

Queensland



# CHARITABLE AND NON-PROFIT GAMING ACT 1999

**Reprinted as in force on 21 December 1999  
(includes amendments up to Act No. 77 of 1999)**

**Reprint No. 1A**

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This Act is reprinted as at 21 December 1999. The reprint—

- shows the law as amended by all amendments that commenced on or before that day (Reprints Act 1992 s 5(c))
- incorporates all necessary consequential amendments, whether of punctuation, numbering or another kind (Reprints Act 1992 s 5(d)).

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 reprint 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**
- **editorial changes made in earlier reprint.**

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# CHARITABLE AND NON-PROFIT GAMING ACT 1999

[as amended by all amendments that commenced on or before 21 December 1999]

**An Act to regulate gaming conducted to raise funds for charitable and non-profit purposes, and for related purposes**

## PART 1—PRELIMINARY

### Short title

1. This Act may be cited as the *Charitable and Non-Profit Gaming Act 1999*.

### Commencement

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

### Objects of Act

3. The objects of this Act include ensuring—
- (a) appropriate standards and levels of accountability for the conduct of general gaming are set and maintained; and
  - (b) the public obtains reasonable net benefits from the conduct of general gaming; and
  - (c) individuals engaged in conducting general gaming do not derive a personal gain from it; and
  - (d) the integrity of general gaming is maintained; and
  - (e) public confidence and trust in buying general gaming tickets as a

worthwhile way of supporting persons' fundraising activities are maintained.

### **Application of Act**

4. This Act does not apply to the conduct of a game permitted under another jurisdiction's law, if the conduct of the game in Queensland consists only of advertising the game.

## **PART 2—INTERPRETATION**

### *Division 1—Standard definitions*

#### **Definitions**

5. The dictionary in schedule 2 defines particular words used in this Act.

### *Division 2—Key definitions*

#### **Meaning of “art union”**

6. An “**art union**” is a game other than bingo, a calcutta sweep, lucky envelopes and a promotional game.

#### **Meaning of “association”**

7. An “**association**” is a group of at least 4 persons, whether or not incorporated, formed for a common purpose that is not likely to harm—

- (a) the integrity of general gaming; or
- (b) public confidence and trust in buying gaming tickets as a worthwhile way of supporting fundraising activities by persons for charitable and non-profit purposes.

**Meaning of “bingo”**

**8. “Bingo”** is a game known as bingo, housie or housie-housie, or a similar game, whatever called, in which—

- (a) each player is given a ticket with numbers, letters or symbols printed on it; and
- (b) the winner is decided by the player matching randomly selected numbers, letters or symbols to the numbers, letters or symbols on the player’s ticket.

**Meaning of “calcutta sweep”**

**9.(1)** A **“calcutta sweep”** is a game conducted on a horse race held at a racing venue, or an event approved under section 30,<sup>1</sup> in which, before the race or event starts—

- (a) each player buys a ticket for a chance to be allocated, by lot, a participant in the race or event; and
- (b) an auction takes place at which anyone present, whether or not the person holds a ticket, is entitled to bid for each participant in the race or event.

**(2)** The winners in the game are decided entirely or partly by chance, according to the result of the race or event.

**(3)** In this section—

**“horse race”** means a race for galloping horses.

**“racing venue”** means a place, whether in Queensland or elsewhere, at which a horse race may lawfully be held.

**Meaning of “eligible association”**

**10.(1)** An **“eligible association”** is—

- (a) an association formed and operated principally for a charitable, community, patriotic or sporting purpose or a similar purpose prescribed under a regulation; or

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<sup>1</sup> Section 30 (Decision on application)

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- (aa) an association formed and operated principally for an educational or religious purpose; or
- (b) a parents and citizens association formed under the *Education (General Provisions) Act 1989*; or
- (c) a registered political party under the *Electoral Act 1992*; or
- (d) another association prescribed under a regulation.

(2) An association mentioned in subsection (1)(a) must—

- (a) have at least 25 members; and
- (b) have a management committee, elected by the members—
  - (i) the members of which hold office for at least 1 year; and
  - (ii) that holds regular meetings, including an annual general meeting, and keeps minutes of its meetings; and
- (c) have a treasurer who keeps proper financial records for the association and presents an audited income and expenditure statement and balance sheet at its annual general meeting; and
- (d) operate banking accounts in its name; and
- (e) require cheques issued by it to be signed by at least 2 members authorised for the purpose.

(3) An association mentioned in subsection (1)(a) must also have a constitution that provides, if the association is disbanded, for its assets, after payment of its liabilities, to be distributed to—

- (a) a fund with objects similar to the association's objects; or
- (b) a fund used exclusively for charitable purposes; or
- (c) an association incorporated under the *Associations Incorporation Act 1981* with objects similar to the association's objects.

(4) An **“eligible association”** includes a constituent unit of the association.

(5) In this section—

**“charitable purpose”** means—

- (a) the purpose of helping individuals who—



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- (i) are persons with a disability under the *Disability Services Act 1992*; or
  - (ii) need help because of their age (whether young or old), sickness, infirmity, bereavement, poverty or unemployment; or
  - (iii) need help because their property has been damaged or destroyed by, or because of, a natural disaster; or
  - (iv) are dependants of individuals mentioned in subparagraphs (i) to (iii); or
- (b) another purpose prescribed under a regulation if there are reasonable grounds for considering the purpose to be a charitable purpose.

**“community purpose”** means the purpose of promoting, other than for personal or commercial gain, the general welfare of the public or a section of it.

**“constituent unit”**, of an eligible association, means a branch, sub-branch, committee, council or other body of persons established under the association’s rules (whatever the rules are called).

**“educational purpose”** means—

- (a) the purpose of helping any of the following established, or proposed to be established, other than for personal or commercial gain—
  - (i) a school, college (including a State college within the meaning of the *Vocational Education, Training and Employment Act 1991*), university or other educational institution;
  - (ii) a school of arts or public library; or
- (b) another purpose prescribed under a regulation if there are reasonable grounds for considering the purpose to be an educational purpose.

**“patriotic purpose”** means—

- (a) the purpose of helping members of the Australian Defence Force (the **“ADF”**), or members of the armed forces of another country

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with whom the ADF members are serving during a war, defence emergency or United Nations peacekeeping operations in which the ADF members are involved, by providing—

- (i) things for the comfort or convenience of the ADF members, or the members of the forces of the other country, in or outside Australia; or
  - (ii) functions in Queensland to farewell or welcome the members; or
- (b) another purpose prescribed under a regulation if there are reasonable grounds for considering the purpose to be a patriotic purpose.

**“religious purpose”** means—

- (a) the purpose of helping a church, mosque, pagoda, synagogue, temple or other religious body that is established, or proposed to be established; or
- (b) another purpose prescribed under a regulation if there are reasonable grounds for considering the purpose to be a religious purpose.

**“sporting purpose”** means—

- (a) the purpose of helping an association to conduct a sporting activity of a recreational nature; or
- (b) another purpose prescribed under a regulation if there are reasonable grounds for considering the purpose to be a sporting purpose.

