In subsection (2)—

“**licensee**” includes—

- (a) a machine manager or a person who supervises gaming or attends to gaming machines on behalf of a licensee; and
- (b) a person employed by a licensee to sell or redeem gaming tokens or carry out centralised credit transactions on behalf of the

licensee.

(4) A person must not dishonestly cause gaming equipment to deliver, give or credit to the person or another person any gaming tokens, gaming machine credits, benefit, advantage, valuable consideration or security.

(5) A person must not, for the purpose of cheating or stealing in relation to gaming or the conduct of gaming, use, or be in possession of—

- (a) any gaming tokens that the person knows are bogus or counterfeit; or
- (b) anything that permits or facilitates cheating or stealing.

Maximum penalty—1 000 penalty units or 5 years imprisonment.

Forgery and like offences

197. A person who—

- (a) forges or counterfeits any gaming token, licence, identification card or other form of identification authorised to be issued under this Act; or
- (b) knowingly utters any such gaming token, licence, identification card or other form of identification so forged or counterfeited; or
- (c) personates any person named in any such licence, identification card or other form of identification; or
- (d) falsely represents that the person is an inspector or an officer of the division; or
- (e) connives at any such forging, counterfeiting, uttering, personating or representing as referred to in this section; or
- (f) provides or submits information or material knowing it to be false, erroneous or misleading in a material particular in, or in relation to, any application, response to a requirement, submission, advice, notification, answer to a notice, statement or affidavit made under this Act;

commits an offence against this Act.

Maximum penalty—400 penalty units or 2 years imprisonment.

Detention, arrest etc. of persons by police officers in relation to offences under s 67, 135(1) or (2), 152(1), 196 or 197

198.(1) Any police officer may arrest without warrant any person who has, or whom the police officer suspects on reasonable grounds has, committed or attempted to commit an offence against section 67, 135(1) or (2), 152(1), 196 or 197.

(2) Any police officer who under subsection (1) arrests a person, may—

- (a) search that person and the possessions of that person; and
- (b) seize anything found because of the search that may afford evidence of the commission of an offence; and
- (c) use such force as is reasonable in the circumstances for the purpose of such detention and search.

(3) Before arresting any person under subsection (1), any police officer who is not readily identifiable as a police officer must produce to the person the officer's identification issued to the officer by the commissioner of the police service.

Liability for offences by servants, agents or employees

199.(1) Where a person commits an offence against this Act as servant, agent or employee, then, without derogating from the Criminal Code, section 7, the employer of that person is, subject to subsection (2), taken—

- (a) to have committed the offence; and
- (b) to be criminally responsible for the act or omission that constitutes the offence;

and, despite the Criminal Code, section 23, or any other rule of law or practice, may be charged with the offence and punished accordingly.

(2) It is a defence to a prosecution for an offence against an employer referred to in subsection (1) to prove that the offence was committed without the employer's consent or connivance and that the employer exercised due diligence to prevent the commission of the offence.

(3) In proceedings for an offence against this Act alleged to have been committed by a defendant as servant, agent or employee, the court must not convict the defendant if the evidence establishes that—

- (a) the offence was committed while the business of the defendant's employer was being conducted under the personal supervision of the employer or any manager or any other representative of the employer; and
- (b) the reason that the defendant committed the offence was that the defendant had been compelled to do so by the employer, manager or representative.

(4) Except as provided by subsection (2), this section applies so as not to prejudice liability imposed by or under this Act on any person by whom an offence against this Act is actually committed.

Liability for offence by body corporate

200.(1) Where a body corporate commits an offence against this Act, then, without derogating from the Criminal Code, section 7—

- (a) the person who, at the time the offence is committed, is secretary or an executive officer of the body corporate; and
- (b) every person who, at the time the offence is committed, manages or acts or takes part in the management, administration or government of the business of the body corporate in Queensland;

is, subject to subsection (3), taken—

- (c) to have committed the offence; and
- (d) to be criminally responsible for the act or omission that constitutes the offence;

and, despite the Criminal Code, section 23, or any other rule of law or practice, may be charged with the offence and punished accordingly.

(2) This section applies so as not to limit or affect in any way the liability of a body corporate to be proceeded against and punished for an offence against this Act committed by it.

(3) It is a defence to a prosecution for an offence against this Act brought against a person specified in subsection (1)(a) or (b) to prove that the offence was committed without that person's consent or connivance and that the person exercised due diligence to prevent the commission of the offence.

Power to request name and address by police officers

201.(1) Any police officer, in connection with the exercise of any powers or the discharge by the police officer of any duties under this Act in relation to any person, may request that person to state the person's full name, the address of the person's usual place of residence and his or her date of birth or any of those particulars.

(2) If the police officer suspects on reasonable grounds that any of the particulars stated is false, the police officer may request evidence of the correctness of the particulars.

(3) A person requested under this section to state the person's name, address and date of birth or any of those particulars who—

- (a) fails to immediately state any such particulars; or
- (b) states any false particulars;

commits an offence against this Act.

Maximum penalty—200 penalty units or 1 year's imprisonment.

(4) A person requested under this section to produce evidence of the correctness of any particulars who—

- (a) fails to produce that evidence; or
- (b) produces false evidence with respect to those particulars;

commits an offence against this Act.

Maximum penalty—200 penalty units or 1 year's imprisonment.

(5) A police officer may arrest without warrant any person who, when requested under this section—

- (a) to state that person's name, address and date of birth or any of those particulars; or
- (b) to produce evidence of the correctness of any such particulars;

fails to do so or states any name, address or date of birth or produces evidence that in the opinion of the police officer is false.

(6) Any police officer who makes a request of a person under this section must—

- (a) if the police officer is not readily identifiable as a police officer,

produce to the person the officer's identification issued to the officer by the commissioner of the police service; and

- (b) warn the person when making the request that failure to comply with the request or to state false particulars or to produce false evidence with respect to the particulars requested is an offence against this Act.

Fingerprints and the like

202.(1) Where a person has been arrested for an offence or an attempt to commit an offence against section 135(1) or (2), 152(1), 196 or 197, a police officer at the police establishment or police station to which the person is taken after arrest, or where the person is in custody, may take all such particulars as the police officer considers necessary for the identification of the person, including the person's voice print, photograph, fingerprints, palm prints, footprints, toe prints and handwriting.

(2) In taking those particulars (other than any voice print or handwriting), such force as is reasonable in the circumstances may be used.

(3) A court that convicts a person who appears personally before it of an offence or an attempt to commit an offence against section 135(1) or (2), 152(1), 196 or 197 may, in its discretion, order that person into the custody of a police officer for the purpose of obtaining any particulars referred to in subsection (1).

(4) That police officer and any other police officer acting in aid of that police officer must take that person to a place where those particulars can adequately be taken and take those particulars.

(5) In taking the person to the place, such force as is reasonable in the circumstances may be used.

(6) Where a person is found not guilty of an offence or an attempt to commit an offence against section 135(1) or (2), 152(1), 196 or 197, any voice print, photograph, fingerprints, palm prints, footprints, toe prints or handwriting previously taken under this section in relation to the offence in respect of which the person was found not guilty must, on written request by the person, be destroyed in the person's presence or in the presence of a person nominated by the person.

Claims of privilege in proceedings for offences

203.(1) In proceedings for an offence against this Act, a prosecutor or a witness for the prosecution must not be compelled to disclose information, or produce any document containing the information, where the information may be subject to a genuine claim of privilege under any Act or law.

(2) Except as provided in subsection (1), in proceedings for an offence against this Act a prosecutor or a witness for the prosecution, on application by or on behalf of the defendant, may be compelled to disclose to the court information relevant to the proceedings or produce any document containing information relevant to the proceedings.

(3) The court in the interests of justice, having regard to all the circumstances of the proceedings, must determine if the information is to be disclosed, or the document produced, to the defendant or the defendant's legal representative.

Protection of officers etc.

204. No liability is incurred by the Crown, the Minister, the commission, a commissioner, the chief executive, the commissioner of the police service, any inspector or any other officer of the division or any police officer or other person acting under this Act in aid of an inspector on account of anything done for the purposes of this Act.

Attempt to commit offence

205.(1) A person must not attempt to commit an offence against this Act.

(2) A person convicted of the offence of attempting to commit an offence against this Act is liable to the same penalty as an offender convicted of the offence itself unless the person proves that the person desisted of the person's own initiative from the further prosecution of the person's intention, without its fulfilment being prevented by circumstances independent of the person's will, in which case the person is liable to one-half of the penalty to which the person would otherwise be liable.

(3) A person may be convicted of attempting to commit an offence against this Act upon a complaint charging the person with that offence.

Proceedings for offences

206.(1) Subject to subsections (3) to (6), offences against this Act may be prosecuted in a summary way under the *Justices Act 1886*.

(2) A prosecution for an offence against this Act may be started within 1 year from the time when the matter of complaint arose or, if the proceedings are instituted by—

- (a) the chief executive, or a person authorised by the chief executive—within 6 months after the matter of complaint comes to the knowledge of the chief executive; or
- (b) a person authorised by the commission—within 6 months after the matter of complaint comes to the knowledge of the commission;

whichever is the period later to expire.

(3) An offence against section 67, 99(1), 135(1) or (2), 140(2), 149(7A), 151(1) or (2), 152(1), (3) or (4), 153(1), 155(1) or (3), 177, 178, 193, 196 or 197 may be prosecuted in a summary way under the *Justices Act 1886* or upon indictment.

(4) Where proceedings for an offence against section 67, 99(1), 135(1) or (2), 140(2), 149(7A), 151(1) or (2), 152(1), (3) or (4), 153(1), 155(1) or (3), 177, 178, 193, 196 or 197 are taken with a view to summary conviction of the defendant, the court, if it forms the opinion that the matter should not be determined summarily or if the defendant requires that the matter be dealt with upon indictment, must abstain from determining the matter summarily.

(5) Instead of dealing with the proceedings as proceedings with a view to the committal of the defendant for trial or sentence the court may exercise in respect of the defendant for the purpose of such proceedings all the powers conferred on it by law as though the proceedings were proceedings with a view to committal in the first instance.

(6) Where the court abstains from determining a matter summarily under subsection (4), a plea of the defendant, if taken at the outset of the summary proceedings, is to be disregarded and, before committing the defendant for trial or for sentence, the court must address the defendant under the *Justices Act 1886*, section 104.

(7) A conviction upon indictment for an offence against section 67,

99(1), 135(1) or (2), 140(2), 149(7A), 151(1) or (2), 152(1), (3) or (4), 153(1), 155(1) or (3), 177, 178, 193, 196 or 197 is, and has effect in law as, a conviction for an indictable offence.

Institution of proceedings

207.(1) Without derogating from subsection (2), proceedings for an offence against section 67, 105, 118, 119(1) or (2), 120(1) or (2), 121, 122(1), 135(1) or (2), 152(1), 196, 197 or 201 may be instituted by a police officer and a police officer is entitled to appear before a Magistrates Court on behalf of and act for the complainant.

(2) Proceedings for an offence against this Act may be instituted by the chief executive or by a person authorised by the commission or chief executive to institute the proceedings in a particular case.

(3) In any case where power is given to arrest an offender, it also includes power and authority to proceed against an offender by way of complaint and summons under the *Justices Act 1886*.

Warrant and arrest of person offending against Act

208. Upon complaint on oath made before any justice by any person authorised in writing by the chief executive in that behalf that the person believes on reasonable grounds that an offence against this Act has been committed, the justice, if the justice believes on reasonable grounds that proceedings by summons would not be effective, may by warrant under the justice's hand directed to any police officer order the person named in the warrant to be arrested and brought as soon as possible before a court to be dealt with according to law.

Forfeiture

209.(1) The court that convicts a person of an offence against this Act may order to be forfeited to the Crown—

- (a) anything seized under section 198; and
- (b) any article, records or other thing, seized and retained under section 181(1)(f) or 181(3)(c) and detained under section 181(4);

relating to or connected with the commission of the offence of which the person has been convicted.

(2) Where a person charged with an offence against this Act is not convicted of any offence, the court may order to be forfeited to the Crown any article, records or other thing, seized and retained under section 181(1)(f) or 181(3)(c) and detained under section 181(4), that was or were found in the possession or under the control of that person.

(3) Anything forfeited to the Crown under this section is to be dealt with or disposed of in such way as the Minister directs.

(4) A dealing with or forfeiture or disposal of anything under this section does not confer upon any person a right to compensation.

Service of notices, documents etc.

210.(1) Any written advice, direction, order, requirement, requisition, notice, authorisation, notification or any other document (“**document**”) under this Act is taken to have been given or issued to or served upon a person if—

- (a) it is served personally on the person to whom it is directed or on a person authorised by that person, either generally or in a particular case, to accept service of anything on that person’s behalf; or
- (b) it is left at the place of residence or business of the person to whom it is directed last known to the person who gives, issues or serves it; or
- (c) it is sent by post or facsimile transmission to the place of residence or business of the person to whom it is directed last known to the person who gives, issues or serves it; or
- (d) where a way of service is prescribed by any other Act or law in relation to a person or class of person—it is served in the way so prescribed.

(2) Where any document is given, issued or served, the person who gives, issues or serves it may attend before a justice and depose on oath and in writing endorsed on a copy of the document as to the way of giving, issue or service of the document showing the date of personal service, leaving, posting, transmission or service in other way specified in

subsection (1) of such document.

(3) Every such deposition upon production in court is evidence of the matters contained in the deposition and in the absence of evidence to the contrary is conclusive evidence of the giving, issuing or serving of such document to or on the person to whom it is directed.

Evidentiary provisions

211. In proceedings under this Act—

- (a) it is not necessary to prove the appointment of the Minister, the chairperson, a commissioner, the chief executive, any police officer, any inspector or any other officer of the division; and
- (b) a signature purporting to be that of any person in any capacity referred to in paragraph (a) is taken to be the signature it purports to be until the contrary is proved; and
- (c) a document or writing purporting to be a copy of any document referred to in section 210(1) or of any licence granted or issued under this Act is evidence of the document of which it purports to be a copy and, in the absence of evidence to the contrary, is conclusive such evidence; and
- (d) a certificate purporting to be signed by the chief executive certifying that at a specified time or during a specified period—
 - (i) there was or was not in force under this Act any licence, approval, authorisation or exemption; or
 - (ii) a person was or was not a recognised manufacturer or supplier of gaming machines or a recognised supplier of restricted components;

is evidence and, in the absence of evidence to the contrary, conclusive evidence of the matters contained in the certificate.

Disclosure of criminal history

212. A person who—

- (a) is the subject of an inquiry under section 13(6) or 29(2) or (3); or

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- (b) is an applicant for a licence under part 3 or 4; or
- (c) is the secretary or an executive officer of a body corporate that is an applicant for a licence under part 3, 3A or 4; or
- (d) submits a tender in response to a call under section 144(1); or
- (e) is the secretary or an executive officer of a body corporate that submits a tender in response to a call under section 144(1); or
- (f) is required to submit information or material, or additional information or material, under section 29(5), 40(8), 60(2), 79(4), 90(2), 133(2) or 145(3);

must, if so required for the purposes of this Act, disclose—

- (g) the person's criminal history with respect to contraventions of any provision of law, whether committed in Queensland or elsewhere; and
- (h) convictions recorded against the person in respect of contraventions of any provision of law, whether committed in Queensland or elsewhere, that under any law are taken not to be convictions.

Maximum penalty—200 penalty units or 1 year's imprisonment.

Refund of amounts in certain circumstances

213. The chief executive may—

- (a) refund amounts paid to the chief executive in error; and
- (b) refund a fee paid relative to an application under this Act where—
 - (i) in the opinion of the chief executive no substantial expense has been incurred by the chief executive in regard to such application; and
 - (ii) the applicant, or other person acceptable to the chief executive, makes a written request for the application not to proceed.

Approval of forms

213A. The chief executive may approve forms for use under this Act.

Alternatives to forms

214.(1) The chief executive may instead of requiring any report to be made in the approved form, approve the submission of information the subject of the report by any other method or medium of storage considered appropriate by the chief executive.

(2) Where under subsection (1) the chief executive approves the submission of information by an alternative method or medium of storage, the submission of information by the alternative method or medium has the same effect as if it had been made in the approved form.

Regulation making power

215.(1) The Governor in Council may make regulations under this Act.

(2) A regulation may be made for or about—

- (a) arrangements and procedures for the taking of fingerprints and palm prints of an applicant for a repairer's licence or machine manager's licence; and
- (b) the activities of listed persons or holders of licences under this Act; and
- (d) the control of the premises of licensed repairers or licensed service contractors; and
- (e) security procedures for the manufacture, assembly, storage, handling, transport, consignment and receipt of gaming equipment and restricted components; and
- (f) the form and way of applications for approval of premises used in connection with the manufacture, assembly, storage or handling of gaming machines or restricted components; and
- (g) the different categories of licensed premises; and
- (h) the restrictions or entitlements which apply to different categories of licensed premises; and

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- (i) any matter or thing in relation to the administration of this Act in respect of which a fee is payable and prescribing the amount of such fee; and
- (j) prescribing, where not provided in this Act, when a fee may be payable for any service or act carried out or undertaken and the amount of such fee; and
- (k) matters to enable the proper conduct of gaming; and
- (l) provision of signs and notices in licensed premises; and
- (m) the control of advertising or promotions by any licensee, recognised manufacturer or supplier of gaming machines or other person in relation to gaming machines, gaming and the conduct of gaming; and
- (n) applications and fees with respect to the approval of electronic monitoring and centralised credit systems; and
- (o) the keeping of accounts with financial institutions by licensees; and
- (p) supplying gaming equipment; and
- (q) identification of machine managers and employees of licensees; and
- (r) the conduct and proceedings of meetings of the commission; and
- (s) offences against the regulations and prescribing the amount of any penalty for an offence against any regulation, provided that any such penalty must not exceed 20 penalty units; and
- (t) all matters required or permitted by this Act to be prescribed where such matters are to be or may be prescribed or where the method of prescription is not otherwise provided; and
- (u) all matters that may be convenient for the administration of this Act or that may be necessary or expedient to achieve the objects and purposes of this Act.

Certain directions of Minister subordinate legislation etc.

216.(2) Directions given by the Minister under sections 24(5) and 25(1)(e) are declared to be—

- (a) subordinate legislation; and
- (b) exempt instruments for the purposes of the *Legislative Standards Act 1992*.

Approval of chief executive may be conditional

217. Any approval of the chief executive under this Act may be subject to conditions.

PART 11—TRANSITIONALS

Chief executive to supply gaming machines etc. until there is a licensed operator

218.(1) This section applies only until a person becomes the holder of an operator's licence.

(2) Subject to subsections (4) and (5) and section 57, the chief executive must supply to a licensee the number or increased number of gaming machines decided under section 40(12) or 56(5).

(3) The gaming machine type, game, gaming token denomination and betting unit of a gaming machine supplied under subsection (2) are to be as the chief executive decides.

(4) If at any time a sufficient number of gaming machines is not available to enable the chief executive to comply with subsection (2), the chief executive may supply to a licensee a number less than the number decided.

(5) The chief executive must supply the balance of the gaming machines as soon as possible after a sufficient number of gaming machines becomes available.

Gaming machine tax for June 1997

219. To remove any doubt, it is declared that any monthly rental fees, gaming machine tax and gaming machine community benefit levies that

would have been payable for the month of June 1997 if the *Gaming Machine Amendment Act 1997* had not commenced together with any penalties payable in relation to the late payment of the fees, tax or levies are payable as if the *Gaming Machine Amendment Act 1997* had not commenced.

Recovery of certain amounts outstanding at 30 June 1997

220.(1) Section 176, as in force immediately before the *Gaming Machine Amendment Act 1997* commenced, applies to monthly rental fees, gaming machine tax and levies payable for a period before 1 July 1997 and remaining unpaid after 30 June 1997.

(2) Also, section 176, as in force immediately before the *Gaming Machine Amendment Act 1997* commenced, applies to a penalty payable in relation to a fee, tax or levy mentioned in subsection (1).

Payment of certain amounts received after 30 June 1997

221. Despite section 174—

- (a) any money received after 30 June 1997 for monthly rental fees, gaming machine tax or levies payable before 1 June 1997, together with any penalties payable in relation to the late payment of the fees, tax or levies, is to be taken to be gaming machine tax and must be paid into the consolidated fund; and
- (b) any money received after 31 July 1997 for monthly rental fees, gaming machine tax or levies payable for the month of June 1997, together with any penalties payable in relation to the late payment of the fees, tax or levies, is to be taken to be gaming machine tax and must be paid into the consolidated fund.

Inspectors and officers of the division

222. To remove any doubt, it is declared that a person who was an inspector or an officer of the division under this Act immediately before the commencement of the *Gaming Machine Amendment Act 1997*, is taken to be an inspector or officer of the division appointed under this Act after the commencement.

ENDNOTES**1 Index to endnotes**

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2 Date to which amendments incorporated

This is the reprint date mentioned in the Reprints Act 1992, section 5(c). Accordingly, this reprint includes all amendments that commenced operation on or before 6 April 1999. Future amendments of the Gaming Machine Act 1991 may be made in accordance with this reprint under the Reprints Act 1992, section 49.

3 Key

Key to abbreviations in list of legislation and annotations

AIA	=	Acts Interpretation Act 1954	prev	=	previous
amd	=	amended	(prev)	=	previously
amdt	=	amendment	proc	=	proclamation
ch	=	chapter	prov	=	provision
def	=	definition	pt	=	part
div	=	division	pubd	=	published
exp	=	expires/expired	R[X]	=	Reprint No.[X]
gaz	=	gazette	RA	=	Reprints Act 1992
hdg	=	heading	reloc	=	relocated
ins	=	inserted	renum	=	renumbered
lap	=	lapsed	rep	=	repealed
notfd	=	notified	s	=	section
o in c	=	order in council	sch	=	schedule
om	=	omitted	sdiv	=	subdivision
p	=	page	SIA	=	Statutory Instruments Act 1992
para	=	paragraph	SL	=	subordinate legislation
prec	=	preceding	sub	=	substituted
pres	=	present	unnum	=	unnumbered

4 Table of earlier reprints

TABLE OF EARLIER REPRINTS

[If a reprint number includes a roman letter, the reprint was released in unauthorised, electronic form only.]

Reprint No.	Amendments included	Reprint date
1	to Act No. 68 of 1992	1 February 1993
2	to Act No. 63 of 1993	24 December 1993
3	to Act No. 58 of 1995	3 April 1996
3A	to Act No. 47 of 1996	3 December 1996
3B	to Act No. 34 of 1997	2 October 1997
4	to Act No. 81 of 1997	5 December 1997
4A	to Act No. 14 of 1998	8 July 1998
4B	to Act No. 14 of 1998	2 October 1998

5 Tables in earlier reprints

TABLES IN EARLIER REPRINTS

Name of table	Reprint No.
Changed names and titles	3
Corrected minor errors	3
Obsolete and redundant provisions	3
Renumbered provisions	1, 2

6 List of legislation

Gaming Machine Act 1991 No. 7

date of assent 27 March 1991

ss 1–2 commenced on date of assent

remaining provisions commenced 18 May 1991 (proc pubd gaz 18 May 1991 p 258)

as amended by—

Gaming Machine Amendment Act 1992 No. 35

date of assent 2 July 1992

ss 1–2 commenced on date of assent

remaining provisions commenced 2 July 1992 (1992 SL No. 213)

Statute Law (Miscellaneous Provisions) Act (No. 2) 1992 No. 68 ss 1–3 sch 2

date of assent 7 December 1992

commenced on date of assent

Gaming Machine Amendment Act 1993 No. 63

date of assent 23 November 1993

ss 1–3 commenced on date of assent

remaining provisions commenced 1 December 1993 (1993 SL No. 417)

Statute Law (Miscellaneous Provisions) Act 1994 No. 15 ss 1–3, sch 2

date of assent 10 May 1994

commenced on date of assent

Liquor Amendment Act (No. 2) 1994 No. 59 ss 1–2, 89 sch 3

date of assent 4 November 1994

ss 1–2 commenced on date of assent

remaining provisions commenced 2 December 1994 (1994 SL No. 409)

Statute Law (Miscellaneous Provisions) Act (No. 2) 1994 No. 87 ss 1–3, sch 1

date of assent 1 December 1994

commenced on date of assent

Statute Law Revision Act (No. 2) 1995 No. 58 ss 1–2, 4 sch 1

date of assent 28 November 1995

commenced on date of assent

Public Service Act 1996 No. 37 ss 1–2, 147 sch 2

date of assent 22 October 1996

ss 1–2 commenced on date of assent

remaining provisions commenced 1 December 1996 (1996 SL No. 361)

Keno Act 1996 No. 47 ss 1, 244 sch 3

date of assent 15 November 1996

commenced on date of assent

Gaming Machine Amendment Act 1997 No. 24

date of assent 22 May 1997

ss 1–2 commenced on date of assent

remaining provisions commenced 1 July 1997 (1997 SL No. 162)

Lotteries Act 1997 No. 34 ss 1–2, 233

date of assent 18 July 1997

ss 1–2 commenced on date of assent

remaining provisions commenced 1 August 1997 (1997 S No. 230)

Statute Law (Miscellaneous Provisions) Act 1997 No. 81 ss 1–3 sch

date of assent 5 December 1997

commenced on date of assent

Gaming Machine Amendment Act 1998 No. 11

date of assent 23 March 1998

ss 1–2 commenced on date of assent

remaining provisions commenced 1 July 1998 (1998 SL No. 82)

Interactive Gambling (Player Protection) Act 1998 No. 14 ss 1–2, 266

date of assent 26 March 1998

ss 1–2 commenced on date of assent

remaining provisions commenced 1 October 1998 (1998 SL No. 257)

Gaming Machine and Other Legislation Amendment Act 1999 No. 8 pts 1–2

date of assent 30 March 1999

ss 1–2 commenced on date of assent

ss 113 commenced 20 November 1998 (see s 2(1))

remaining provisions not yet proclaimed into force

7 List of annotations

This reprint has been renumbered—see table of renumbered provisions in endnote 8.

Commencement

s 2 om R3 (see RA s 37)

Definitions

prov hdg sub 1997 No. 24 s 4(1); 1997 No. 81 s 3 sch

s 3 amd 1992 No. 35 s 4(3), sch

def “**accepted representations**” ins 1997 No. 24 s 4(3)

- def **“additional premises”** ins 1999 No. 8 s 4(2)
- def **“additional premises application”** ins 1999 No. 8 s 4(2)
- def **“appropriately qualified”** ins 1999 No. 8 s 4(2)
- def **“approved authority”** ins 1999 No. 8 s 4(2)
- def **“approved control system”** ins 1999 No. 8 s 4(2)
- def **“approved form”** ins 1995 No. 58 s 4 sch 1
- def **“approved financier”** ins 1997 No. 24 s 4(3)
- def **“approved number”** ins 1999 No. 8 s 4(2)
- def **“approved place”** ins 1999 No. 8 s 4(2)
- def **“approved trust account”** ins 1998 No. 11 s 4(2)
- def **“arrangement”** ins 1993 No. 63 s 4(2)
- def **“assessment period”** ins 1997 No. 24 s 4(3)
- def **“associate”** ins 1993 No. 63 s 2 sch
- def **“associates (nominees) audit program”** ins 1999 No. 8 s 4(2)
- def **“associates (operators) audit program”** ins 1999 No. 8 s 4(2)
- def **“audit guidelines”** ins 1999 No. 8 s 4(2)
- def **“authorised gaming machine”** ins 1999 No. 8 s 4(2)
- def **“basic monitoring services”** ins 1997 No. 24 s 4(3)
- def **“betting unit”** ins 1993 No. 63 s 4(2)
- def **“category 1 licensed premises”** ins 1999 No. 8 s 4(2)
- def **“category 2 licensed premises”** ins 1999 No. 8 s 4(2)
- def **“chief executive”** ins 1992 No. 35 s 4(2)
om 1997 No. 24 s 61 sch
- def **“club”** om 1992 No. 35 s 4(1)
ins 1992 No. 35 s 4(2)
- def **“club liquor licence”** ins 1992 No. 35 s 4(2)
sub 1993 No. 63 s 4
- def **“commission”** sub 1998 No. 14 s 266(2)
- def **“conduct of gaming”** ins 1993 No. 63 s 2 sch
- def **“control action”** ins 1999 No. 8 s 4(2)
- def **“control system”** ins 1999 No. 8 s 4(2)
- def **“control system (change) submission”** ins 1999 No. 8 s 4(2)
- def **“control system submission”** ins 1999 No. 8 s 4(2)
- def **“conviction”** ins 1993 No. 63 s 4(2)
- def **“criminal history”** ins 1999 No. 8 s 4(2)
- def **“decrease proposal”** ins 1999 No. 8 s 4(2)
- def **“deputy director”** amd 1992 No. 35 sch
om 1997 No. 24 s 61 sch
- def **“directly interested person”** ins 1999 No. 8 s 4(2)
- def **“director”** amd 1992 No. 35 sch
om 1997 No. 24 s 61 sch
- def **“disclosed associate”** ins 1997 No. 24 s 4(3)
amd 1999 No. 8 s 4(3)
- def **“disclosure affidavit”** ins 1997 No. 24 s 4(3)
sub 1999 No. 8 s 4(1)–(2)
- def **“division”** amd 1992 No. 35 sch
- def **“excluded interested person”** ins 1999 No. 8 s 4(2)
- def **“executive officer”** amd 1992 No. 35 sch
- def **“exempt monitoring record”** ins 1999 No. 8 s 4(2)

- def **“existing licence”** ins 1999 No. 8 s 4(2)
def **“existing premises”** ins 1999 No. 8 s 4(2)
def **“financial institution”** amd 1992 No. 35 sch
def **“financial year”** amd 1993 No. 63 s 2 sch; 1997 No. 24 s 61 sch
def **“game”** sub 1999 No. 8 s 4(1)–(2)
def **“Gaming Act”** ins 1996 No. 47 s 244 sch 3
sub 1997 No. 34 s 233(2); 1998 No. 14 s 266(3)
def **“gaming duties”** ins 1999 No. 8 s 4(2)
def **“gaming employee”** ins 1999 No. 8 s 4(2)
def **“gaming machine type”** om 1992 No. 35 s 4(1)
ins 1992 No. 35 s 4(2)
def **“gaming trainer”** ins 1997 No. 24 s 4(3)
def **“general associate”** ins 1997 No. 24 s 4(3)
def **“general liquor licence”** ins 1992 No. 35 s 4(2)
def **“gross monthly turnover”** om 1997 No. 24 s 4(2)
def **“increase application”** ins 1999 No. 8 s 4(2)
def **“indirectly interested person”** ins 1999 No. 8 s 4(2)
def **“information notice”** ins 1997 No. 24 s 4(3)
sub 1999 No. 8 s 4(1)–(2)
def **“inspector”** sub 1999 No. 8 s 4(1)–(2)
def **“interested person”** ins 1997 No. 24 s 4(3)
sub 1999 No. 8 s 4(2)
def **“jackpot”** om 1998 No. 11 s 4(1)
def **“jackpot payout”** ins 1998 No. 11 s 4(2)
def **“key monitoring employee”** ins 1997 No. 24 s 4(3)
sub 1999 No. 8 s 4(1)–(2)
def **“key officer”** ins 1997 No. 24 s 4(3)
sub 1999 No. 8 s 4(1)–(2)
def **“licensed gaming employee”** ins 1999 No. 8 s 4(2)
def **“licensed gaming nominee”** ins 1999 No. 8 s 4(2)
def **“licensed key monitoring employee”** ins 1997 No. 24 s 4(3)
def **“licensed machine manager”** om 1999 No. 8 s 4(1)
def **“licensed operator”** ins 1997 No. 24 s 4(3)
def **“licensed person”** ins 1999 No. 8 s 4(2)
def **“Licensing Commission”** om 1992 No. 35 s 4(1)
def **“linked jackpot arrangement”** amd 1992 No. 35 sch
sub 1998 No. 11 s 4(1)–(2)
def **“linked jackpot equipment”** amd 1998 No. 11 s 4(3)
def **“liquor”** om 1992 No. 35 s 4(1)
ins 1992 No. 35 s 4(2)
def **“liquor licence”** ins 1992 No. 35 s 4(2)
sub 1993 No. 63 s 4
def **“liquor licensing authority”** ins 1992 No. 35 s 4(2)
def **“machine manager”** amd 1993 No. 63 s 2 sch
om 1999 No. 8 s 4(1)
def **“Magistrates Court”** om 1992 No. 35 s 4(1)
def **“metered amount”** ins 1998 No. 11 s 4(2)
def **“metered bets”** ins 1997 No. 24 s 4(3)