**Meaning of “game”**

**11.(1)** A **“game”** is a game, scheme or arrangement offering prizes, whether or not tickets are sold or distributed, in which the winners are decided—

- (a) entirely or partly by chance; or
- (b) by a competition or other activity having an outcome depending on chance, for example, a guessing competition.

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*Examples of “game”—*

1. A calcutta sweep.
2. An art union.
3. A promotional game.
4. Bingo.
5. Lucky envelopes.

(2) However, each of the following is not a game—

- (a) a lottery conducted under the *Lotteries Act 1997*, or under arrangements approved under that Act;
- (b) a game authorised under the *Interactive Gambling (Player Protection) Act 1998*.

### **Meaning of “lucky envelopes”**

**12.(1) “Lucky envelopes”** is a game in which—

- (a) a ticket is torn, opened or scratched, whether physically or electronically, to reveal numbers, letters or symbols that may entitle the player to a prize; or
- (b) a ticket is printed, electronically or mechanically, with a number, letter or symbol that may entitle the player to a prize.

(2) **“Lucky envelopes”** includes—

- (a) the games known as lucky envelopes, break-open, pull-tab, lucky numbers and instant art union; and
- (b) any similar game, by whatever name called.

(3) However, **“lucky envelopes”** does not include a promotional game.

### **Meaning of “promotional game”**

**13.** A **“promotional game”** is a game conducted to promote goods or services.

***Division 3—Categories of games*****Meaning of “category 1 game”**

**14.(1)** A “category 1 game” is a game in which—

- (a) for bingo—the gross proceeds of all games in the bingo session are not more than \$2 000; or
- (b) for other games—the gross proceeds of which are not more than \$2 000.

**(2)** However, a promotional game or lucky envelopes is not a category 1 game.

**Meaning of “category 2 game”**

**15.(1)** A “category 2 game” is a game in which—

- (a) for bingo—the gross proceeds of all games in the bingo session are more than \$2 000 but not more than \$20 000; or
- (b) for lucky envelopes—the gross proceeds of which are not more than \$5 000; or
- (c) for other games—the gross proceeds of which are more than \$2 000 but not more than \$20 000.

**(2)** However, a promotional game is not a category 2 game.

**Meaning of “category 3 game”**

**16.(1)** A “category 3 game” is a game, other than bingo, the gross proceeds of which are more than—

- (a) \$20 000; or
- (b) if the game is conducted under a special category 3 gaming licence—\$5 000.

**(2)** However, a promotional game or lucky envelopes is not a category 3 game.

**Meaning of “category 4 game”**

17. A “category 4 game” is a promotional game.

**PART 3—GENERAL GAMING***Division 1—Who may conduct general gaming***Category 1 games**

18.(1) A person must not conduct a category 1 game unless the person is—

- (a) an association; or
- (b) authorised to conduct the game under another Act.

Maximum penalty—40 penalty units.

(2) However, an individual may conduct a category 1 game if—

- (a) the individual does not derive a personal gain from conducting the game; and
- (b) all proceeds of the game, or goods representing the value of the proceeds, are returned to the players as prizes.

**Category 2 games**

19. A person must not conduct a category 2 game unless the person—

- (a) is an eligible association and complies with section 22; or
- (b) is authorised to conduct the game under another Act.

Maximum penalty—100 penalty units.

**Category 3 games**

20. A person must not conduct a category 3 game unless the person—

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- (a) is an eligible association that complies with section 22 and holds a category 3 gaming licence; or
- (b) holds a special category 3 gaming licence; or
- (c) is authorised to conduct the game under another Act.

Maximum penalty—200 penalty units.

### **Category 4 games**

**21.** Any person may conduct a category 4 game.

### **Restriction on persons conducting category 2 or 3 games**

**22.** An eligible association may conduct a category 2 or 3 game only if the association—

- (a) has an office in Queensland and conducts its general gaming business from, and keeps its general gaming records at, the office; and
- (b) if the association uses or intends to use part or all of the game's net proceeds for a purpose outside Queensland—states on the tickets, or written advertising material for the game, the purpose for which the net proceeds are to be used.

## ***Division 2—Other provisions about general gaming***

### ***Subdivision 1—Bingo***

#### **Restrictions on conducting bingo**

**23.(1)** A person must not conduct bingo if the gross proceeds of all games in the bingo session are more than \$20 000.

Maximum penalty—200 penalty units.

- (2)** A person must not conduct bingo at a bingo centre unless—
  - (a) the person is an eligible association; and

- (b) a bingo centre licence is in force for the bingo centre; and
- (c) the person has appointed an individual as an ordinary member of the bingo centre licensee.

Maximum penalty—40 penalty units.

(3) In this section—

**“bingo centre”** means premises where 2 or more eligible associations conduct, between or amongst them, more than 25 bingo sessions each week.

### *Subdivision 2—Lucky envelopes*

#### **Restriction on conducting lucky envelopes**

**24.** A person must not conduct lucky envelopes if the gross proceeds of the game are more than \$5 000.

Maximum penalty—200 penalty units.

#### **Approving, installing and operating lucky envelope vending machines**

**25.(1)** A person must not conduct lucky envelopes from a lucky envelope vending machine unless the machine is approved by the chief executive under part 5, division 9.<sup>2</sup>

**(2)** A person conducting lucky envelopes must ensure the lucky envelope vending machine is installed and operated in the way prescribed under a regulation.

Maximum penalty—40 penalty units.

#### **Printing lucky envelopes**

**26.(1)** A person must not print lucky envelopes unless the person holds a lucky envelope printer licence.

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<sup>2</sup> Part 5 (Compliance requirements), division 9 (Approval of regulated general gaming equipment)

Maximum penalty—100 penalty units.

(2) The holder of a lucky envelope printer licence must comply with the requirements prescribed under a regulation for printing lucky envelopes.

Maximum penalty—50 penalty units.

(3) To remove doubt, it is declared that a person does not print lucky envelopes if the person merely sells lucky envelopes—

- (a) from a lucky envelope vending machine; or
- (b) obtained from the holder of a lucky envelope printer licence.

### **Safe custody of lucky envelopes**

27.(1) The holder of a lucky envelope printer licence must ensure—

- (a) stocks of lucky envelopes held by the holder are kept in a secure place; and
- (b) adequate security arrangements exist to prevent access to the place by persons who are not authorised by the holder to have the access.

(2) A person conducting lucky envelopes must ensure—

- (a) the following are kept in a secure place—
  - (i) stocks of lucky envelopes held by the person;
  - (ii) any microchip or other program storage media for random number generator software used by the person in a lucky envelope vending machine; and
- (b) adequate security arrangements exist to prevent access to the place by persons who are not authorised by the person conducting the lucky envelopes to have the access.

Maximum penalty—40 penalty units.

### **Selling lucky envelopes**

28. A person must not sell lucky envelopes unless the envelopes have been printed under a lucky envelope printer licence.

Maximum penalty—50 penalty units.



***Subdivision 3—Approval for events for calcutta sweeps*****Application for approval of events**

**29.(1)** A person may apply to the chief executive for approval for an event on which the person intends to conduct a calcutta sweep.