- def **“metered payouts”** ins 1997 No. 24 s 4(3)
 sub 1998 No. 11 s 4(1)–(2)
- def **“metered win”** ins 1997 No. 24 s 4(3)
- def **“Minister”** om 1992 No. 35 s 4(1)
- def **“money clearance”** sub 1999 No. 8 s 4(1)–(2)
- def **“monitoring operations”** ins 1999 No. 8 s 4(2)
- def **“monitoring record”** ins 1999 No. 8 s 4(2)
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s 141A ins 1997 No. 24 s 34

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s 141C ins 1997 No. 24 s 34

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s 146B ins 1999 No. 8 s 90

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s 148 amd 1992 No. 35 sch
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s 148A ins 1999 No. 8 s 91

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prov hdg sub 1998 No. 11 s 16(1)

s 149 amd 1992 No. 35 sch; 1993 No. 63 s 2 sch; 1995 No. 58 s 4 sch 1; 1997 No. 24 ss 38, 61 sch; 1998 No. 11 s 16(2)–(12)

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prov hdg amd 1997 No. 24 s 61 sch

s 150 amd 1992 No. 35 sch; 1997 No. 24 ss 39, 61 sch

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s 151 amd 1992 No. 35 sch; 1993 No. 63 s 2 sch; 1997 No. 24 s 61 sch; 1999 No. 8 s 92

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s 152 amd 1992 No. 35 sch; 1993 No. 63 s 2 sch; 1997 No. 24 s 61 sch; 1999 No. 8 s 93

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s 153 sub 1992 No. 35 s 20

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s 155 amd 1992 No. 35 sch; 1997 No. 24 s 61 sch; 1999 No. 8 s 95(2)

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s 156 sub 1992 No. 35 s 21; 1997 No. 24 s 61 sch

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s 184 amd 1992 No. 35 sch; 1993 No. 63 s 2 sch; 1994 No. 87 s 3 sch 1; 1997 No. 24 s 61 sch

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s 185 amd 1992 No. 35 sch; 1994 No. 87 s 3 sch 1

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s 188 amd 1992 No. 35 sch; 1997 No. 24 s 61 sch; 1999 No. 8 s 111

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s 188A ins 1999 No. 8 s 112

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s 189 amd 1992 No. 35 sch; 1997 No. 24 s 57; 1999 No. 8 s 113; 1999 No. 8 s 113

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s 191 amd 1992 No. 35 sch; 1997 No. 24 s 61 sch

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s 194 amd 1992 No. 35 sch; 1993 No. 63 s 2 sch

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s 195 amd 1992 No. 35 sch; 1997 No. 24 s 61 sch; 1999 No. 8 s 114

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s 198 amd 1992 No. 35 sch

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s 200 amd 1992 No. 35 sch

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s 201 amd 1992 No. 35 sch

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s 202 amd 1992 No. 35 sch

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s 204 amd 1992 No. 35 sch; 1997 No. 24 s 61 sch

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s 206 amd 1992 No. 35 sch; 1997 No. 24 s 61 sch; 1998 No. 11 s 19; 1999 No. 8 s 116

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s 207 amd 1992 No. 35 sch; 1994 No. 87 s 3 sch 1; 1997 No. 24 s 61 sch

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s 208 amd 1997 No. 24 s 61 sch

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s 211 amd 1992 No. 35 sch; 1997 No. 24 s 61 sch

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s 212 amd 1992 No. 35 sch; 1997 No. 24 s 58; 1999 No. 8 s 117

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s 213 amd 1997 No. 24 s 61 sch

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s 214 amd 1992 No. 35 sch; 1995 No. 58 s 4 sch 1; 1997 No. 24 s 61 sch

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s 215 amd R1 (see RA s 39); 1995 No. 58 s 4 sch 1; 1997 No. 24 s 59; 1999 No. 8 s 118

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prov hdg amd 1995 No. 58 s 4 sch 1

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s 220 ins 1997 No. 24 s 60

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9 Provisions that have not commenced and are not incorporated into reprint

The following provisions are not incorporated into the reprint because they had not commenced before the reprint date (see Reprints Act 1992, s 5(c)).

Gaming Machine and Other Legislation Amendment Act 1999 No. 8 ss 4–112 and 114–122 read as follows—

Amendment of s 3 (Definitions)

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

omit.

(2) Section 3—

insert—

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

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

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

Example of ‘standing’—

A person’s classification level in the public service.

“approved authority”, for licensed premises, means—

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

“approved control system” means a control system approved by the chief executive, and includes an approved control system changed under a direction or approval of the chief executive.

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

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

“approved place” see section 72ZZF.

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

“associates (operators) audit program” means an audit program, for investigating associates of licensed operators, approved by the Minister under section 72ZB.

“audit guidelines” see section 72ZZN.

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

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

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

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

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

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

“control system” means a system of internal controls and administrative

and accounting procedures for the conduct by a licensed operator of the operator's monitoring operations.

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

“control system submission” see section 72ZZB.

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

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

“decrease proposal” means—

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

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

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

“disclosure affidavit” see section 72ZZR.

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

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

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

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

“game” means a game—

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

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

“gaming employee” means—

- (a) a licensed gaming employee employed under section 75(3), (4) or (5); or
- (b) a licensed gaming nominee employed under section 75(3) or (4); or
- (c) an applicant for a gaming employee’s licence employed under section 75(4) or (6); or
- (d) an applicant for a gaming nominee’s licence employed under section 75(4); or
- (e) a person employed under section 75(9); or
- (f) the nominee of a licensee.

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

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

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

- (a) if the notice is being given to a person who has a right to appeal against the decision to the Minister—

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

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

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

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

“key officer” see section 72ZZT.

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

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

“licensed person” means—

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

“money clearance” means—

- (a) the removal of gaming tokens from—
 - (i) the cash box of a gaming machine; or
 - (ii) the banknote acceptor of a gaming machine; or
- (b) the deduction of an amount from money received by a licensee

from persons to enable the persons to establish gaming machine credits under a centralised credit system.

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

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

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

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

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

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

“parent entity”, of a licensed operator, see Corporation’s Law, section 243D(1).²⁸

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

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

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

²⁸ Corporation’s Law—

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

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

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

“rented gaming machine” means a gaming machine—

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

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

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

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

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

gaming machines under section 40B, for the application—

- (i) any information or document mentioned in paragraph (a); or
- (ii) any information or document received by the commission in response to a notice given under section 40A(1) about the application.

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

- (a) for the making of a recommendation by the chief executive under section 79(2) about the application—any information or document received by the chief executive in response to a notice given under section 79(1A) about the application; or
- (b) for the making of a decision by the commission under section 80(1) about the application—
 - (i) any information or document mentioned in paragraph (a); and
 - (ii) any information or document received by the commission in response to a notice given under section 80 (2).

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

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

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

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

omit, insert—

‘72ZZR(4)(a) or (b).²⁹’.

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

omit, insert—

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

Amendment of s 6 (Meaning of “associate”)

5. Section 6(a)(ix), ‘a natural person’—

omit, insert—

‘an individual’.

Insertion of new s 6AA

6. After section 6—

insert—

‘Meaning of “control action” under the Corporations Law

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

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

²⁹ Section 72ZZR (Disclosure affidavits about persons having influence or receiving benefits)

Amendment of s 12 (Powers of commission)**7. Section 12(2)—**

omit.

Amendment of s 24 (Appeals to Minister)**8.(1) Section 24(8)(b)—**

omit, insert—

- ‘(b) under section 40B(2), fixing a number of gaming machines for premises that is less than the number sought in the relevant application for the premises; or
- (ba) under section 41B, refusing to approve additional premises as premises to which a club’s gaming machine licence relates; or
- (bb) under section 41C(2), fixing a number of gaming machines for additional premises that is less than the number sought in the additional premises application; or’.

(2) Section 24(8)(e) to (h)—

omit, insert—

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

machines for a licensee's licensed premises; or

(h) under section 64(12)(d) or (12A); or'.

(3) Section 24(8)(m)—

omit, insert—

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

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

insert—

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

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

(5) Section 24(9)—

insert—

'(c) a decision of the chief executive under section 76E refusing to grant an application for a gaming nominee's licence; or

(d) a decision of the chief executive under section 76F refusing to grant an application for a gaming employee's licence; or

(e) a decision of the chief executive under section 86 refusing to renew a licence issued under part 4.'

Replacement of s 31 (Delegation by chief executive)

9. Section 31—

omit, insert—

'Delegation by Minister

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

(a) the chief executive; or

(b) an appropriately qualified inspector; or

(c) an appropriately qualified officer of the department.

‘Delegation by commission

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

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

‘(2) In this section—

“designated powers”, of the commission, means the powers of the commission under this Act, other than powers under sections 64(12) and (12A), 65, 72ZO, 94(12) and (12A), 95, 145 and 184.³⁰

‘Delegation by chief executive

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

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

Replacement of s 34 (Police assistance)

10. Section 34—

omit, insert—

‘Criminal history reports for investigations

‘34.(1) This section applies in relation to the investigation of a person for

³⁰ Sections 64 (Cancellation or suspension of gaming machine licences and letters of censure), 65 (Suspension of gaming machine licence pending decision under s 64), 72ZO (Decision of commission), 94 (Cancellation or suspension of licences under this part), 95 (Suspension of licences pending decision under s 94), 145 (Procedure for determination of tenders) and 184 (Review and termination of agreements)

section 29(4), 40(2)(a), 60(1), 72ZC(1), 79(1)(b) and 90A.³¹

‘(2) If the chief executive asks the commissioner of the police service for a written report on the person’s criminal history, the commissioner must give the report to the chief executive.

‘(3) The report must contain—

- (a) relevant information in the commissioner’s possession; and
- (b) relevant information the commissioner can reasonably obtain by asking officials administering police services in other Australian jurisdictions; and
- (c) other relevant information to which the commissioner has access.’.

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

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

omit, insert—

‘any recommendation’.

Amendment of s 39 (Application for gaming machine licences)

12.(1) Section 39(1)—

insert—

‘(f) a subsidiary operator.’.

(2) Section 39(2)—

insert—

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

³¹ Sections 29 (Officers of division to be of good repute), 40 (Recommendation by chief executive about application for gaming machine licence), 60 (Investigation of licensees and associates), 72ZC (Conducting investigations), 79 (Consideration of applications) and 90A (Conducting investigations of licensed persons and associates)

(3) Section 39—*insert—*

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

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

(4) Section 39(3)(b) and (c)—*omit, insert—*

(b) for an application by an individual—must be signed by the applicant; and

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

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

‘an individual’.

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

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

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

‘subsection (1)(a), (b), (c) or (f)’.

(8) Section 39(3)(k)—*omit, insert—*

‘(k) is to specify—

(i) the number of gaming machines for which the licence is sought; and

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

(9) Section 39—*insert—*

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

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

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

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

‘**(6)** In this section—

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

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

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

“**subsidiary operator**” means—

- (a) an individual or body corporate to which the holder of a special

facility liquor licence has, with the approval of the relevant chief executive—

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

Replacement of ss 40 and 41

13. Sections 40 and 41—

omit, insert—

‘Recommendation by chief executive about application for gaming machine licence

‘40.(1) The chief executive must—

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

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

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

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

- (a) the suitability of the premises to which the application relates (the “**subject premises**”) for the installation and use of gaming machines, having regard to the size and layout of, and facilities on, the premises; and
- (b) if the applicant is an individual—the financial stability, general reputation and character of the applicant; and
- (c) if the applicant is a body corporate—
 - (i) the financial stability and business reputation of the body corporate; and
 - (ii) the general reputation and character of the secretary and each executive officer of the body corporate; and
- (d) the suitability of the applicant to be a licensee; and
- (e) if a person is stated in an affidavit under section 59³² as being a person who satisfies a description mentioned in subsection (4)(a) or (b) of that section—the suitability of the person to be an associate of the applicant; and
- (f) if the chief executive considers it appropriate—the suitability of any other associate of the applicant to be an associate of the applicant.

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

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

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

- (a) by written notice, advise the applicant accordingly; and
- (b) return the plan to the applicant; and

³² Section 59 (Disclosure of influential or benefiting parties)

- (c) ask the applicant to amend, or further amend, and resubmit, the plan within the time stated in the notice.

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

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

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

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

‘(10) If the chief executive recommends the grant of a gaming machine licence, the chief executive must advise the commission of the number of gaming machines the chief executive considers are appropriate for the subject premises, or each of the subject premises.³³

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

³³ Section 40C sets out matters to which the chief executive must, or may, have regard in giving advice for section 40(8).

the chief executive—

- (a) is not required to make a recommendation about the application under this section, or give advice under subsection (9); but
- (b) must take the action mentioned in subsection (2)(a) and (3) and, if appropriate, subsection (6), and may take the action mentioned in subsection (4), as if the chief executive were dealing with the application for making a recommendation under this section.

‘Decision on application for gaming machine licence

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

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

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

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

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

- (a) that the club, including a voluntary association of persons from which it was formed—
 - (i) has not been operating for at least 2 years before the

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

members; or

- (j) that the club is being, or may be, used as a device for individual gain or commercial gain by a person other than the club; or
- (k) that the grant of the licence would not be in the public interest.

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

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

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

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

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

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

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

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

‘**(10)** If the commission refuses to grant a gaming machine licence, the

chief executive must immediately give the applicant an information notice for the decision.

‘(11) In this section—

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

‘Fixing number of gaming machines

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

‘(2) The commission must—

- (a) if the application relates to single premises only—fix the number of gaming machines that may, for the licence, be installed on the premises; or
- (b) if the application relates to 2 or more premises—fix, for each of the premises, the number of gaming machines that may, for the licence, be installed on the premises.³⁴

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

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

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

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

³⁴ Section 40C sets out matters to which the commission must, or may, have regard in fixing a number of gaming machines for licensed premises.

prescribed under a regulation for category 2 licensed premises.

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

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

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

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

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

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

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

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

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

‘Application by clubs for additional licensed premises

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

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

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

‘(3) The application for approval must—

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

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

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

- ‘(5) For subsection (3)(g)(i), the required material for the application is—
- (a) a copy of the resolution or minute of the proceedings of the governing body of the applicant by which approval was given to the making of the application, certified as a true copy by the secretary of the applicant or another person authorised to certify by the applicant; and
 - (b) a statement stating—
 - (i) the number of members in each class of membership of the applicant; and
 - (ii) the hours and days when the additional premises are, or are intended to be, open for the sale of liquor; and
 - (c) a statutory declaration by the principal executive officer of the applicant that the rules or by-laws of the applicant—
 - (i) have been complied with in making the application; and
 - (ii) do not prohibit the playing of gaming machines on the additional premises; and
 - (d) one of the following—
 - (i) evidence, satisfactory to the chief executive, that the applicant is the holder of a club liquor licence for the additional premises;
 - (ii) a copy of an application for a club liquor licence for the additional premises made by the applicant; and
 - (e) a plan of the additional premises showing the proposed locations for gaming machines intended to be installed on the premises; and
 - (f) an affidavit under section 59;³⁵ and
 - (g) any other documents the chief executive considers necessary and reasonable to enable the application to be decided.