**(2)** The application must be in writing and describe the event for which approval is sought.

**Decision on application**

**30.(1)** The chief executive must consider the application and either give, or refuse to give, the approval sought by the application.

**(2)** An approval may relate to an event in or outside Australia.

**(3)** The chief executive must not give an approval for an event the chief executive considers to be offensive or contrary to the public interest.

**Conditions of approval**

**31.** The chief executive may give the approval—

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

**Notice of decision**

**32.(1)** If the chief executive gives the approval, the chief executive must give the person a notice stating—

- (a)** the decision; and
- (b)** any conditions of the approval.

**(2)** The notice may also state the period for which the approval remains in force.

(3) If the chief executive refuses the approval, the chief executive must give the person a notice stating the decision and the reasons for it.

### **Period of approval**

33. An approval remains in force—

- (a) if a period is stated in the notice under section 32(2)—for the stated period; or
- (b) if no period is stated in the notice—until the approval is withdrawn.

### **Withdrawal of approval**

34.(1) The chief executive may, for any reason the chief executive considers appropriate, withdraw an approval given under section 30.

(2) However, the approval may be withdrawn only if the chief executive—

- (a) has given the person a reasonable opportunity to be heard or to make representations on the proposed withdrawal; and
- (b) has considered any representations made by the person in the process carried out by the chief executive under paragraph (a).

(3) The withdrawal must be made by notice given to the person and stating the reasons for the decision.

(4) The decision takes effect—

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

### ***Subdivision 4—Application of net proceeds of games***

### **Application of net proceeds of games**

35. A person must not use or apply the net proceeds of a category 1, 2 or

3 game other than for a purpose for which the game was conducted.

Maximum penalty—100 penalty units.

## **PART 4—LICENCES**

### *Division 1—Types and form*

#### **Types of general licences**

**36.** The following types of general licence may be issued under this Act—

- (a) a bingo centre licence;
- (b) a category 3 gaming licence;
- (c) a lucky envelope printer licence;
- (d) a special category 3 gaming licence.

#### **Form, content and term of general licences**

**37.(1)** A general licence must—

- (a) be in the approved form; and
- (b) include the following particulars—
  - (i) the licensee's name;
  - (ii) the date of issue;
  - (iii) the term for which it is issued;
  - (iv) its conditions;
  - (v) other particulars prescribed under a regulation.

**(2)** A general licence is issued for the following term—

- (a) for a bingo centre licence—1 year;
- (b) for a category 3 gaming licence—1 year;

- (c) for a lucky envelope printer licence—5 years;
- (d) for a special category 3 gaming licence—4 months.

### *Division 2—Issue and renewal*

#### **Who may apply for a bingo centre licence**

**38.(1)** For the purpose of an application for a bingo centre licence, an association must be established that complies with subsection (2).

**(2)** An applicant for a bingo centre licence (the “**applicant association**”) must be an association—

- (a) incorporated under the *Associations Incorporation Act 1981*; and
- (b) the ordinary members of which consist only of individuals appointed by eligible associations conducting, or intending to conduct, bingo at the premises for which the licence is sought.

**(3)** An eligible association may appoint an individual as an ordinary member of the applicant association if the individual is an ordinary member of the eligible association.

**(4)** The number of individuals appointed to the applicant association by each eligible association must be the same.

#### **Who may apply for a category 3 gaming licence**

**39.** An applicant for a category 3 gaming licence must be an incorporated eligible association.

#### **Who may apply for a lucky envelope printer licence**

**40.** An applicant for a lucky envelope printer licence must be a corporation.

#### **Who may apply for a special category 3 gaming licence**

**41.** An applicant for a special category 3 gaming licence must be a person intending to conduct a single art union for the welfare or benefit of—

- (a) individuals who need help because of a disaster; or
- (b) a disadvantaged individual.

*Example of 'disadvantaged individual'—*

An individual who is financially disadvantaged.

### **Special category 3 gaming licence not renewable**

**42.** A special category 3 gaming licence is not renewable.

### **Application for issue or renewal of a general licence**

**43.(1)** An application must—

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

**(2)** The application must be made in the time prescribed under a regulation.

**(3)** The chief executive may, by notice, ask the applicant to give the chief executive further information or a document that is necessary and reasonable to help the chief executive decide the application.

**(4)** The applicant must comply with the request within the reasonable time stated in the notice.

### **Consideration of application**

**44.** The chief executive must consider the application and any additional information or document given to the chief executive under section 43, and either grant or refuse to grant the application.

### **Conditions for granting application**

**45.(1)** The chief executive may grant an application for a licence, other than a special category 3 licence, only if the chief executive is satisfied—

- (a) the applicant is a suitable person to hold the licence; and

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- (b) each business or executive associate of the applicant is a suitable person to be associated with the applicant's proposed operations under the licence.

(2) The chief executive may grant an application for a special category 3 gaming licence to conduct an art union only if the chief executive is satisfied—

- (a) the applicant is a suitable person to hold the licence, or, if the application is made for an unincorporated association, each management member of the association would be a suitable person to hold the licence if the member were the applicant; and
- (b) it is reasonable to grant the licence because of the exceptional circumstances of the case.

*Examples of 'exceptional circumstances' for subsection (2)—*

1. A financially disadvantaged individual requires urgent medical treatment.
2. A financially disadvantaged individual requires financial assistance to participate in an international sporting event.

(3) However, the chief executive may refuse to grant an application for a licence even if the chief executive is satisfied of the matters mentioned in subsection (1) or (2).

### **Suitability of applicant to hold general licence**

46. In deciding whether the applicant, or a management member of the applicant, is a suitable person as mentioned in section 45, the chief executive may have regard to any relevant matter, including the following—

- (a) the applicant or management member's character or business reputation;
- (b) the applicant or management member's current financial position and financial background;
- (c) if the applicant is not an individual—whether the applicant has, or has arranged, a satisfactory ownership, trust or corporate structure for conducting the licensee's proposed operations under the licence;
- (d) whether the applicant or management member has, or is able to

obtain, the services of persons who have—

- (i) financial resources the chief executive considers adequate to ensure the financial viability of operations conducted under the licence; and
  - (ii) appropriate experience to ensure the proper and successful conduct of the applicant's proposed operations under the licence;
- (e) if the applicant or management member has a business or executive association with another person—
- (i) the other person's character or business reputation; and
  - (ii) the other person's current financial position and financial background.

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

**47.** In deciding whether a business or executive associate of the applicant is a suitable person to be associated with the applicant's proposed operations under the licence, the chief executive may have regard to any relevant matter including the following—

- (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 or executive association with another person—
  - (i) the other person's character or business reputation; and
  - (ii) the other person's current financial position and financial background.

### **Investigations of suitability of applicant**

**48.(1)** The chief executive may investigate the applicant, or a management member of the applicant, to decide whether the applicant or management member is a suitable person to hold the licence.

**(2)** The chief executive may investigate a business or executive associate of the applicant to decide whether the business or executive associate is a

suitable person to be associated with the applicant's proposed operations under the licence.

### **Criminal history reports for investigations**

**49.(1)** If the chief executive, in investigating a person under section 48, asks the commissioner of the police service for a written report on the person's criminal history, the commissioner must give the report to the chief executive.

**(2)** The report must contain—

- (a) all relevant information the commissioner possesses; and
- (b) all relevant information the commissioner can reasonably obtain by asking officials administering police services in other Australian jurisdictions; and
- (c) all other relevant information to which the commissioner has access.

### **Inspection before issue or renewal of general licence**

**50.(1)** For deciding the application, the chief executive may ask an inspector—

- (a) to enter and inspect a place that is being, or is proposed to be, used—
  - (i) for conducting general gaming; or
  - (ii) for printing lucky envelopes; and
- (b) to inspect and test equipment that is being, or is proposed to be used for conducting games or printing lucky envelopes.

**(2)** The inspector may enter the place under section 119<sup>3</sup> and carry out the inspection and testing.

**(3)** For the purposes of the application, the applicant must consent to the entry.

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<sup>3</sup> Section 119 (Entry to places)



**Other matters chief executive may have regard to in deciding applications for bingo centre licences**

**51.(1)** In deciding whether to grant an application for a bingo centre licence, the chief executive may also have regard to whether—

- (a) the applicant is capable of complying with this Act; and
- (b) the practices and procedures followed, or proposed to be followed, by the applicant in conducting the bingo centre are adequate to ensure, to the greatest extent reasonably possible—
  - (i) the integrity of bingo games conducted at the bingo centre; and
  - (ii) the elimination of opportunity for practices that could damage public confidence in bingo games conducted at the bingo centre; and
- (c) the premises and the facilities provided, or to be provided, at the bingo centre, including facilities for conducting bingo, are suitable and of an appropriate standard for conducting bingo.

**(2)** Subsection (1) does not limit the matters the chief executive may have regard to in deciding whether to grant or refuse the application.

**Other matters to be considered by chief executive in deciding applications for category 3 gaming licences**

**52.(1)** In deciding whether to grant an application for a category 3 gaming licence, the chief executive may also have regard to—

- (a) whether the applicant is capable of complying with this Act; and
- (b) whether the applicant is fulfilling or is able to fulfil the objects for which the applicant was formed.

**(2)** Subsection (1) does not limit the matters the chief executive may consider in deciding whether to grant or refuse the application.

**Other matters to be considered by chief executive in deciding applications for lucky envelope printer licences**

**53.(1)** In deciding whether to grant an application for a lucky envelope

printer licence, the chief executive may also have regard to whether—

- (a) the applicant is capable of complying with this Act; and
- (b) the facilities provided, or to be provided, by the applicant are adequate for printing lucky envelopes; and
- (c) the practices and procedures followed, or proposed to be followed, by the applicant in printing lucky envelopes are adequate to ensure, to the greatest extent reasonably possible—
  - (i) the integrity of lucky envelopes; and
  - (ii) the elimination of opportunity for practices that could damage public confidence and trust in buying lucky envelopes as a worthwhile way of supporting fundraising activities by persons for charitable and non-profit purposes.

(2) Subsection (1) does not limit the matters the chief executive may have regard to in deciding whether to grant or refuse the application.

### **Decision on application**

**54.(1)** Subject to subsection (2), if the chief executive decides to grant an application, the chief executive must immediately issue or renew the licence.

(2) The chief executive may issue or renew the licence only if the applicant has given the chief executive the licence or renewal fee prescribed under a regulation.

(3) If the chief executive decides to refuse to grant the application, the chief executive must immediately give the applicant an information notice about the decision.

### ***Division 3—Conditions***

#### **Conditions imposed on issue or renewal of general licence**

**55.(1)** The chief executive may issue or renew a general licence on conditions the chief executive considers necessary or desirable—

- (a) in the public interest; or

- (b) for the proper conduct, by the licensee, of the activity authorised by the licence.

*Example—*

The chief executive may ask the applicant to give the chief executive a financial institution guarantee to ensure delivery of prizes for the games proposed to be conducted by the applicant.

(2) If the chief executive decides to impose a condition on the issue or renewal of a general licence, the chief executive must immediately give the applicant an information notice about the decision.

### **Changing conditions of general licence**

**56.(1)** The chief executive may change the conditions of a general licence if the chief executive considers it is necessary or desirable to make the change—

- (a) in the public interest; or
- (b) for the licensee's proper conduct of the activity authorised by the licence.

(2) If the chief executive decides to change the conditions, the chief executive must immediately give the licensee—

- (a) a replacement licence containing the conditions as changed; and
- (b) an information notice about the decision.

(3) The chief executive's power under subsection (1) includes the power to add conditions to an unconditional licence.

### **Non-compliance with general licence conditions**

**57.** A general licensee must comply with the licence conditions.

Maximum penalty—

- (a) for the first offence—40 penalty units; or
- (b) for a subsequent offence—100 penalty units.

***Division 4—Suspension and cancellation*****Grounds for suspension or cancellation of general licence**

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

- (a) the general licensee is not a suitable person to hold the licence, or, if the licensee is an unincorporated association, each management member of the association is not a suitable person to hold the licence if the member were the licensee;
- (b) for a general licence other than a special category 3 gaming licence—a business or executive associate of the general licensee is not a suitable person to be associated with the licensee’s operations under the licence;
- (c) the general licensee is convicted of an offence against this Act or a gaming Act;
- (d) the general licensee is convicted of an indictable offence;
- (e) the general licensee fails to comply with a condition of the licence;
- (f) the general licensee fails to comply with a direction given by the chief executive about the licensee’s management practices or conduct of general gaming;
- (g) the general licensee fails to discharge the licensee’s financial commitments for the licensee’s operations under the licence;
- (h) the general licensee is affected by bankruptcy action;
- (i) the general licensee is affected by control action under the Corporations Law;
- (j) a mortgagee is in possession of premises owned by the general licensee and used for general gaming under the licence.

**(2)** For forming a belief that the ground mentioned in subsection (1)(a) exists, the chief executive may have regard to the same issues to which the chief executive may have regard in deciding whether a proposed licensee is a suitable person to hold the licence.

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

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chief executive may have regard in deciding whether a business or executive associate of a proposed licensee is a suitable person to be associated with the licensee's proposed operations under the licence.

(4) For subsection (1)(h), a licensee is affected by bankruptcy action if the licensee—

- (a) is bankrupt; or
- (b) has compounded with creditors; or
- (c) has otherwise taken, or applied to take, advantage of any law about bankruptcy.

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

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

**Show cause notice**

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

- (a) a ground exists to suspend or cancel a general licence; and
- (b) the act, omission or other thing constituting the ground is of a serious and fundamental nature; and
- (c) either the integrity of general gaming, or the public interest, may be affected in an adverse and material way.