³⁵ Section 59 (Disclosure of influential or benefiting parties)

‘Recommendation by chief executive about additional premises application

‘41A.(1) The chief executive must—

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

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

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

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

- (a) the suitability of the additional premises for the installation and use of gaming machines, having regard to the size and layout of, and facilities on, the premises; and
- (b) the financial stability and business reputation of the applicant; and
- (c) the general reputation and character of the secretary and each executive officer of the applicant; and
- (d) if a person is stated in an affidavit under section 59³⁶ as being a person who satisfies a description mentioned in subsection (4)(a) or (b) of that section—the suitability of the person to be an associate of the applicant; and
- (e) if the chief executive considers it appropriate—the suitability of

³⁶ Section 59 (Disclosure of influential or benefiting parties)

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

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

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

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

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

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

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

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

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

- (a) must have regard to the number of gaming machines sought in the application for the additional premises; and

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

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

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

‘Decision on additional premises application

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

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

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

- (a) must have regard to any recommendation of the chief executive about the application; and
- (b) must have regard to any supporting material for the application; and
- (c) may have regard to the benefits to be offered to members of the applicant at the additional premises and, in particular, whether the benefits are distinct in nature to the benefits offered to the

members at the applicant's existing licensed premises (the "**existing premises**"); and

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

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

- (a) the additional premises are near the existing premises; and
- (b) the commission is satisfied that—
- (i) it is in the best interests of the applicant's members that the approval be given; and
- (ii) the giving of the approval is not contrary to the public interest.

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

- (a) the applicant, without a reasonable excuse, fails to comply with—
- (i) a requirement of the chief executive under section 41A(2)(b); or
- (ii) a requirement of the commission under subsection (2); or
- (b) an associate of the applicant, without a reasonable excuse, fails to comply with—
- (i) a requirement of the chief executive under section 41A(2)(b); or
- (ii) a requirement of the commission under subsection (2).

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

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

'Fixing number of gaming machines for additional premises

41C.(1) This section applies if the commission decides to approve additional premises as premises to which the applicant's gaming machine

licence (the “**existing licence**”) relates.

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

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

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

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

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

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

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

‘**Application of gaming machine licence to additional premises**

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

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

executive must—

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

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

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

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

14.(1) Section 42, heading—

omit, insert—

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

(2) Section 42(3)(b)(iii)—

omit, insert—

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

Insertion of new s 42A

15. After section 42—

insert—

‘Changes in circumstances of licensees of category 2 licensed premises

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

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

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

Maximum penalty—40 penalty units.

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

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

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

- (a) if subsection (1)(b)(i) applies—
 - (i) a change happens affecting the amount or frequency of the payments or the period for which the payments are required to be made; or
 - (ii) the person entitled to receive the payments changes; or

- (b) if subsection (1)(b)(ii) applies—
- (i) a change happens affecting the amount of the payment, or the nature or extent of the benefit or advantage; or
 - (ii) the person entitled to receive, or who may receive, the payment, benefit or advantage changes.’.

Amendment of s 43 (Issue of gaming machine licences)

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

insert—

‘generally’.

(2) Section 43(2)—

omit, insert—

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

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

Insertion of new s 44

17. After section 43—

insert—

‘Issue of amalgamated gaming machine licences to clubs

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

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

‘(3) The amalgamated licence—

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

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

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

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

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

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

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

Maximum penalty—40 penalty units.

‘(9) In this section—

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

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

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

omit, insert—

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

(2) Section 45—

insert—

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

Maximum penalty—40 penalty units.’.

Amendment of s 47 (Term of gaming machine licences)

19. Section 47(1), ‘2 years’—

omit, insert—

‘5 years’.

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

20. Section 51(5) and (6)—

omit, insert—

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

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

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

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

the person who held the licence.

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

Replacement of ss 55–57

21. Sections 55 to 57—

omit, insert—

‘Removal of rented gaming machines

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

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

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

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

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

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

‘Directions to licensees about authorised gaming machines

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

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

- (a) the chief executive reasonably believes—
 - (i) the machine malfunctions when it is being used; and
 - (ii) the making of the proposed alteration will stop the malfunctioning; and
 - (iii) that, if the proposed alteration is not made, the continued use of the machine may compromise proper standards of integrity affecting gaming or adversely affect the public interest in some other way; or
- (b) the game that may be played on the machine is not a game approved under section 146.³⁷

‘(3) A direction must—

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

‘(4) A licensee to whom a direction is given must comply with the direction, unless the licensee has a reasonable excuse.

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

‘Application to increase approved number of gaming machines

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

‘(2) An application must—

- (a) be in the approved form; and
- (b) be given to the chief executive; and
- (c) be signed in the same way an application for a gaming machine licence is required to be signed;³⁸ and

³⁷ Section 146 (Acceptance by chief executive of gaming machines and games for evaluation)

³⁸ See section 39(3)(b) and (c) and (5).

- (d) if the licensee's gaming machine licence relates to 2 or more premises—state the premises to which the application relates; and
- (e) state the number of gaming machines sought under the increase; and
- (f) state the approved number of gaming machines that would apply to the licensed premises if the increase were to be approved; and
- (g) if appropriate, be accompanied by an application under section 58; and
- (h) be accompanied by any fee prescribed under a regulation for the application.

'Recommendation by chief executive about increase application

'56A.(1) The chief executive must—

- (a) consider an increase application received by the chief executive; and
- (b) after considering the application—make a recommendation to the commission about the application.³⁹

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

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

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

'(4) The chief executive may recommend that approval for an increase be refused if the applicant fails to comply with a requirement of the chief

³⁹ Section 56C sets out matters to which the chief executive must, or may, have regard in making a recommendation about an increase application.

executive under subsection (3) without a reasonable excuse.

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

‘Decision on increase application

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

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

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

‘(3) In making its decision, the commission must have regard to any recommendation of the chief executive about the application.⁴⁰

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

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

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

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

⁴⁰ Section 56C sets out other matters to which the commission must, or may, have regard in deciding an increase application.

‘Matters to be taken into account for increase application

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

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

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

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

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

- (a) the liquor consumption on the premises to which the application relates; and
- (b) the monthly taxable metered win of gaming machines currently operated on the premises; and
- (c) the hours and days when the premises are open for the sale of liquor; and
- (d) the size and layout of, and facilities on, the premises, together with any proposed changes to, or relocation of, the gaming machine areas of the premises; and
- (e) any other matters the commission or chief executive considers relevant.

‘Fixing increase number of gaming machines

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

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

‘**(3)** Also, if the licensee’s gaming machine licence relates to single premises only (the “**licensee’s premises**”), the increase number must be a

number that, when added to the current approved number of gaming machines for the premises, does not result in a total number of gaming machines that is greater than the maximum number prescribed under a regulation for the category of licensed premises to which the licensee's premises belong.

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

‘Proposals to decrease approved number of gaming machines

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

‘(2) An approved authority may request that the approved number of gaming machines for licensed premises of a licensee be decreased.

‘(3) An inspector may make a report—

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

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

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

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

- (a) a general change of conditions in the neighbourhood in which the licensee's licensed premises are situated; or
- (b) a change in the licensee's circumstances; or
- (c) a change in any of the matters mentioned in section 40C(4)⁴¹ relating to the licensee or licensee's licensed premises.

'Recommendation by chief executive about decrease proposal

'57A.(1) The chief executive must—

- (a) consider a decrease proposal received by the chief executive; and
- (b) after considering the proposal—make a recommendation to the commission about the proposal.⁴²

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

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

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

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

'(4) The chief executive's recommendation must be accompanied by any

⁴¹ Section 40C (Matters to be taken into account for advising on or fixing number of gaming machines)

⁴² Section 57C sets out the matters to which the chief executive must, or may, have regard in making a recommendation about a decrease proposal.

submission required to be considered by the chief executive under subsection (3)(c).

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

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

‘Decision on decrease proposal

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

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

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

- (a) any recommendation of the chief executive about the proposal; and
- (b) any submission accompanying the recommendation.⁴³

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

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

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

‘(5) If the commission approves a decrease in the approved number of gaming machines for licensed premises of a licensee and the gaming

⁴³ Section 57C sets out other matters to which the commission must, or may, have regard in deciding a decrease proposal.

machines on the licensed premises are privately acquired gaming machines, the chief executive must approve the way in which the gaming machines the subject of the decrease may be disposed of.

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

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

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

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

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

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

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

‘Matters to be taken into account for decrease proposal

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

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

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

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

- (a) the public interest;
- (b) whether or not there are any other licensed premises in close proximity to the licensed premises to which the decrease proposal relates (the “**subject premises**”);
- (c) the interests of persons using the subject premises;
- (d) if the licensee of the subject premises is a club—
 - (i) the interests of the members of the club; and
 - (ii) whether or not the members have indicated support for a decrease in the approved number of gaming machines for the premises.

‘**Surrender or disposal of gaming machines on approval of decrease**

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

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

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

Maximum penalty—200 penalty units.

‘(3) If the gaming machines on the licensed premises are privately acquired gaming machines, the licensee must, within the required time,

dispose of the number of gaming machines stated for the decrease.⁴⁴

Maximum penalty—200 penalty units.

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

- (a) the period ending 1 month after the licensee receives notice of the decision approving the decrease; or
- (b) if the chief executive extends, or further extends, the period for taking the action, by written notice given to the licensee in the period or extended period—the period as extended.

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

Amendment of s 58 (Relocation of gaming machine areas)

22. Section 58(4)(a)—

omit, insert—

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

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

23.(1) Section 59(1)—

omit, insert—

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

(2) Section 59(3)(a)—

⁴⁴ Section 57D(3) does not deal with the issue of the disposal of privately acquired gaming machines contrary to an approval. However, in this regard, see sections 135 (Manufacture, sale, supply, obtaining or possession of gaming machines) and 142A (Destruction of gaming machines).

omit, insert—

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

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

omit, insert—

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

(4) Section 59(4)(a)(i) and (ii)—

omit, insert—

‘(i) if the applicant or licensee is an individual—by the applicant;
or

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

(5) Section 59(4)(c)(i), ‘a natural person’—

omit, insert—

‘an individual’.

Amendment of s 62 (Surrender of gaming machine licences)

24.(1) Section 62(2), ‘or executed’—

omit.

(2) Section 62(5) and (6)—

omit, insert—

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

(a) if the gaming machines on the licensee’s licensed premises are rented gaming machines—remove the gaming machines from the premises; or

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

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

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

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

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

- (a) within 1 month after receiving the notice; or
- (b) if the chief executive extends, or further extends, the period for the disposal, by written notice given to the licensee in the period or extended period—within the period as extended.⁴⁵

Maximum penalty—200 penalty units.

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

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

- (a) the nominated day for the surrender of the licence;
- (b) the day immediately after the day that is the clearance day for the surrender of the licence.

‘(11) In this section—

⁴⁵ Section 62(8) does not deal with the issue of the disposal of privately acquired gaming machines contrary to an approval. However, in this regard, see sections 135 (Manufacture, sale, supply, obtaining or possession of gaming machines) and 142A (Destruction of gaming machines).

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

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

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

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

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

25. Section 63—

omit, insert—

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

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

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

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

‘(4) If the premises to which a liquor licence relates (the **“subject premises”**) are taken to be unlicensed premises under the *Liquor Act 1992*

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

‘(5) In this section—

“**associated gaming licence**”, for a liquor licence, means a gaming machine licence for the premises, or a part of the premises, to which the liquor licence relates.’.

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

26.(1) Section 64(1)(a)—

insert—

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

(2) Section 64(1)(b)(iii)—

omit, insert—

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

(3) Section 64(1)(b)—

insert—

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

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

omit, insert—

‘section 40(1)’.

(5) Section 64(1)(c)(v)(C) to (G)—

omit, insert—

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

(6) Section 64(1)(c)(v)—

insert—

‘(L) that a matter mentioned in a paragraph of section 40A(4)⁴⁶ (other than paragraph (a)) exists in relation to the club.’.

(7) Section 64(3)—

omit, insert—

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

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

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

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

insert—

‘to show cause’.

(9) Section 64—

insert—

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

⁴⁶ Section 40A (Decision on application for gaming machine licence)

licensee.

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

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

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

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

Maximum penalty—40 penalty units.’

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

insert—

‘to show cause’.

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

omit, insert—

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

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

insert—

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

(13) Section 64—

insert—

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

- (a) cancel the gaming machine licence; or
- (b) suspend the gaming machine licence for the period the commission considers appropriate.

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

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

insert—

‘or (12A)’.

(15) Section 64—

insert—

‘**(17)** In this section—

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

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

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

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

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

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

27.(1) Section 65, heading—

omit, insert—

‘Immediate suspension of gaming machine licence’.

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

omit.

(3) Section 65—

insert—

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

Insertion of new s 65A

28. After section 65—

insert—

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

‘65A.(1) This section applies if the amount (the “**required amount**”) a licensee is, under section 170(1),⁴⁷ required to ensure is received by the chief executive for a month is not received by the chief executive on or before the due date for payment of the amount.

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

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

⁴⁷ Section 170 (Payment of monthly fees, taxes etc.)

‘(4) The suspension—

- (a) must be effected by written notice (a “**suspension notice**”) given to the licensee with a notice to show cause (an “**associated show cause notice**”) issued to the licensee under section 64(2); and
- (b) operates immediately the suspension notice is given; and
- (c) continues to operate until the associated show cause notice is finally dealt with.

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

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

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

‘(8) In this section—

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

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

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

- (a) the day on or before which the amount is, under the direction, required to be received by the chief executive; or

- (b) if the chief executive, by written notice given to the licensee before the day mentioned in paragraph (a), fixes a later day—the later day fixed by the chief executive.

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

Amendment of s 66 (Effect of suspension of licence)

29. Section 66, after ‘64(12)’—

insert—

‘or (12A)’.

Insertion of new s 66A

30. After section 66—

insert—

‘Notices to interested persons

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

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

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

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

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

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

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

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

Maximum penalty—40 penalty units.

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

‘(7) In this section—

“**show cause result notice**” means—

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

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

31.(1) Section 68, heading—

omit, insert—

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

(2) Section 68(2)—

omit.

Insertion of new ss 68A and 68B

32. After section 68—

insert—

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

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

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

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

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

Maximum penalty—200 penalty units.

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

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

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

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

- (a) within 1 month after receiving the notice; or
- (b) if the chief executive extends, or further extends, the period for the disposal, by written notice given to the person in the period or extended period—within the period as extended.⁴⁸

Maximum penalty—200 penalty units.

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

‘Destruction of fingerprints

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

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

33. Section 69(1), after ‘64(12)’—

insert—

‘or (12A)’.

Omission of s 72D (Control action under the Corporations Law)

34. Section 72D—

omit.

⁴⁸ Section 68A(5) does not deal with the issue of the disposal of privately acquired gaming machines contrary to an approval. However, in this regard, see sections 135 (Manufacture, sale, supply, obtaining or possession of gaming machines) and 142A (Destruction of gaming machines).

Omission of s 72N (Criminal history reports for investigation)

35. Section 72N—

omit.

Amendment of s 72O (Recommendation about application)

36. Section 72O—

insert—

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

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

Amendment of s 72ZA (Surrender of licence)

37. Section 72ZA—

insert—

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

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

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

Replacement of ss 72ZB–72ZD

38. Sections 72ZB to 72ZD—

omit, insert—

‘Approving audit programs

‘72ZB.(1) The Minister may approve—

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

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

‘Conducting investigations

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

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

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

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

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

- (a) the investigation is conducted under an associates (operators) audit program; or
- (b) the chief executive reasonably suspects the associate is not a suitable person to be an associate of the licensed operator; or
- (c) for an associate who became an associate of the licensed operator

after the issue of the operator's licence—the associate has not been investigated previously under an associates (operators) audit program.