(2) The chief executive must give the licensee a notice (a “**show cause notice**”) stating the following—

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

suspension period;

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

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

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

**60.(1)** The chief executive must immediately give a copy of the show cause notice to each person (an “**interested person**”) the chief executive believes has an interest in the licence if the chief executive considers—

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

(2) In considering whether it is appropriate to give the copy to an interested person, the issues to which the chief executive may have regard include the following—

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

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

### **Consideration of representations**

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

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

**Immediate suspension**

**62.(1)** The chief executive may suspend a general licence immediately if the chief executive reasonably believes—

- (a) a ground exists to suspend or cancel the licence; and
- (b) the circumstances are so extraordinary that it is imperative to suspend the licence immediately to ensure the integrity of general gaming, or the public interest, is not affected in an adverse and material way.

**(2)** The suspension—

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

**Censuring general licensee**

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

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

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

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

**(3)** The chief executive may, by notice given to the general licensee, censure the licensee for a matter relating to the ground for suspension or cancellation.

**Direction to rectify**

**64.(1)** This section applies if, after considering the accepted

representations for a show cause notice, the chief executive—

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

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

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

### **Other action by chief executive**

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

- (a) a ground exists to suspend or cancel a general licence; and
- (b) the act, omission or other thing constituting the ground is of a serious and fundamental nature; and
- (c) either the integrity of general gaming, or the public interest, may be affected in an adverse and material way.

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

(3) The chief executive may—

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



(4) The chief executive must immediately give the licensee an information notice about the decision.

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

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

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

**66.(1)** This section applies to an administrator appointed by the chief executive under section 65(3)(b)(iii) to conduct operations under a general licence.

(2) The administrator holds office on terms decided by the chief executive.

(3) The administrator—

- (a) has full control of, and responsibility for, the licensee's operations conducted under the licence; and
- (b) subject to any directions of the chief executive, must conduct the operations under this Act as if the administrator were the licensee.

(4) The costs of and incidental to the administrator's conduct and administration of the licensee's operations under the licence are payable by the licensee.

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

**67.(1)** If a general licence is suspended, at any time the suspension is in force, the chief executive may, for any remaining period of the suspension—

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

(2) The chief executive must immediately give notice of the decision to the licensee.

*Division 5—Investigations of licensees and associates***Audit program**

**68.(1)** The Minister may approve an audit program (an “**approved audit program**”) for investigating general licensees or business or executive associates of general licensees.

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

(3) A person may be investigated under an approved audit program only once every year.

**Investigations**

**69.(1)** The chief executive may investigate a general licensee to decide whether the licensee is a suitable person to hold the general licence or, if the licensee is an unincorporated association, each management member of the association is a suitable person to hold the licence if the member were the licensee.

(2) The chief executive may investigate a business or executive associate of the licensee to decide whether the associate is a suitable person to be associated with the licensee’s operations under the licence.

(3) However, the chief executive may investigate the licensee or management member only if—

(a) the chief executive reasonably suspects the licensee or management member is not a suitable person to hold the licence;  
or

(b) the investigation is made under an approved audit program.

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

(a) the chief executive reasonably suspects the associate is not a suitable person to be associated with the licensee’s operations under the licence; or

(b) the investigation is made under an approved audit program; or

- (c) the associate—
  - (i) became a business or executive associate of the licensee after the licence was issued; and
  - (ii) has not been investigated previously under an approved audit program.

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

**70.(1)** In investigating a general licensee or business or executive associate of a general licensee, the chief executive may, by notice given to the person being investigated, require the person to give the chief executive information or material that 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 for not complying with it.

**(3)** The person must comply with the requirement, unless the person has a reasonable excuse for not complying with it.

Maximum penalty—200 penalty units.

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

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

**71.(1)** If the chief executive, in making an investigation about a person under section 69, 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)** 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.

## **PART 5—COMPLIANCE REQUIREMENTS**

### *Division 1—Rules*

#### **General gaming rules**

- 72.(1)** The Minister may make rules about general gaming.
- (2)** The rules are subordinate legislation.

#### **Compliance with rules**

**73.** Each of the following persons must comply with the rules in conducting or participating in a game—

- (a) the person, including an administrator, conducting the game;
- (b) a player.

Maximum penalty—40 penalty units.

### *Division 2—General gaming records*

#### **Keeping general gaming records—eligible associations**

**74.(1)** A person conducting a category 2 or 3 game must keep records (“**general gaming records**”) about conduct of the game.

Maximum penalty—20 penalty units.

**(2)** The person must keep the records at the person’s principal place of business in Queensland, or if the person is incorporated and has its registered office in Queensland, at its registered office.

Maximum penalty—40 penalty units.

#### **Keeping general gaming records—bingo centre licensees**

**75.(1)** The holder of a bingo centre licence must keep records (also “**general gaming records**”) about the conduct of each bingo game conducted at the centre.

(2) The holder must keep the records in a safe place.

Maximum penalty—20 penalty units.

### **Keeping general gaming records—lucky envelope printers**

**76.(1)** The holder of a lucky envelope printer licence must, for each game of lucky envelopes printed under the licence, keep records (also “**general gaming records**”) about the conduct of the activity authorised by the licence.

(2) The holder must keep the records in a safe place.

Maximum penalty—20 penalty units.

### **General gaming records to be kept for required period**

**77.(1)** A person required to keep a general gaming record must keep the record for the period approved by the chief executive.

Maximum penalty—40 penalty units.

(2) The period approved by the chief executive must be not more than 5 years after the end of the game to which the record relates.

(3) Subsection (1) does not apply to a record if—

- (a) the information previously contained in it is kept in another way approved by the chief executive; or
- (b) it has been destroyed with the chief executive’s approval.

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

## ***Division 3—Financial accounts and records***

### **Keeping accounting records**

**78.(1)** A person conducting a category 2 or 3 game must—

- (a) keep accounting records correctly recording and explaining the financial transactions for the game; and

- (b) keep the accounting records in a way that allows—
  - (i) true and fair financial statements and accounts to be prepared when necessary; and
  - (ii) the financial statements and accounts to be conveniently and properly audited.

Maximum penalty—100 penalty units.

(2) A person conducting a category 1 game must keep accounting records correctly recording and explaining the transactions for the game.

Maximum penalty—20 penalty units.

### **Preparing financial statements and accounts**

**79.(1)** This section applies to the holder of a category 3 gaming licence.

(2) The holder must prepare financial statements and accounts as required by this section giving a true and fair view of the holder's financial operations for the game.

Maximum penalty—40 penalty units.

(3) The financial statements and accounts must include the following for each financial year the holder conducts the game—

- (a) trading accounts, if applicable;
- (b) profit and loss accounts;
- (c) a balance sheet as at the end of the financial year;
- (d) other information prescribed under a regulation.

### ***Division 4—Financial institution accounts***

#### **Keeping accounts**

**80.** A person conducting a category 3 game must keep a financial institution account for use for banking or similar transactions for the person's general gaming operations.

Maximum penalty—40 penalty units.

***Division 5—Reports and returns*****Submitting reports for category 3 games**

**81.(1)** A person conducting a category 3 game must give a written report to the chief executive as required by this section about the person's general gaming operations.

Maximum penalty—40 penalty units.

**(2)** The report must be given at the reasonable times stated in a notice given to the person by the chief executive.

**(3)** After receiving a report under this section, the chief executive may, by a further notice given to the person, require the person to give the chief executive a further report within the reasonable time stated in the further notice to explain a matter contained in a previous report.

**(4)** The person must not give the chief executive a report the person knows is false or misleading in a material particular.

Maximum penalty—40 penalty units.

**(5)** It is enough for a complaint against a person for an offence against subsection (4) to state that the report was 'false or misleading' to the person's knowledge, without specifying which.

**Submitting returns for category 3 games**

**82.(1)** A person conducting a category 3 game must give the chief executive the return, as required by this section, about each draw in the game.

Maximum penalty—40 penalty units.

**(2)** The person must give the return, in the approved form—

- (a)** if the game is conducted under a special category 3 gaming licence—within 2 months after the last draw in the game; or
- (b)** otherwise—within the time, after the last draw, required by the chief executive by notice given to the person.

**Submitting returns for other games**

**83.(1)** This section applies if the chief executive, by notice given to a person conducting a category 1, 2 or 4 game, asks the person to give the chief executive a return about the game or, for bingo, the bingo session.

(2) The person must give the return, in the approved form, within the time stated in the notice.

Maximum penalty—40 penalty units.

**Submitting returns—bingo centres and lucky envelope printers**

**84.(1)** The holder of a bingo centre, or lucky envelope printer, licence must give a return about the activity authorised under the licence to the chief executive as required by this section.

Maximum penalty—40 penalty units.

(2) The holder must give the return, in the approved form, within 1 month after each 30 June and 31 December during the term of the licence.

***Division 6—Audit*****Definition for div 6**

**85.** In this division—

“**accountant**” means—

- (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) 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);<sup>4</sup> or
- (e) a person approved by the chief executive as having the necessary experience or qualifications to be an accountant for this section.

### **Audit for category 1 or 4 gaming operations**

**86.(1)** This section applies if—

- (a) a person is conducting category 1 or 4 gaming; and
- (b) the chief executive considers it necessary in the public interest, or for the proper conduct of general gaming, that the person's financial accounts, records and statements for the person's category 1 or 4 gaming operations be audited.

(2) The chief executive may, by notice given to the person, require the person, as soon as practicable after the end of the financial year nominated in the notice, to ensure the accounts, records and statements are audited by an accountant.

(3) The person must comply with the notice unless the person has a reasonable excuse for not complying with it.

Maximum penalty—40 penalty units.

(4) The person must pay the cost of the audit.

### **Audit for category 2 or 3 gaming operations**

**87.(1)** This section applies to a person conducting—

- (a) a category 2 game if the gross proceeds of the game are more than the amount prescribed under a regulation; or
- (b) a category 3 game.

(2) The person must, as soon as practicable after the end of each financial year in which the person conducts the game, ensure the person's financial

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<sup>4</sup> Corporations Law, section 1280 (Registration of auditors)

accounts, records and statements for the person's general gaming operations for the game are audited by an accountant.

Maximum penalty—40 penalty units.

- (3) The person must pay the cost of the audit.

### **Audit—bingo centre licensees**

**88.(1)** The holder of a bingo centre licence must, as soon as practicable after the end of each financial year, ensure the holder's financial accounts, records and statements for the holder's operations under the licence are audited by an accountant.

Maximum penalty—40 penalty units.

- (2) The holder must pay the cost of the audit.

### **Audit—lucky envelope printers**

**89.(1)** The holder of a lucky envelope printer licence must ensure the financial accounts, records and statements for the holder's operations under the licence are audited—

- (a) by an accountant; and
- (b) as soon as practicable after the end of each financial year.

Maximum penalty—40 penalty units.

- (2) The holder must pay the cost of the audit.

### **Finishing audit**

**90.(1)** An accountant conducting an audit under this division must, despite any other Act, finish the audit within 3 months after the end of the financial year to which the audit relates, unless the accountant has a reasonable excuse for not finishing the audit within the 3 months.

(2) The accountant must, immediately after finishing the audit, give a copy of the audit report to—

- (a) the person conducting the general gaming to which the report relates; or

- (b) for an audit conducted under section 88 or 89—the holder of the licence.

Maximum penalty—40 penalty units.

### **Giving audit report to chief executive**

**91.** The person given an audit report under section 90(2) must immediately give the chief executive a copy of the report, unless the person has a reasonable excuse for not giving the copy to the chief executive.

Maximum penalty—40 penalty units.

### **Chief executive's power to ask auditor for copy of audit report**

**92.(1)** This section applies if the person fails to give the chief executive a copy of an audit report under section 91.

**(2)** The chief executive may, by notice given to the accountant who prepared the report, ask the accountant to give a copy of the report to the chief executive within the period stated in the notice.

**(3)** The accountant must comply with the notice, unless the accountant has a reasonable excuse for not complying with it.

Maximum penalty—40 penalty units.

### **Further information following audit**

**93.(1)** On receiving a copy of an audit report, the chief executive may, by notice given to the person to which the audit relates, require the person to give the chief executive, within a reasonable time stated in the notice, further information about a matter relating to the operations mentioned in the report.

**(2)** The person must comply with the requirement within the time stated in the notice, unless the person has a reasonable excuse for not complying with it in the stated time.

Maximum penalty—40 penalty units.

**Exemption from audit requirement**

**94.(1)** A person may, because of the extent of the person's general gaming operations, ask the chief executive to declare the person to be an exempt person for this division.

**(2)** The application must be written and must state the extent of the operations.

**(3)** The chief executive may make the declaration only if the chief executive considers the extent of the person's general gaming operations does not warrant an audit of any of the person's records about the operations.

*Examples—*

1. The person's gaming operations had no gross proceeds.
2. The game conducted by the person did not proceed to a draw and all the gross proceeds were refunded to the players.

**(4)** The declaration must be made by notice given to the person.

***Division 7—Prizes*****Dealing with prizes**

**95.(1)** A person conducting a game must ensure the prize for the game is given to the winner in the way prescribed under a rule, unless the person has a reasonable excuse for not doing so.

Maximum penalty—200 penalty units.

**(2)** Until the prize is given to the winner, the person must—

- (a) keep it for the winner for the period prescribed under a rule; and
- (b) identify the prize as an unclaimed prize in the person's financial accounts.

**(3)** Despite subsection (2), if a prize is perishable, the person may dispose of the prize in a way the person considers will bring a reasonable price and identify the proceeds, in the person's financial accounts, as the proceeds of an unclaimed prize.

**(4)** If the person is unable, after making reasonable efforts, to locate the

prize winner in the period mentioned in subsection (2)(a), the person may deal with the prize in the way prescribed under a rule.

(5) Subsection (6) applies if a person conducting a category 2, 3 or 4 game is unable to give a prize for the game to the prize winner in the time prescribed under a rule.

(6) The person must, within 7 days after becoming aware of the inability, give the chief executive notice of the fact and circumstances of the inability, unless the person has a reasonable excuse for not doing so.

Maximum penalty—40 penalty units.