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

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

39. Section 72ZG(1)—

insert—

‘(g) helps or induces a licensee to do or fail to do something that constitutes a ground for suspending or cancelling the licensee’s gaming machine licence.⁴⁹’.

Amendment of s 72ZH (Show cause notice)

40. Section 72ZH(2)—

insert—

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

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

41. Section 72ZI—

omit, insert—

‘Involvement of interested persons in show cause process

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

⁴⁹ See section 64 (Cancellation or suspension of gaming machine licences and letters of censure).

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

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

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

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

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

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

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

Maximum penalty—40 penalty units.

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

Amendment of s 72ZJ (Consideration of representations)

42. Section 72ZJ(b)—

omit, insert—

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

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

43. Section 72ZK(2), after ‘notice’—

insert—

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

Amendment of s 72ZO (Decision of commission)

44.(1) Section 72ZO(1)—

insert—

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

(2) Section 72ZO(3)—

insert—

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

(3) Section 72ZO—

insert—

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

Amendment of s 72ZP (Suspension or cancellation)

45.(1) Section 72ZP, heading—

omit, insert—

‘Suspension, cancellation and appointment of administrator’.

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

insert—

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

Insertion of new s 72ZRA

46. After section 72ZR—

insert—

‘Terms of appointment, and role, of administrator

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

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

‘(3) The administrator—

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

‘(4) The costs of and incidental to the conduct and administration of the monitoring operations by the administrator (the **“administration costs”**) are payable by the licensed operator.

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

Replacement of s 72ZS (Notices to interested persons)

47. Section 72ZS—

omit, insert—

‘Notices to interested persons

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

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

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

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

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

- (a) suspends or cancels an operator’s licence under section 72ZO(3); or
- (b) appoints an administrator under section 72ZO(3) to conduct a licensed operator’s monitoring operations; or
- (c) suspends an operator’s licence under section 72ZQ(1).

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

‘(5) Also, the licensed operator must, within 7 days after receiving a

show cause result notice for an event mentioned in subsection (1), (2) or (3), give a copy of the notice to each person to whom the operator gave, or was required to give, a copy of the relevant show cause notice because of a requirement under section 72ZI(2).

Maximum penalty—40 penalty units.

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

‘(7) In this section—

“**show cause result notice**” means—

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

Insertion of new ss 72ZVA and 72ZVB

48. After section 72ZV—

insert—

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

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

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

‘(2) The licensed operator must give the chief executive a notice as

required by this section advising of the licensee's failure to pay the fee or other amount on or before the due date for payment.

Maximum penalty—40 penalty units.

‘(3) The notice must—

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

‘(4) The notice must state—

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

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

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

‘Storing and handling gaming equipment and other property

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

Maximum penalty—200 penalty units.

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

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

49. Section 72ZW—

omit, insert—

‘Returns about employees

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

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

Maximum penalty—40 penalty units.

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

‘(3) The return must be given—

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

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

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

Insertion of new s 72ZZ

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

insert—

‘Requirement to end key officer’s role

‘72ZZ.(1) This section applies if—

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

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

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

Maximum penalty—40 penalty units.

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

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

Insertion of new pt 3A, div 7A—

51. Part 3A—

insert—

‘Division 7A—Compliance requirements

‘Subdivision 1—Control systems

‘Approved control system for licensed operator’s monitoring operations

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

- (a) the operator has an approved control system for the operations; and

- (b) the operations are conducted under the system.

Maximum penalty—200 penalty units.

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

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

‘Control system submission

‘**7ZZB.(1)** A licensed operator may make a submission (a “**control system submission**”) to the chief executive for approval of the operator’s proposed control system.

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

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

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

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

- (a) the following things to be used for the monitoring operations—
 - (i) accounting systems and procedures and chart of accounts;
 - (ii) administrative systems and procedures;
 - (iii) computer software;
 - (iv) standard forms and terms; and
- (b) the general procedures to be followed for the monitoring operations; and
- (c) the procedures and standards for the maintenance, security, storage and transportation of equipment to be used for the monitoring operations; and

(d) the procedures for using and maintaining security facilities.

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

‘Control system (change) submission

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

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

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

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

‘Dealing with submissions

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

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

‘(3) In considering the submission, the chief executive may, by written notice given to the licensed operator, require the operator, within a reasonable time stated in the notice, to give the chief executive further information that is necessary and reasonable to help the chief executive make a decision about the submission.

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

- (a) whether the submission satisfies the requirements under this subdivision for the submission;
- (b) whether the licensed operator's proposed control system, or approved control system as proposed to be changed, is capable of providing satisfactory and effective control over the operator's monitoring operations.

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

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

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

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

'Direction to change approved control system

'7ZZE.(1) The chief executive may, by written notice given to a licensed operator, direct the operator to change the operator's approved control system within the time, and in the way, stated in the notice.

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

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

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

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

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

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

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

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

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

‘Monitoring records to be kept at certain place

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

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

Maximum penalty—40 penalty units.

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

‘Monitoring records to be kept for required period

‘72ZZH.(1) A licensed operator must keep a monitoring record for 5 years after the end of the transaction to which the record relates.

Maximum penalty—40 penalty units.

‘(2) Subsection (1) does not apply to a monitoring record if—

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

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

‘Subdivision 3—Financial accounts, statements and reports**‘Keeping of accounts**

‘72ZZI. A licensed operator must—

- (a) keep accounting records that correctly record and explain the transactions and financial position for the operator’s monitoring operations; and
- (b) keep the accounting records in a way that allows—

- (i) true and fair financial statements and accounts to be prepared from time to time; and
- (ii) the financial statements and accounts to be conveniently and properly audited.

Maximum penalty—100 penalty units.

‘Preparation of financial statements and accounts

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

Maximum penalty—100 penalty units.

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

‘Submission of reports

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

Maximum penalty—100 penalty units.

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

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

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

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

Maximum penalty—100 penalty units.

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

Maximum penalty—200 penalty units.

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

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

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

‘Subdivision 4—Financial institution accounts

‘Keeping of accounts

‘72ZZL. A licensed operator must keep a financial institution account, or financial institution accounts, approved by the chief executive for use for all banking or similar transactions for the operator’s monitoring operations.

Maximum penalty—40 penalty units.

‘Use of accounts

‘72ZZM. A licensed operator must not use a financial institution account approved by the chief executive other than for a purpose for which it is approved.

Maximum penalty—40 penalty units.

‘Subdivision 5—Audit**‘Audit guidelines**

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

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

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

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

‘(4) For subsection (2)—

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

‘Audit of monitoring operations

‘72ZZO. As soon as practicable after the end of a financial year, a licensed operator must, at the operator’s own expense, cause the operator’s books, accounts and financial statements for the operator’s monitoring operations for the financial year to be audited by a registered company auditor approved by the chief executive.

Maximum penalty—200 penalty units.

‘Carrying out of audit

‘72ZZP.(1) The auditor must—

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

Maximum penalty—40 penalty units.

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

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

‘Licensed operator to give documents about audit to chief executive

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

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

Maximum penalty—200 penalty units.

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

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

reasonable excuse.

Maximum penalty—200 penalty units.

‘(4) In this section—

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

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

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

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

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

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

renumber as section 72ZZR.

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

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

omit, insert—

‘GAMING NOMINEES, GAMING EMPLOYEES’.

Insertion of new ss 72ZZS and 72ZZT

54. Part 4, before section 73—

insert—

‘Meaning of key monitoring employee

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

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

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

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

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

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

‘Meaning of key officer

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

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

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

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

omit, insert—

‘a licensed operator’.

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

56. Section 75—

omit, insert—

‘Licensing requirements for carrying out gaming duties on licensed premises

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

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

under subsection (4) or (6) to carry out the duties for the premises; or

- (c) a person employed by the licensee under subsection (9) to carry out the duties for the premises; or
- (d) an eligible licensee for the premises; or
- (e) a nominee of the licensee for the premises.

Maximum penalty—200 penalty units.

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

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

Maximum penalty—200 penalty units.

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

Maximum penalty—200 penalty units.

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

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

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

Maximum penalty—200 penalty units.

‘(6) Subsection (5) does not apply to an eligible licensee for licensed

premises if the licensee, with the chief executive's approval, has in the licensee's employ, for carrying out gaming duties for the premises, at least 1 person who is an applicant for a gaming employee's licence.

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

Maximum penalty—200 penalty units.

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

Maximum penalty—200 penalty units.

'(9) Subsection (7) does not apply to a licensee for licensed premises of the licensee, and subsection (8) does not apply to an eligible licensee for the licensee's licensed premises, if there is present on the premises, or readily available for carrying out gaming duties for the premises, a person—

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

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

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

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

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

'(12) An identity card must comply with the requirements prescribed

under a regulation.

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

Maximum penalty—20 penalty units.

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

‘**(15)** In this section—

“**applicant**”, for an appropriate licence, means—

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

“**appropriately licensed person**” means—

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

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

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

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

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

omit, insert—

‘**gaming employee’s**’.

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

omit, insert—

‘licensed gaming employee’.

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

omit, insert—

‘gaming employee’s licence’.

Insertion of new ss 76B–76F

58. After section 76A—

insert—

‘Meaning of nominee

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

- (a) is a licensed gaming nominee; and
- (b) is designated by the licensee to be the licensee’s nominee for the premises.

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

- (a) the person is a licensed gaming employee employed by the licensee; and
- (b) the person—
 - (i) is designated by the licensee to be the licensee’s nominee for the premises for a period of not more than 1 month (the **“designated period”**); or
 - (ii) is, with the chief executive’s approval, designated by the licensee to be the licensee’s nominee for the premises for a period longer than 1 month (also the **“designated period”**); and
- (c) the designated period has not ended.

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

- (a) is an applicant for a gaming nominee’s licence; and
- (b) is, with the chief executive’s approval, designated by the licensee to be the licensee’s nominee for the premises.

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

- (a) the person is, with the chief executive’s approval, designated by the licensee to be the licensee’s nominee for the premises for a period of not more than 7 days; and
- (b) the period mentioned in paragraph (a) has not ended.

‘(5) However, a person is a licensee’s nominee only if—

- (a) the designation by the licensee of the person as the licensee’s nominee is done with the person’s agreement; and
- (b) the designation and agreement are in force.

‘Identity cards for certain nominees

‘76C.(1) A licensee must give an identity card to a person who is a nominee of the licensee under section 76B(3) or (4).

‘(2) An identity card must comply with the requirements prescribed under a regulation.

‘(3) A person to whom an identity card is given must return the card to the licensee on the day the person ceases to be the licensee’s nominee.

Maximum penalty for subsection (3)—20 penalty units.

‘Nominees of licensees

‘76D.(1) A licensee that is a body corporate must at all times have a nominee for licensed premises of the licensee.

Maximum penalty—200 penalty units.

‘(2) A licensee who is an individual holding more than 1 gaming machine licence must at all times have a nominee for licensed premises of the licensee if, under the *Liquor Act 1992*, there is a nominee, or an individual is required to be nominated as a nominee, for the liquor licence for the premises.

Maximum penalty—200 penalty units.

‘(3) A licensee’s nominee must, for the licensed premises for which the nominee is the licensee’s nominee, ensure gaming is conducted only in

accordance with the authority conferred by the licensee's gaming machine licence.

Maximum penalty for subsection (3)—200 penalty units.

'Application for gaming nominee's licence by licensed gaming employee

'76E.(1) A licensed gaming employee may apply for a gaming nominee's licence under this section.

'(2) The application must—

- (a) be made to the chief executive; and
- (b) be in the approved form; and
- (c) be accompanied by a notice in the approved form from a licensee nominating the applicant to be the licensee's nominee for licensed premises of the licensee; and
- (d) be accompanied by any fee prescribed under a regulation for the application.

'(3) If the applicant's fingerprints were not taken for the application for the gaming employee's licence held by the applicant, the chief executive may, with the applicant's agreement, cause the applicant's fingerprints to be taken for the application under this section.

'(4) Except as provided in subsection (5), the chief executive must grant an application for a gaming nominee's licence made by a licensed gaming employee if the application complies with subsection (2).

'(5) The chief executive may refuse to grant the application if the applicant's fingerprints have not been taken under subsection (3) because of the applicant's failure to agree to the action being taken.

'(6) If the chief executive grants the application, the chief executive must immediately issue a gaming nominee's licence to the applicant.

'(7) If the chief executive refuses to grant the application, the chief executive must—

- (a) immediately give the applicant an information notice for the decision; and

- (b) have any fingerprints of the applicant taken for the application destroyed as soon as practicable.

‘(8) On the issue of a gaming nominee’s licence to a person under subsection (6), the gaming employee’s licence held by the person is (if still in force) cancelled.

‘(9) Within 14 days after the person receives the gaming nominee’s licence, the person must return the gaming employee’s licence held by the person to the chief executive.

Maximum penalty for subsection (9)—40 penalty units.

‘Application for gaming employee’s licence by licensed gaming nominee

‘76F.(1) A licensed gaming nominee may apply for a gaming employee’s licence under this section.

‘(2) The application must—

- (a) be made to the chief executive; and
- (b) be in the approved form; and
- (c) be accompanied by any fee prescribed under a regulation for the application.

‘(3) The chief executive must grant an application for a gaming employee’s licence made by a licensed gaming nominee if the application complies with subsection (2).

‘(4) If the chief executive grants the application, the chief executive must immediately issue a gaming employee’s licence to the applicant.

‘(5) If the chief executive refuses to grant the application, the chief executive must immediately give the applicant an information notice for the decision.

‘(6) On the issue of a gaming employee’s licence to a person under subsection (4), the gaming nominee’s licence held by the person is (if still in force) cancelled.

‘(7) Within 14 days after the person receives the gaming employee’s licence, the person must return the gaming nominee’s licence held by the

person to the chief executive.

Maximum penalty for subsection (7)—40 penalty units.’.

Replacement of s 77 (Applications for licences under this part)

59. Section 77—

omit, insert—

‘Applications for licences under this part

‘**77.(1)** This section deals with applications for repairers’, service contractors’, gaming nominees’, gaming employees’ and key monitoring employees’ licences.

‘**(2)** An application for a repairer’s, gaming nominee’s, gaming employee’s or key monitoring employee’s licence may only be made by an individual.

‘**(3)** An application for a service contractor’s licence may be made by an individual or body corporate.

‘**(4)** An application under this part—

- (a) is to be made in the approved form; and
- (b) in the case of an application by an individual—must be signed by the applicant; and
- (c) in the case of an application by a body corporate—must be signed in the appropriate way; and
- (d) is to state the full name, address and date of birth—
 - (i) in the case of an application by an individual—of the applicant; and
 - (ii) in the case of an application by a body corporate—of the secretary and each executive officer of the body corporate; and
- (e) in the case of an application for a repairer’s, gaming nominee’s, gaming employee’s or key monitoring employee’s licence—is to be accompanied by photographs of the applicant, of such type and number as are determined by the chief executive and certified in such way as is so determined; and

- (f) in the case of an application by a body corporate—is to be accompanied by—
 - (i) a copy of the certificate of incorporation of the body corporate; and
 - (ii) a copy of the memorandum and articles of association, rules, constitution or other incorporating documents in force at the time of making the application certified as a true copy by the secretary of the body corporate or other person properly authorised to certify by the body corporate; and
 - (iii) unless the body corporate is a company that has only 1 director—a copy of the resolution or minute of the proceedings of the governing body of the body corporate by which approval was given to the making of the application, certified as a true copy by the person certifying the copy of the matters referred to in subparagraph (ii); and
 - (iv) a copy of the last audited balance sheet or statement of the financial affairs of the body corporate; and
- (g) in the case of an application for a repairer's licence, or an application for a key monitoring employee's licence made by a person who is not a key officer for a licensed operator—must be accompanied by an employment notice for the application; and
- (h) in the case of an application for a gaming nominee's licence—must be accompanied by a notice in the approved form from a licensee nominating the applicant to be the licensee's nominee for licensed premises of the licensee; and
- (i) in the case of an application for a repairer's or service contractor's licence—is to be accompanied by an affidavit under section 89; and
- (j) is to contain or be accompanied by such other information, records, reports, documents and writings relating to the application and applicant as are determined by the chief executive; and
- (k) is to be forwarded to or lodged with the chief executive; and
- (l) is to be accompanied by the fee prescribed.