### **Claims for prizes**

**96.(1)** This section applies if the entitlement to a prize for a game is in dispute.

(2) A claim for the prize must be made to the person that conducted the game within the period prescribed under a rule.

(3) The person must—

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

(4) The claimant may ask the chief executive—

- (a) if the claim is not resolved under subsection (3)—to review the person’s decision on the claim; or
- (b) otherwise—to resolve the claim.

(5) The claimant’s request must be in writing and, if the claimant received a claim result notice, be made within 10 days after receiving the notice.

(6) If a request is made to the chief executive, the chief executive—

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- (a) must deal with the request in the way prescribed under a regulation; and
- (b) may carry out investigations the chief executive considers necessary to resolve matters in dispute.

(7) If a claim for a prize is made under this section, the operation of a rule about keeping or disposing of the prize is suspended until the claim is resolved.

*Division 8—Tickets***Tickets**

**97.** A person must not issue a ticket for a game unless the ticket includes the information prescribed under a rule.

Maximum penalty—40 penalty units.

*Division 9—Approval of regulated general gaming equipment***Application for approval of regulated general gaming equipment**

**98.** A person may, in the approved form, apply to the chief executive for—

- (a) approval of regulated general gaming equipment proposed to be used by the person in conducting a game; or
- (b) approval to modify regulated general gaming equipment used by the person in conducting a game.

**Evaluating equipment**

**99.(1)** If, for deciding the application, the chief executive considers it is necessary for the equipment, or the equipment as proposed to be modified, to be evaluated, the chief executive must—

- (a) carry out the evaluation; or
- (b) direct the applicant—

- (i) to arrange to have the equipment evaluated by an approved evaluator; and
  - (ii) to give the chief executive a written report of the evaluation.
- (2) If the chief executive carries out an evaluation of the equipment—
- (a) the applicant must pay the fee prescribed under a regulation for the evaluation to the chief executive; and
  - (b) if an amount of the fee is not paid by the applicant, the State may recover the amount from the applicant as a debt.

### **Deciding application**

**100.(1)** After considering the application, the chief executive must approve, or refuse to approve, the equipment or modification.

(2) The chief executive may approve the equipment or modification only if the chief executive is satisfied—

- (a) the equipment is, or after the proposed modification, will be, of a standard that ensures, to the greatest extent reasonably possible—
    - (i) the integrity of the game for which it is, or is proposed to be, used; and
    - (ii) the elimination of opportunity for practices that could damage public confidence and trust in participating in games as a worthwhile way of supporting fundraising activities by persons for charitable and non-profit purposes; and
  - (b) for approval for a lucky envelope vending machine or a lucky envelope vending machine after a proposed modification—
    - (i) its make and model incorporate the features prescribed under a regulation to ensure the machine's integrity; and
    - (ii) it is not capable of accruing playing credits; and
    - (iii) it does not resemble, or is not capable of being converted to, a gaming machine under the *Gaming Machine Act 1991*.
- (3) The chief executive may refuse to approve the equipment or modification if—
- (a) the fee payable for an evaluation carried out by the chief executive

is not paid; or

- (b) the applicant fails to comply with a direction of the chief executive under section 99(1)(b).

(4) If the chief executive gives an approval, the chief executive must immediately give the applicant written notice of the decision.

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

### **Approved evaluators**

**100A.** The Governor in Council may, under a regulation, declare an entity to be an approved evaluator for evaluating regulated general gaming equipment.

## ***Division 10—Advertising***

### **Advertising**

**101.** A person advertising the conduct of a game must take reasonable steps to ensure the advertisement—

- (a) is not indecent or offensive; and
- (b) is based on fact; and
- (c) is not false, deceptive or misleading in a material particular; and
- (d) complies with the rules for the game.

### **Directions about advertising**

**102.(1)** If the chief executive reasonably believes a person has published an advertisement for a game that does not comply with section 101, the chief executive may direct the person to take appropriate steps to—

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

(2) The direction must—



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

(3) The person must comply with the direction, unless the person has a reasonable excuse for not complying with it.

Maximum penalty for subsection (3)—50 penalty units.

### *Division 11—Complaints*

#### **Inquiries about complaints**

**103.(1)** A person must inquire into—

- (a) all written complaints made to the person about—
  - (i) the conduct of the person’s general gaming operations under a general licence; or
  - (ii) if the person is not a general licensee—the person’s conduct of a game; or
- (b) all complaints referred to the person by the chief executive under subsection (3).

(2) Within 21 days after a complaint is received by, or referred to, the person, the person must give notice of the result of the person’s inquiry to—

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

(3) If a complaint is made to the chief executive about the conduct of a game, the chief executive must immediately—

- (a) inquire into the complaint; or
- (b) if the chief executive considers it appropriate—refer the complaint to the person who conducted the game.

(4) The chief executive must immediately advise the complainant of—

- (a) the result of the chief executive's inquiry; or
- (b) the chief executive's decision to refer the complaint to the person.

### **Reporting improper behaviour**

**104.(1)** This section applies if a person (the **“informer”**) becomes aware, or reasonably suspects, that another person, by a dishonest act, has obtained a benefit for the other person or someone else in relation to a game conducted by the informer.

(2) Within 7 days after becoming aware of, or suspecting, the dishonest act, the informer must give the chief executive a notice advising the chief executive of the facts known to the informer about the matter.

Maximum penalty—200 penalty units.

(3) The other person must not mistreat the informer because—

- (a) the informer has given, or may give, a notice under subsection (2); or
- (b) the other person reasonably believes the informer has given, or may give, a notice under subsection (2).

Maximum penalty—200 penalty units.

(4) In this section—

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

**“mistreat”** a person means—

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

## *Division 12—General gaming offences*

### **Bribery**

**105.(1)** A general gaming official must not ask for, receive or obtain, or

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agree to receive or obtain a benefit for the official or another person for an improper purpose.

Maximum penalty—200 penalty units or 2 years imprisonment.

(2) A person must not give, confer or obtain, or promise or offer to give, confer or obtain a benefit to, on or for a general gaming official, or another person on account of a general gaming official, for an improper purpose.

Maximum penalty—200 penalty units or 2 years imprisonment.

(3) A general gaming official or other person does an act mentioned in subsection (1) or (2) for an improper purpose if the official or other person does the act on account of—

- (a) the official not performing, or being influenced in performing, the official's functions under this Act; or
- (b) anything already done or omitted to be done, or to be afterwards done or omitted to be done, by the official in performing the official's functions under this Act; or
- (c) the official using, or taking advantage of, the official's office improperly to gain a benefit for, or facilitate the commission of an offence by—
  - (i) if the act is done by the official—another person; or
  - (ii) if the act is done by another person—that person or another person.

### **Cheating**

**106.(1)** A person must not, in conducting or playing a game, dishonestly obtain a benefit.

Maximum penalty—200 penalty units or 2 years imprisonment.

(2) For subsection (1), a person obtains a benefit if the person obtains for the person or another person, or induces a person to deliver, give or credit a benefit to the person or another person.

**Extending credit**

**107.** A person conducting a game must not make a loan or extend credit in any form to a person to enable the person or another person to play the game.