‘(5) Subsection (1)(g) does not apply to an application if the applicant intends, on the issue of a repairer’s licence, to carry on the business of a licensed repairer in the applicant’s own right.

‘(6) It is a condition precedent to consideration of an application for a repairer’s, gaming nominee’s, gaming employee’s or key monitoring employee’s licence, or an application for a service contractor’s licence made by an individual, that the applicant is agreeable to the applicant’s fingerprints being taken by or on behalf of the chief executive.

‘(7) For subsection (4)(c), an application for a licence under this part made by a body corporate is signed in the appropriate way—

(a) if it is signed—

(i) by at least 2 of its executive officers authorised to sign by the body corporate; or

(ii) if there is only 1 executive officer of the body corporate—by the officer; or

(b) if the chief executive considers, for a body corporate having at least 2 executive officers, that paragraph (a) can not reasonably be complied with—if it is signed in the way the chief executive considers appropriate.

‘(8) In this section—

“employment notice”, for an application for a key monitoring employee’s licence, means a notice that—

(a) is in the approved form; and

(b) is given by a licensed operator; and

(c) states that the operator intends to employ the applicant as a licensed key monitoring employee, subject to the applicant being issued with a key monitoring employee’s licence.

“employment notice”, for an application for a repairer’s licence, means a notice that—

(a) is in the approved form; and

(b) is given by a licensed operator, licensed repairer or licensed service contractor; and

- (c) states that the operator, repairer or service contractor intends to employ the applicant as a licensed repairer, subject to the applicant being issued with a repairer's licence.'

Amendment of s 78 (Changes in circumstances of applicants for and holders of licences)

60. Section 78(3)(b)(iii)—

omit, insert—

- '(iii) if the holder is a body corporate—is affected by control action under the Corporations Law; or'.

Amendment of s 79 (Consideration of applications)

61.(1) Section 79, heading—

omit, insert—

'Recommendation by chief executive about applications'.

(2) Section 79(1)(a)—

omit.

(3) Section 79(1)(c)(i), 'a natural person'—

omit, insert—

'an individual'.

(4) Section 79—

insert—

'(1A) In considering the application, the chief executive may, by written notice given to the applicant or an associate of the applicant, require the applicant or associate, within a reasonable time stated in the notice, to give the chief executive further information or a document that is necessary and reasonable to help the chief executive make a recommendation.

'(1B) Also, for an application for a repairer's, gaming nominee's, gaming employee's or key monitoring employee's licence, the chief executive may, with the applicant's agreement, cause the applicant's fingerprints to be taken.'

(5) Section 79—

insert—

‘(2A) In making a recommendation, the chief executive must have regard to any supporting material for the application.’.

(6) Section 79(3)(a)(ii)—

omit, insert—

‘(ii) the applicant’s fingerprints have not been taken under subsection (1A) because of the applicant’s failure to agree to the action being taken; or’.

(7) Section 79(3)(c)—

omit.

(8) Section 79(4) to (6)—

omit, insert—

‘(4) The chief executive may recommend that a licence be refused if the applicant, or an associate of the applicant, fails to comply with a requirement of the chief executive under subsection (1A) without a reasonable excuse.

‘(5) If the commission has delegated its powers under section 80 in relation to an application for a licence under this part to the chief executive, the chief executive—

- (a) is not required to make a recommendation about the application under this section; but
- (b) must take the action mentioned in subsection (1), and may take the action mentioned in subsection (1B), as if the chief executive were dealing with the application for making a recommendation under this section.’.

Replacement of s 80 (Commission may grant or refuse to grant licences)

62. Section 80—

omit, insert—

‘Decision on applications

‘80.(1) The commission may, in relation to an application for a licence under this part, grant, or refuse to grant, the licence.

‘(2) Before making its decision, the commission may, by written notice given to the applicant or an associate of the applicant, require the applicant or associate, within a reasonable time stated in the notice, to give the commission further information or a document that is necessary and reasonable to help the commission make the decision.

‘(3) In making its decision, the commission—

- (a) must have regard to any recommendation of the chief executive about the application; and
- (b) must have regard to any supporting material for the application; and
- (c) may have regard to any other issues the commission considers relevant.

‘(4) The commission may grant a licence only if it is satisfied the granting of the licence is not contrary to the public interest.

‘(5) The commission may refuse to grant a licence if—

- (a) the applicant, without a reasonable excuse, fails to comply with—
 - (i) a requirement of the chief executive under section 79(1A); or
 - (ii) a requirement of the commission under subsection (2); or
- (b) an associate of the applicant, without a reasonable excuse, fails to comply with—
 - (i) a requirement of the chief executive under section 79(1A); or
 - (ii) a requirement of the commission under subsection (2).

‘(6) If the commission refuses to grant a repairer’s, gaming nominee’s, gaming employee’s or key monitoring employee’s licence, the chief executive must have any fingerprints of the applicant taken for the application for the licence destroyed as soon as practicable.

‘(7) If the commission grants a licence under this part, the chief executive must immediately give written notice of the decision to the applicant.

‘(8) If the commission refuses to grant a licence under this part, the chief

executive must immediately give the applicant an information notice for the decision.

‘(9) If the applicant is a person in relation to whom the chief executive has given an approval to a licensee for section 75(4) or (6),⁵⁰ the chief executive must give a copy of the notice under subsection (7) or (8) to the licensee.’.

Amendment of s 81 (Issue of licences)

63.(1) Section 81(2)(b), ‘licence, machine manager’s’—

omit, insert—

‘, gaming nominee’s, gaming employee’s’.

(2) Section 81(2)(d)—

omit.

(3) Section 81—

insert—

‘(3) If a licence is granted on conditions, the conditions may be stated in the licence.

‘(4) If a licence is granted on conditions and the conditions are not stated in the licence, the licence, when issued under subsection (1), must be accompanied by written notice of the conditions.’.

Amendment of s 83 (Term of licences)

64. Section 83(1), ‘2 years’—

omit, insert—

‘5 years’.

⁵⁰ Section 75 (Licensing requirements for carrying out gaming duties on licensed premises)

Amendment of s 86 (Renewal and continuance of licences)**65.(1)** Section 86(2)(b), ‘machine manager’s’—*omit, insert—*

‘gaming nominee’s, gaming employee’s’.

(2) Section 86(5)—*omit, insert—*‘**(5)** If a licensee complies with this section, the chief executive must renew the licence for 5 years starting on—

- (a) if an extension was not given under subsection (3)—the day after its last expiry; or
- (b) if an extension was given under subsection (3)—the day after the day it would have last expired apart from the extension.’.

Amendment of s 88 (Display of certain licences)**66.(1)** Section 88, heading, after ‘**licences**’—*insert—*‘, **identity cards and particulars**’.**(2)** Section 88(2), penalty—*omit, insert—*

‘Maximum penalty—40 penalty units.’.

(3) Section 88, at the end—*insert—*‘**(3)** If a gaming employee, in carrying out gaming duties for licensed premises, makes a decision affecting a person on the premises, the gaming employee must, if asked by the person affected by the decision, produce for the person’s inspection, the gaming employee’s formal identification card, unless the gaming employee has a reasonable excuse.

Maximum penalty—40 penalty units.

‘**(4)** If a licensee’s nominee for licensed premises of the licensee, while acting in the capacity of the licensee’s nominee for the premises, makes a

decision affecting a person on the premises, the nominee must, if asked by the person affected by the decision, produce for the person's inspection, the nominee's formal identification card, unless the nominee has a reasonable excuse.

Maximum penalty—40 penalty units.

'(5) A licensee who has a nominee for licensed premises of the licensee must display in a conspicuous position inside the premises, and in a way that is legible from a reasonable distance—

- (a) the nominee's name; and
- (b) notice that the nominee is the licensee's nominee for the premises.

Maximum penalty—40 penalty units.

'(6) In this section—

“formal identification card”, for a gaming employee, means—

- (a) if the gaming employee is a licensed gaming employee employed under section 75(3), (4) or (5)⁵¹—the gaming employee's licence held by the employee; or
- (b) if the gaming employee is a licensed gaming nominee employed under section 75(3) or (4)—the gaming nominee's licence held by the employee; or
- (c) for another gaming employee—the identity card given to the gaming employee under section 75(10) or 76C(1).

“formal identification card”, for a nominee, means—

- (a) for a nominee mentioned in section 76B(1)⁵²—the gaming nominee's licence held by the nominee; or
- (b) for a nominee mentioned in section 76B(2)—the gaming employee's licence held by the nominee; or

⁵¹ Section 75 (Licensing requirements for carrying out gaming duties on licensed premises)

⁵² Section 76B (Meaning of nominee)

- (c) for another nominee—the identity card given to the nominee under section 76C(1).⁵³.

Amendment of s 89 (Disclosure of influential or benefiting parties)

- 67.** Section 89(3)(a) and (4)(a)(i) and (c)(i), ‘a natural person’—
omit, insert—
‘an individual’.

Replacement of s 90 (Investigations of holders of licences and associates)

- 68.** Section 90—
omit, insert—

‘Approving audit programs for licensed gaming nominees and associates

- ‘90.(1)** The Minister may approve—
- (a) an audit program for investigating licensed gaming nominees; and
 - (b) an audit program for investigating associates of licensed gaming nominees.

‘(2) An audit program approved by the Minister may not provide for the investigation of persons under the program at intervals of less than 2 years.

‘Conducting investigations of licensed persons and associates

‘90A.(1) The chief executive may investigate a licensed person to help the chief executive decide whether the person is a suitable person to hold a licence of the kind held by the person.

‘(2) The chief executive may investigate an associate of a licensed person to help the chief executive decide whether the associate is a suitable person to be an associate of the licensed person.

⁵³ Section 76C (Identity cards for certain nominees)

‘(3) However, the chief executive may investigate a licensed person—

- (a) only if the chief executive reasonably suspects the person is not a suitable person to hold a licence of the kind held by the person; or
- (b) if the licensed person is a licensed gaming nominee—only if the investigation is conducted under a nominees audit program.

‘(4) Also, the chief executive may investigate an associate of a licensed person—

- (a) only if the chief executive reasonably suspects the associate is not a suitable person to be an associate of the licensed person; or
- (b) if the associate is an associate of a licensed gaming nominee—only if—
 - (i) the investigation is conducted under an associates (nominees) audit program; or
 - (ii) for an associate who became an associate of the licensed gaming nominee after the issue of the nominee’s licence—the associate has not been investigated previously under an associates (nominees) audit program.

‘(5) The chief executive must ensure the investigation of a person under a nominees audit program or associates (nominees) audit program is conducted in compliance with the program.

‘Requirement to give information or document for investigation

‘90B.(1) In investigating a person under section 90A, the chief executive may, by written notice given to the person, require the person to give the chief executive information or a document the chief executive considers relevant to the investigation.

‘(2) When making the requirement, the chief executive must warn the person it is an offence to fail to comply with the requirement, unless the person has a reasonable excuse.

‘Failure to give information or document for investigation

‘90C.(1) A person of whom a requirement is made under section 90B must comply with the requirement, unless the person has a reasonable

excuse.

Maximum penalty—200 penalty units.

‘(2) It is a reasonable excuse for the person not to comply with the requirement if complying with the requirement might tend to incriminate the person.

‘(3) The person does not commit an offence against this section if the information or document sought by the chief executive is not in fact relevant to the investigation.’.

Amendment of s 92 (Notifications re employment and agreements)

69.(1) Section 92, heading—

omit, insert—

‘Returns about employees and agreements’.

(2) Section 92(1), definition “**employer**”, ‘licensee’—

omit, insert—

‘licensed operator’.

(3) Section 92(2) to (7)—

omit, insert—

‘(2) An employer must give the chief executive a return as required by this section stating the name and licence number of each person employed by the employer as a licensed repairer when the return is given.

Maximum penalty—40 penalty units.

‘(3) An employer must give the chief executive a return as required by this section stating the name and licence number of each person with whom the employer has a service contract when the return is given.

Maximum penalty—40 penalty units.

‘(4) A licensee must give the chief executive a return as required by this section stating—

(a) the name and licence number of each licensed gaming employee

-
- employed by the licensee under section 75(3), (4) or (5)⁵⁴ for licensed premises of the licensee when the return is given; and
- (b) the name of each applicant for a gaming employee's licence employed by the licensee under section 75(4) or (6) for licensed premises of the licensee when the return is given; and
 - (c) the name and licence number of each licensed gaming nominee who is a nominee of the licensee under section 76B(1)⁵⁵ for licensed premises of the licensee when the return is given; and
 - (d) the name and licence number of each licensed gaming employee who is a nominee of the licensee under section 76B(2) for licensed premises of the licensee when the return is given; and
 - (e) the name of each applicant for a gaming nominee's licence who is a nominee of the licensee under section 76B(3) for licensed premises of the licensee when the return is given.

Maximum penalty—40 penalty units.

(5) A return for subsection (2), (3) or (4) must—

- (a) be in the approved form; and
- (b) be given within 7 days after being requested by the chief executive to give the return.

(6) A request made by the chief executive to an employer or licensee for subsection (5)(b)—

- (a) must be in writing; and
- (b) must not be made within 1 month of a previous request made to the employer or licensee for subsection (5)(b).'

(4) Section 92(9), 'a licensee'—

omit, insert—

'a licensed operator'.

(5) Section 92(9), 'or licensee'—

⁵⁴ Section 75 (Licensing requirements for carrying out gaming duties on licensed premises)

⁵⁵ Section 76B (Meaning of nominee)

omit, insert—

‘or licensed operator’.

(6) Section 92(10), ‘a licensee’—

omit, insert—

‘a licensed operator’.

(7) Section 92(11)—

omit, insert—

(11) A licensee must immediately end the employment of a person employed by the licensee if—

- (a) the person is employed on the basis the person is a licensed gaming employee and the licensee becomes aware the person is not a licensed gaming employee; or
- (b) the person is employed on the basis the person is a licensed gaming nominee and the licensee becomes aware the person is not a licensed gaming nominee; or
- (c) the person is employed under section 75(4)(b) or (6)⁵⁶ and the licensee becomes aware the application of the person for a gaming employee’s or nominee’s licence has been refused.

Maximum penalty—200 penalty units.

(11A) A licensee must immediately take action to stop a person being the licensee’s nominee for licensed premises of the licensee if—

- (a) the licensee designated the person as the licensee’s nominee for the premises on the basis the person was a licensed gaming nominee and the licensee becomes aware the person is not a licensed gaming nominee; or
- (b) the licensee designated the person as the licensee’s nominee for the premises on the basis the person was a licensed gaming employee and the licensee becomes aware the person is not a licensed gaming employee; or

⁵⁶ Section 75 (Licensing requirements for carrying out gaming duties on licensed premises)

- (c) the person became the licensee's nominee for the premises under section 76B(3) and the licensee becomes aware the application of the person for a gaming nominee's licence has been refused.

Maximum penalty—200 penalty units.'

(8) Section 92(12), from 'or (11)' to 'referred to'—

omit, insert—

‘, (11) or (11A) is sufficient authority to take the action mentioned’.

Amendment of s 93 (Surrender of licences)

70. Section 93(2)—

omit, insert—

‘(2) The notification must be signed in the same way an application for a licence under this part is required to be signed.

‘(3) The surrender of the licence takes effect—

- (a) if paragraph (b) or (c) does not apply—on the day (the “**set day**”) that is 14 days after the notification of surrender is given; or
- (b) if a day of effect that is later than the set day is stated in the notification of surrender—on the day stated in the notification; or
- (c) if, at the request of the holder of the licence, the chief executive, by written notice, approves a day of effect that is earlier than the set day—on the day approved by the chief executive.’

Amendment of s 94 (Cancellation or suspension of licences under this part)

71.(1) Section 94(1)(b)—

insert—

‘(ia) contravenes a provision of this Act (being a provision a contravention of which is not an offence against this Act); or’.

(2) Section 94(1)(b)(iii)—

omit, insert—

‘(iii) is affected by control action under the Corporations Law; or’.

(3) Section 94(3)—

omit, insert—

‘**(3)** The chief executive must give a copy of the notice to show cause to each person the chief executive believes is an interested person of the holder of the licence.

‘**(3A)** Also, the chief executive may, by the notice to show cause—

- (a) require the holder of the licence, within the period stated in the notice, to give a copy of the notice to each interested person of the holder (other than an interested person to whom a copy of the notice is given under subsection (3)); and
- (b) if the chief executive considers it appropriate—require the holder to give the copy in the way the chief executive considers appropriate.’.

(4) Section 94(4) and (5), after ‘notice’—

insert—

‘to show cause’.

(5) Section 94—

insert—

‘**(5A)** If the chief executive makes a requirement of the holder of the licence under subsection (3A)(a) about an interested person of the holder, the chief executive may, at the holder’s request, by written notice given to the holder, designate the person to be an excluded interested person for the holder.

‘**(5B)** However, the chief executive may designate a person to be an excluded interested person for the holder only if the chief executive considers it would not be appropriate, or would be unreasonable, in the circumstances to require the holder of the licence to give a copy of the notice to show cause to the person, having regard to the following issues—

- (a) the nature of the person’s interest;
- (b) the likelihood of the person’s interest not being affected adversely

by a suspension or cancellation of the licence;

- (c) the likelihood of the interest of the holder of the licence being improperly prejudiced;
- (d) another issue the chief executive considers relevant.

(5C) If a requirement is made of the holder of the licence under subsection (3A), the holder must comply with the requirement, unless—

- (a) the holder has a reasonable excuse; or
- (b) the interested person to whom the requirement relates is an excluded interested person for the holder.

Maximum penalty—40 penalty units.’

(6) Section 94(6), ‘notice is issued’—

omit, insert—

‘notice to show cause is issued’.

(7) Section 94(7), ‘a copy notice is issued under subsection (3)’—

omit, insert—

‘a copy of the notice to show cause is given, or is required to be given, under this section’.

(8) Section 94(8)(a), after ‘to the notice’—

insert—

‘and, by written notice, is to advise the holder of the licence accordingly’.

(9) Section 94—

insert—

(12A) If the commission gives a direction to the holder of the licence under subsection (12)(c) and the holder fails to comply with the direction within the time stated in the relevant notice, the commission may—

- (a) cancel the licence; or
- (b) suspend the licence for the period the commission considers appropriate.

(12B) If, under subsection (12), the commission decides to take no action about a licence under this part, the chief executive must immediately

give the holder of the licence written notice of the decision.’.

(10) Section 94(16), after ‘subsection (12)(d)’—

insert—

‘or (12A)’.

(11) Section 94—

insert—

‘(17) In this section—

“**excluded interested person**”, for the holder of a licence under this part, means an interested person of the holder designated by the chief executive to be an excluded interested person for the holder.

“**interested person**”, for the holder of a licence under this part, means a person the holder knows, or ought reasonably to know, has an interest in the licence.’.

Amendment of s 95 (Suspension of licences pending decision under s 94)

72.(1) Section 95, heading—

omit, insert—

‘Immediate suspension of licences’.

(2) Section 95(1), words after ‘this part’—

omit.

(3) Section 95—

insert—

‘(5) The suspension of a licence under this section continues to have effect until the notice to show cause issued to the holder of the licence by the chief executive in complying with subsection (4) is finally dealt with.’.

Amendment of s 96 (Effect of suspension of licence)

73. Section 96, after ‘94(12)’—

insert—

‘or (12A)’.

Insertion of new ss 96A and 96B

74. After section 96—

insert—

‘Notices to interested persons

‘96A.(1) This section applies if the chief executive—

- (a) is required, under section 94(8)(a), not to take any action or any further action about a notice to show cause issued to the holder of a licence under section 94(2); or
- (b) issues a letter of censure to the holder of a licence under section 94(8)(b); or
- (c) gives directions to the holder of a licence under section 94(8)(c).

‘(2) This section also applies if, under section 94(12), the commission—

- (a) decides to take no action about a licence; or
- (b) causes a letter of censure to be issued to the holder of a licence; or
- (c) gives a direction to the holder of a licence; or
- (d) cancels or suspends a licence.

‘(3) This section also applies if the commission—

- (a) cancels or suspends a licence under section 94(12A); or
- (b) suspends a licence under section 95(1).

‘(4) As soon as practicable after an event mentioned in subsection (1), (2) or (3) happens, the chief executive must give written notice of the event to each person to whom the chief executive gave a copy of the relevant notice to show cause under section 94(3).

‘(5) Also, the holder of the licence must, within 7 days after receiving a show cause result notice for an event mentioned in subsection (1), (2) or

(3), give a copy of the notice to each person to whom the holder gave, or was required to give, a copy of the relevant notice to show cause because of a requirement under section 94(3A).

‘(6) For subsections (4) and (5), an event for subsection (1)(a) is taken to be the arising of a requirement mentioned in the paragraph.

‘(7) In this section—

“**show cause result notice**” means—

- (a) a written notice given by the chief executive advising of—
 - (i) the arising of a requirement mentioned in subsection (1)(a); or
 - (ii) the making of a decision mentioned in subsection (2)(a); or
 - (iii) the taking of action mentioned in subsection (2)(d) or (3)(a) or (b); or
- (b) a letter of censure mentioned in subsection (1)(b) or (2)(b); or
- (c) the notice by which a direction mentioned in subsection (1)(c) or (2)(c) is given.

‘**Destruction of fingerprints**

‘**96B.(1)** This section applies if—

- (a) a person ceases to be a licensed repairer, licensed gaming nominee, licensed gaming employee or licensed key monitoring employee; or
- (b) a person who is an individual ceases to be a licensed service contractor.

‘(2) The chief executive must have any fingerprints of the person taken for the application for the licence held by the person destroyed as soon as practicable.’.

Amendment of s 97 (Provisional licences)

75. Section 97(4)(a) and (7), ‘machine manager’s’—

omit, insert—

‘gaming nominee’s licence, gaming employee’s licence’.

Amendment of s 98 (Installation and storage of gaming machines by licensees)

76.(1) Section 98(1), from ‘a gaming machine provided’ to ‘section 55’—

omit, insert—

‘each authorised gaming machine of the licensee’.

(2) Section 98(2)—

omit, insert—

‘**(2)** A licensee must cause an authorised gaming machine of the licensee that is not installed in a gaming machine area on the licensee’s licensed premises—

(a) to be stored on premises approved by the chief executive; and

(b) to be secured in the way approved by the chief executive.

Maximum penalty—200 penalty units.’.

Amendment of s 98A (Licensee’s register of gaming machines)

77.(1) Section 98A(1), ‘must’—

omit, insert—

‘must, at each of the licensee’s licensed premises,’.

(2) Section 98A(1), ‘licensee’s licensed’—

omit.

Amendment of s 99 (Gaming machines not to be played if not installed in gaming machine area)**78.(1)** Section 99(1)(a)—*omit, insert—*

‘(a) that is an authorised gaming machine of a licensee; and’.

(2) Section 99(2)(a)—*omit, insert—*

‘(a) that is an authorised gaming machine of a licensee; and’.

Amendment of s 106 (Licensees not to extend credit)**79.(1)** Section 106, heading, after ‘Licensees’—*insert—*‘**or employees**’.**(2)** Section 106—*insert—*

‘**(2)** An employee of a licensee must not, in the course of the employee’s employment, make a loan or extend credit in any form to any person, including the employee, to enable the person or another person to play a gaming machine on the licensee’s licensed premises.

Maximum penalty—200 penalty units.’.

Insertion of new s 110A**80.** After section 110—*insert—***‘Unclaimed payments**

‘**110A.(1)** If the person entitled to a non-monetary payment in relation to playing a gaming machine does not collect the payment within 3 months after the person becomes entitled to the payment, the relevant person may—

- (a) dispose of the payment by public auction or tender or in some other way approved by the chief executive; and

(b) pay for the disposal from the proceeds of sale.

‘(2) Also, the relevant person must deal with any amount remaining from the proceeds of sale as required under subsection (4).

Maximum penalty—100 penalty units.

‘(3) If a person is entitled to a monetary payment in relation to playing a gaming machine and the amount is not paid within 3 months after the person becomes entitled to the payment, the relevant person must, within 14 days after the end of the 3 months, deal with the amount as required under subsection (4).

Maximum penalty—100 penalty units.

‘(4) The relevant person must, for an amount mentioned in subsection (2) or (3)—

- (a) if the relevant person knows who is entitled to receive the amount and the person’s whereabouts—pay the amount to the person; or
- (b) if the relevant person knows who is entitled to receive the amount, but the relevant person does not know the person’s whereabouts—pay the amount into the designated departmental account; or
- (c) if the relevant person does not know who is entitled to receive the amount—pay the amount into the designated departmental account.

‘(5) In this section—

“**designated departmental account**” means an account at the department designated under a regulation as the account to which payments are to be made under subsection (4)(b) or (c).

“**payment**” does not include promotions.

“**relevant person**” means—

- (a) for a multiple site linked jackpot arrangement—the licensed operator; or
- (b) otherwise—the licensee.’.

Amendment of s 111 (Malfunction of gaming machines)

81.(1) Section 111(1), ‘machine manager may’—

omit, insert—

‘gaming employee may’.

(2) Section 111(1), from ‘in respect of which’ to ‘machine manager is’—

omit, insert—

‘for which the gaming employee is employed to carry out gaming duties, if the gaming employee is’.

(3) Section 111(3), ‘machine manager’—

omit, insert—

‘gaming employee’.

Amendment of s 112 (Defective gaming machines not allowed)

82. Section 112(1), definition “**licensee**”, paragraph (a), ‘machine manager’—

omit, insert—

‘gaming employee’.

Amendment of s 114 (Certain persons only to have access etc. to gaming machines)

83.(1) Section 114(g), ‘machine manager’—

omit, insert—

‘gaming employee’.

(2) Section 114(k)—

omit.

Omission of ss 115 and 116

84. Sections 115 and 116—

omit.

Amendment of s 123 (Ascertainment of age)

85. Section 123(3), definition “**authorised person**”—

omit, insert—

“**authorised person**”, for licensed premises means—

- (a) the licensee of the premises; or
- (b) a gaming employee for the premises; or
- (c) another employee of the licensee of the premises; or
- (d) an inspector; or
- (e) a police officer.’.

Amendment of s 129 (Obstruction generally)

86. Section 129, ‘machine manager’—

omit, insert—

‘gaming employee’.

Amendment of s 140 (Possession etc. of gaming machines and restricted components by licensees)

87.(1) Section 140(1)(a)—

omit, insert—

‘(a) be in possession of—

- (i) the licensee’s authorised gaming machines; and
- (ii) linked jackpot equipment for a linked jackpot arrangement involving the licensee’s authorised gaming machines; and’.

(2) Section 140(2)(a) and (b)—

omit, insert—

- ‘(a) a gaming machine that is not an authorised gaming machine of the licensee; or
- (b) an authorised gaming machine of the licensee the game for which is not—
 - (i) if the game has not been changed under this Act—the game approved for the machine by the chief executive; or
 - (ii) if the game has been changed under this Act—the game as changed, or last changed.’.

Amendment of s 141 (Possession etc. of gaming machines etc. by other persons)

88. Section 141(3)(a), ‘or an approved financier’—

omit, insert—

‘, an approved financier, a licensee or another gaming trainer’.

Amendment of s 145 (Procedure for determination of tenders)

89. Section 145(1)(d)(i), ‘a natural person’—

omit, insert—

‘an individual’.

Replacement of s 146A (Changes to approved games)

90. Section 146A—

omit, insert—

‘Replacing approved games

‘146A.(1) This section applies if—

- (a) a licensed operator or licensee replaces, or causes to be replaced, an approved game (the **“old game”**) with another approved game (the **“new game”**); and
- (b) the percentage return to players for the new game is different

from the percentage return to players for the old game.

‘(2) The licensed operator or licensee must not replace, or cause to be replaced, the new game with another game having a different percentage return to players—

- (a) if paragraph (b) does not apply—within 1 month after the old game was replaced; or
- (b) if a shorter period is approved by the chief executive—within the shorter period.

Maximum penalty—200 penalty units.

‘(3) In this section—

“**approved game**” means a game approved by the chief executive under section 146.

‘Changes to percentage returns

‘**146B.(1)** A licensed operator or licensee may change, or cause to be changed, the percentage return to players for a game for a gaming machine on licensed premises.

‘(2) Unless the chief executive, by written notice given to the licensed operator or licensee, approves otherwise, the change must be applied to each gaming machine that—

- (a) is not part of a linked jackpot arrangement; and
- (b) has the same game and betting unit; and
- (c) is installed at the licensed premises to which the change relates.

‘(3) A person must not make, or cause to be made, a change mentioned in subsection (1) (a “**return change**”) in the period prescribed under a regulation (the “**restricted period**”).

Maximum penalty—200 penalty units.

‘(4) A person does not commit an offence against subsection (3) if—

- (a) ownership of a gaming machine mentioned in subsection (2) changes in the restricted period; and
- (b) a return change is made in the period but—

- (i) only after the change of ownership; and
- (ii) only once in the period.’.

Insertion of new s 148A

91. After section 148—

insert—

‘Inducing the acquisition of gaming equipment or ancillary or related equipment

‘148A.(1) A person (the **“offerer”**) must not offer another person (the **“negotiator”**), or give to the negotiator, an inducement for the negotiator to induce a third person, who is an acquirer, to acquire equipment or a service.

Maximum penalty—1 000 penalty units or 5 years imprisonment.

‘(2) A negotiator must not accept an inducement for the acquisition by an acquirer of equipment or a service.

Maximum penalty—1 000 penalty units or 5 years imprisonment.

‘(3) A person does not commit an offence against subsection (1) or (2) if the inducement consists of only reasonable food or refreshment offered or given by the offerer, or out-of-pocket expenses reasonably incurred by the negotiator, in the course of negotiating the acquisition of the equipment or service.

‘(4) In this section—

“acquirer” means an approved financier, gaming trainer, licensed operator, licensed repairer, licensed service contractor or licensee.

“equipment” means gaming equipment or ancillary or related equipment.

“inducement” means a direct or indirect payment, benefit or advantage.

Example of what is an “inducement” —

A pre-paid holiday trip.

“service” includes the provision of any of the following—

- finance
- adjustment, alteration, installation, maintenance or repair of gaming equipment

- linked jackpots
- management advice
- marketing
- training.’.

Amendment of s 151 (Gaming prohibited on unprotected devices)

92.(1) Section 151(3)(a), ‘repairs’—

omit, insert—

‘installation, alteration, adjustment, maintenance or repair’.

(2) Section 151(3)(b)—

omit, insert—

‘(b) an alteration to effect a change of game directed by the chief executive under section 55A(1).⁵⁷’.

Amendment of s 152 (Unlawful interference with gaming equipment)

93. Section 152(2)(c)—

omit, insert—

‘(c) an alteration to a gaming machine to effect a change of game directed by the chief executive under section 55A(1); or’.

Amendment of s 153 (Protection of sensitive areas of gaming equipment)

94.(1) Section 153(2), from ‘subsection (1)(a)’—

omit, insert—

‘subsection (1) if the licensed repairer does not, without the licensed operator’s approval—

- (a) break a seal securing a computer cabinet; or

⁵⁷ Section 55A (Directions to licensees about authorised gaming machines)

- (b) fix a seal to a computer cabinet; or
- (c) remove or interfere with a mark or seal fixed to gaming equipment to preserve the integrity of the equipment's operation; or
- (d) fix a mark or seal to gaming equipment to preserve the integrity of the equipment's operation.'.

(2) Section 153(5)—

omit.

Amendment of s 155 (Use of gaming machines not provided to licensees)

95.(1) Section 155, heading—

omit, insert—

'Use of unauthorised gaming machines'.

(2) Section 155(1), 'provided by the chief executive to a licensee'—

omit, insert—

'a licensee's authorised gaming machine'.

Amendment of s 158 (Accounts and analyses)

96.(1) Section 158(1), 'must'—

omit, insert—

'must, for each of the licensee's licensed premises,'.

(2) Section 158(1), 'on the licensee's licensed premises'—

omit, insert—

'on the premises'.

(3) Section 158(1A)—

omit.

(4) Section 158(2), 'or licensed monitoring operator'—

omit.

Amendment of s 159 (Monthly gaming machine reconciliation reports to be submitted)

97.(1) Section 159, heading, ‘to be submitted’—

omit.

(2) Section 159(1)—

omit, insert—

‘**159.(1)** A licensee of category 1 or 2 licensed premises must, for each of the licensee’s licensed premises—

- (a) by the day prescribed under a regulation for each month, prepare a monthly gaming machine reconciliation report for the premises; and
- (b) keep a hard copy of the report on the premises.’.

Amendment of s 161 (Audit of accounts of licensee)

98. Section 161(1)(d)—

omit, insert—

‘(d) a member of the National Institute of Accountants who—

- (i) holds a current public practice certificate issued by the institute; and
- (ii) has satisfactorily completed an auditing component of a course of study in accountancy at a tertiary level conducted by an institution prescribed under the Corporations Law, section 1280(2);⁵⁸ or

‘(e) a person approved by the chief executive as having the necessary experience or qualifications to be an accountant for this section.’.

Omission of s 161A (Audit of accounts of licensed operators)

99. Section 161A—

omit.

⁵⁸ Corporations Law, section 1280 (Registration of auditors)

Amendment of s 163 (Monthly taxable metered win)

100.(1) Section 163(1), after ‘each licensed premises’—

omit.

(2) Section 163—

insert—

‘(1A) Subject to subsection (1B) and section 175, the monthly taxable metered win of a licensed premises is taken to be, for the preceding month—

- (a) for category 1 licensed premises—the monthly taxable metered win of the premises; or
- (b) for category 2 licensed premises—
 - (i) if the gaming machine licence for the premises is for a single premises—the monthly taxable metered win of the premises; or
 - (ii) if the gaming machine licence for the premises is for multiple premises—the combined monthly taxable metered win for all the premises.

‘(1B) For licensed premises mentioned in subsection (1A)(b)(ii), a gaming machine tax or penalty payable under this part is payable on the combined monthly taxable metered win for all the premises as if the multiple premises were a single premises.

‘(3) If the electronic monitoring system malfunctions in a way that affects the assessment, the chief executive must ensure the assessment is made in another way decided by the chief executive.’.

Amendment of s 170 (Payment of monthly fees, taxes etc.)

101.(1) Section 170(1), ‘A licensee’—

omit, insert—

‘Subject to subsections (1A) and (1B) and section 163(1B), a’.

(2) Section 170—

insert—

‘**(1A)** The chief executive may, by written notice given to a licensee, direct the licensee to pay an amount mentioned in subsection (1) by instalments.

‘**(1B)** The licensee must comply with the direction.

Maximum penalty—200 penalty units.’.

(3) Section 170(2), ‘Payments’—

omit, insert—

‘Subject to section 163(1B), payments’.

Insertion of new s 170A

102. After section 170—

insert—

‘Adjustment of gaming machine tax

‘**170A.(1)** Subsection (2) applies to a licensee if the gaming machine tax payable by the licensee for a month (the “**reference month**”) is a negative amount (a “**tax credit**”).

‘**(2)** In working out the gaming machine tax payable for the month after the reference month (the “**first adjustment month**”), the tax credit for the reference month is, to the extent possible, to be set off against the gaming machine tax that, apart from this section, would be payable for the first adjustment month.

‘**(3)** Subsection (4) applies if—

- (a) without applying subsection (2), the gaming machine tax for the first adjustment month is a negative amount; or
- (b) after applying subsection (2), part of the tax credit (the “**tax credit balance**”) for the reference month has not been set off against gaming machine tax for the first adjustment month.

‘**(4)** In working out the gaming machine tax payable for the month after the first adjustment month (the “**second adjustment month**”), the tax credit, or tax credit balance, for the reference month, is, to the extent possible, to be set off against the gaming machine tax that, apart from this subsection, would be payable for the second adjustment month.’.

Amendment of s 171 (Penalty for late payment)

103. Section 171(1), ‘Where’—

omit, insert—

‘Subject to section 163(1B), if’.

Replacement of s 173 (Statement and report by the chief executive)

104. Section 173—

omit, insert—

‘Licensed operator’s financial statement

‘173.(1) A licensed operator who supplies basic monitoring services for a licensee’s licensed premises must, as required under subsection (2), give the licensee a financial statement for the premises.

Maximum penalty—100 penalty units.

‘(2) The financial statement must—

- (a) be given to the licensee as soon as practicable after the end of the assessment period for the premises; and
- (b) contain, for each of the licensee’s licensed premises, the particulars the chief executive considers appropriate for the premises.

‘(3) The chief executive may, by written notice given to a licensed operator, require the licensed operator to give the chief executive a written explanation about any matter contained in the financial statement.

‘(4) The licensed operator must comply with a requirement under subsection (3), unless the operator has a reasonable excuse.

Maximum penalty—100 penalty units.

‘(5) The licensed operator must not give the chief executive an explanation the operator knows is false, misleading or incomplete in a material particular.

Maximum penalty—200 penalty units.

‘(6) Subsection (5) does not apply to a licensed operator if the operator, when giving the explanation, informs the chief executive in writing, to the

best of the operator's ability, how the explanation is false, misleading or incomplete.

'(7) It is enough for a complaint for an offence against subsection (5) to state that the explanation was false, misleading or incomplete to the dependant's knowledge.'

Amendment of s 174 (Disposition of fees etc.)

105. Section 174(3), 'section 173(1)(a)'—

omit, insert—

'section 173(1)'.

Amendment of s 176 (Recovery of fees and taxes)

106.(1) Section 176(1), from 'payable by the licensee'—

omit, insert—

'payable to the State—

- (a) by the licensee; or
- (b) if the licensee is a body corporate that holds a category 1 licence—jointly and severally, by each person who is or was a director of the body corporate when the amount becomes or became payable.'

(2) Section 176—

insert—

'(1A) It is a defence in an action to recover an amount mentioned in subsection (1), that is a penalty payable under section 171, from a person mentioned in paragraph (b) of the subsection for the person to prove—

- (a) if the person was in a position to influence the conduct of the body corporate in relation to the matter from which the liability to pay the amount arose—the person exercised reasonable diligence to ensure the body corporate did not become liable to pay the amount; or
- (b) the person was not in a position to influence the conduct of the

body corporate in relation to the matter.’.

(3) Section 176(2), ‘under to’—

omit, insert—

‘under’.

Replacement of s 177 (Offences relating to revenue)

107. Section 177—

omit, insert—

‘Offences relating to revenue

‘**177.** A licensee must not wilfully evade the payment, in whole or part, of—

(a) a monthly fee or gaming machine tax payable under this part; or

(b) a penalty payable under section 171.

Maximum penalty—400 penalty units or 2 years imprisonment.’.

Omission of s 178 (Offences relating to explanations)

108. Section 178—

omit.

Amendment of s 186 (Certain persons not to play gaming machines)

109. Section 186(2)—

omit, insert—

‘(2) A person who is a licensee or gaming employee must not play gaming machines installed on the licensed premises of which the person is the licensee, or for which the person is employed to carry out gaming duties as a gaming employee—

(a) during the period the person is the licensee of, or a gaming employee for, the licensed premises, except to the extent it is necessary for carrying out duties as the licensee or a gaming employee; and

- (b) for 30 days after the person ceases to be the licensee of, or a gaming employee for, the licensed premises.

Maximum penalty—40 penalty units.’

Amendment of s 187 (Officers of division may be prohibited from playing gaming machines)

110. Section 187(1), ‘gaming machines provided to a licensee’—

omit, insert—

‘authorised gaming machines of a licensee’.

Amendment of s 188 (Prohibition on control of applications by clubs)

111. Section 188(a)—

omit, insert—

- ‘(a) control over, or the ability to control, an application or the content of an application by a club under part 3, whether or not the club makes an application under the part; or’.

Insertion of new s 188A

112. After section 188—

insert—

‘Prohibition on control of gaming at clubs

‘188A. A person must not have or gain control over, or the ability to control, the conduct of gaming at a club unless the person is the secretary, an executive officer or a member of the club carrying out or exercising the person’s rights as secretary, executive officer or member.

Maximum penalty—200 penalty units.’

Amendment of s 195 (Reporting of accounting discrepancies and criminal activity)

114. Section 195, ‘machine manager’—

omit, insert—

‘gaming employee’.

Amendment of s 196 (Cheating)

115. Section 196(3), definition “**licensee**”, paragraph (a), ‘machine manager’—

omit, insert—

‘gaming employee’.

Amendment of s 206 (Proceedings for offences)

116.(1) Section 206(3), (4) and (7), before ‘151(1)’—

insert—

‘148A(1) or (2),’.

(2) Section 206(3), (4) and (7), ‘178,’—

omit.

Amendment of s 212 (Disclosure of criminal history)

117. Section 212(f), from ‘40(8)’ to ‘90(2)’—

omit, insert—

‘40(2), 40A(1), 60(2), 79(1A), 80(2), 90B(1)’.

Amendment of s 215 (Regulation making power)

118. Section 215(2)(a)—

omit, insert—

‘(a) arrangements and procedures for the taking of fingerprints of an individual who is an applicant for a gaming machine, service contractor’s, repairer’s gaming nominee’s, gaming employee’s or key monitoring employee’s licence; and’.

Omission of s 217 (Approval of chief executive may be conditional)**119.** Section 217—*omit.***Insertion of new pt 11, div 1 hdg****120.** Part 11, before section 218—*insert—**‘Division 1—Provisions for Gaming Machine Amendment Act 1997’.***Amendment of s 218 (Chief executive to supply gaming machines etc. until there is a licensed operator)****121.** Section 218(2), after ‘56(5)’—*insert—**‘as in force at the commencement of this section’.***Insertion of new pt 11, div 2****122.** Part 11, after section 222—*insert—**‘Division 2—Provisions for Gaming Machine and Other Legislation Amendment Act 1999***‘Definitions****‘223.** In this part—**“application period”** means the period of 2 months starting on the commencement day.**“commencement day”** means the day on which the provision in which the term is used commences.**“existing control system”**, for an existing operator, means the system of internal controls and administrative and accounting procedures used, immediately before the commencement day, by the operator for the

operator's monitoring operations.

“existing operator” means a person who—

- (a) immediately before the commencement day was a licensed operator; and
- (b) on the commencement day is a licensed operator.

“part 4 licence” means any of the following licences—

- repairer's licence
- service contractor's licence
- gaming employee's licence
- key monitoring employee's licence.

“submission period” means the period of 1 month starting on the commencement day.

“unresolved nominee's application”, for a licensee's licensed premises, means an application for a gaming nominee's licence that—

- (a) is made (whether under section 76E or 77) in the application period; and
- (b) is made by a person who, for the application, is nominated by the licensee to be the licensee's nominee for the premises; and
- (c) is not decided before the end of the application period.

‘Term of gaming machine licences

‘224.(1) Section 47, as amended by the *Gaming Machine and Other Legislation Amendment Act 1999*, applies only to a gaming machine licence issued on or after the commencement day.

‘(2) Section 47, as in force immediately before the commencement day, continues to apply to a gaming machine licence issued before, and in force on, the commencement day.

‘Approved control systems for existing operators

‘225. An existing operator's existing control system is, with any necessary modifications, taken to be the operator's approved control system

until—

- (a) if paragraph (b) does not apply—the end of the submission period; or
- (b) if, during the submission period, the existing operator makes a control system submission to the chief executive—the chief executive makes a decision under section 72ZZD⁵⁹ approving, or refusing to approve, the control system to which the submission relates.

‘Nominees of licensees

‘**226.** Section 76D⁶⁰ does not apply to a licensee for licensed premises of the licensee—

- (a) until the end of the application period; or
- (b) if, at the end of the application period, there is an unresolved nominee’s application for the premises—until the application is decided.

‘Application for gaming nominees’ licences

‘**227.(1)** This section applies if, in the application period, an application for a gaming nominee’s licence is made by a licensed gaming employee under section 76E.⁶¹

‘**(2)** The application is taken to be accompanied by the prescribed fee for the application if it is accompanied by a fee for an amount equal to the prescribed fee less the discount amount.

‘**(3)** In this section—

⁵⁹ Section 72ZZD (Dealing with submissions)

⁶⁰ Section 76D (Nominees of licensees)

⁶¹ Section 76E (Application for gaming nominee’s licence by licensed gaming employee)

“discount amount” means the amount calculated using the formula—

$$\frac{M \times PF}{60}$$

where—

“M” means the number of whole months remaining in the unexpired period of the applicant’s gaming employee’s licence;

“PF” means the prescribed fee.

‘Applications for machine managers’ licences

‘228.(1) This section applies if an application for a machine manager’s licence was made, but not decided or withdrawn, before the commencement day.

‘(2) The application is taken to be an application for a gaming employee’s licence.

‘Machine managers’ licences

‘229. A machine manager’s licence in force immediately before the commencement day is taken to be a gaming employee’s licence until—

- (a) the term for which the licence was issued, or renewed or last renewed, expires; or
- (b) the licence otherwise ceases to be in force.

‘Licensed machine managers

‘230. A person who, immediately before the commencement day, was a licensed machine manager is taken to be a licensed gaming employee until—

- (a) the term for which the person’s licence was issued, or renewed or last renewed, expires; or
- (b) the person’s licence otherwise ceases to be in force.

‘Term of part 4 licences

‘**231.(1)** Section 83, as amended by the *Gaming Machine and Other Legislation Amendment Act 1999*, applies only to a part 4 licence issued on or after the commencement day.

‘(2) Section 83, as in force immediately before the commencement day, continues to apply to a part 4 licence issued before, and in force on, the commencement day.

‘Continuation of certain agreements for stated period

‘**232.(1)** This section applies despite the amendment of section 189(6) by the *Gaming Machine and Other Legislation Amendment Act 1999*, section 113 (the “**amending provision**”).

‘(2) Section 189(6), as in force immediately before the commencement of the amending provision, continues to apply to an agreement of a kind mentioned in the subsection if—

- (a) the agreement was entered into before 20 November 1998; and
- (b) the person with whom the licensed operator entered into the agreement is, and, at the time the agreement was entered into, was, a licensee; and
- (c) the premises to which the agreement relates are, and, at the time the agreement was entered into, were, licensed premises of the licensee.

‘(3) However, subsection (2) applies only for—

- (a) if the agreement’s initial term is not longer than 5 years—the agreement’s initial term; or
- (b) if the agreement’s initial term is longer than 5 years—the period of 5 years starting on the day the agreement’s initial term started.

‘(4) Also, subsection (2) applies to the agreement only for the licensed premises to which the agreement related at the time the agreement was entered into.’