Maximum penalty—200 penalty units.

**Forgery and uttering**

**108.(1)** A person must not—

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

Maximum penalty—200 penalty units or 2 years imprisonment.

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

Maximum penalty—200 penalty units or 2 years imprisonment.

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

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

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

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

**(5)** A person knowingly utters a forged document if the person utters the document knowing that it is a forged document with the intention that—

- (a) it may be used or acted on to the detriment or benefit of a person;  
or

- (b) a person may, in the belief it is genuine, be induced to do, or refrain from doing, something.

(6) In this section—

**“official general gaming document”** means—

- (a) a ticket for a game; or
- (b) a general licence; or
- (c) an inspector’s identity card.

**“utter”**, a document, means—

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

### **Impersonating representatives of persons**

**109.(1)** A person must not pretend to be—

- (a) a representative of a person conducting general gaming; or
- (b) a general gaming official.

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

Maximum penalty—200 penalty units.

### **Participation by minors**

**110.(1)** A person involved in the conduct of a game must not accept an entry form, or an amount or other consideration for a ticket, for the game from a minor if a prize for the game includes liquor.

Maximum penalty—200 penalty units.

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

minor.

(3) In this section—

“**liquor**” means—

- (a) a spiritous or fermented fluid of an intoxicating nature intended for human consumption; or
- (b) any other substance intended for human consumption in which the level of ethyl alcohol (ethanol) is more than 5 mL/L (0.5%) at 20°C;

but does not include a fluid that would otherwise be liquor, if it is used merely as a preservative or medium in which fruit is offered for sale to the public in sealed containers and with the contents visible.

## **PART 6—INVESTIGATION AND ENFORCEMENT**

### *Division 1—Inspectors*

#### **Appointment**

**111.** The chief executive may appoint as inspectors—

- (a) public service officers or employees; or
- (b) other persons prescribed under a regulation.

#### **Qualifications for appointment**

**112.(1)** The chief executive may appoint a person as an inspector only if—

- (a) in the chief executive’s opinion, the person has the necessary expertise or experience to be an inspector; or
- (b) the person has satisfactorily finished training approved by the chief executive.

(2) Also, the chief executive may appoint a person as an inspector only if

the person is a suitable person to perform the duties of an inspector.

(3) Subsections (1) and (2) do not limit the issues the chief executive may consider when deciding whether to appoint a person as an inspector.

### **Minister may approve program to audit suitability of inspectors**

**113.(1)** The Minister may approve a program under which the chief executive may reconsider the suitability of an inspector to perform the duties of an inspector.

(2) The suitability of an inspector to perform the duties of an inspector may be reconsidered under the audit program only once every 2 years.

### **Chief executive must consider suitability of proposed inspectors and inspectors**

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

- (a) intends to appoint a person as an inspector; or
- (b) decides, under the audit program, to reconsider the suitability of an inspector to perform the duties of an inspector.

(2) In considering the suitability of the person to perform the duties of an inspector, the chief executive must have regard to, and may make inquiries about, the person's character and standing, financial position and business and training experience.

*Example—*

The chief executive's inquiries about an individual's character and standing may include asking the commissioner of the police service for a written report about the person's criminal history.

(3) If asked by the chief executive, the commissioner of the police service must give the chief executive a written report about the person's criminal history.

(4) Subsection (3) applies to the criminal history in the commissioner's possession or to which the commissioner has access.

(5) Subsections (2) and (3) do not limit the issues to which the chief executive may have regard in considering the suitability of a person to perform the duties of an inspector.

**Limitation of inspector's powers**

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

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

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

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

**Inspector's appointment conditions**

**116.(1)** An inspector holds office on the conditions stated in the instrument of appointment.

(2) An inspector—

- (a) if the appointment provides for a term of appointment—ceases holding office at the end of the term; and
- (b) if the conditions of appointment provide—ceases holding office on ceasing to hold another office stated in the appointment conditions; and
- (c) may resign by signed notice given to the chief executive.

**Inspector's identity cards**

**117.(1)** The chief executive must give each inspector an identity card.

(2) The identity card must—

- (a) contain a recent photograph of the inspector; and
- (b) be signed by the inspector; and
- (c) identify the person as an inspector; and
- (d) state an expiry date.

(3) A person who ceases to be an inspector must return the identity card to the chief executive as soon as practicable, but within 21 days, after the person ceases to be an inspector, unless the person has a reasonable excuse for not returning it in the 21 days.



Maximum penalty—40 penalty units.

(4) This section does not prevent the giving of a single identity card to a person for this Act and other gaming Acts.

### **Production or display of inspector's identity card**

**118.(1)** An inspector may exercise a power in relation to a person only if the inspector—

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

(2) However, if for any reason it is not practicable to comply with subsection (1) before exercising the power, the inspector must produce the identity card as soon as it is practicable.

## *Division 2—Powers of inspectors*

### *Subdivision 1—Power to enter places*

#### **Entry to places**

**119.(1)** An inspector may enter a place if—

- (a) its occupier consents to the entry; or
- (b) it is a public place and the entry is made when it is open to the public; or
- (c) the entry is authorised by a warrant; or
- (d) it is a general gaming place and is—
  - (i) open for conducting games, or parts of games; or
  - (ii) otherwise open for entry; or
  - (iii) required to be open for inspection under a general licence.

(2) For the purpose of asking the occupier of a place for consent to enter,

an inspector may, without the occupier's consent or a warrant—

- (a) enter land around premises at the place to an extent that is reasonable to contact the occupier; or
- (b) enter part of the place the inspector reasonably considers members of the public ordinarily are allowed to enter when they wish to contact the occupier.

(3) For subsection (1)(d), a general gaming place does not include a part of the place where a person resides.

### *Subdivision 2—Procedure for entry*

#### **Entry with consent**

**120.(1)** This section applies if an inspector intends to ask an occupier of a place to consent to the inspector or another inspector entering the place under section 119(1)(a).

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

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

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

(4) The acknowledgment must state—

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

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

(6) A court must find the occupier of a place did not consent to an inspector entering the place under this part if—

- (a) an issue arises in a proceeding before the court whether the occupier of the place consented to the entry under section 119(1)(a); and
- (b) an acknowledgment mentioned in subsection (4) is not produced in evidence for the entry; and
- (c) it is not proved by the person relying on the lawfulness of the entry that the occupier consented to the entry.

### **Application for warrant**

**121.(1)** An inspector may apply to a justice for a warrant for a place.

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

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

*Example—*

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

### **Issue of warrant**

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

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

(2) The warrant must state—

- (a) that a stated inspector may, with necessary and reasonable help and force—
  - (i) enter the place and any other place necessary for entry; and

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

**Special warrants**

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

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

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

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

**(4)** After issuing the warrant, the justice must immediately fax a copy (a "**facsimile warrant**") to the inspector if it is reasonably practicable to fax the copy.

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

- (a) the justice must tell the inspector—
  - (i) what the terms of the special warrant are; and
  - (ii) the date and time the special warrant was issued; and
- (b) the inspector must complete a form of warrant (a "**warrant form**") and write on it—
  - (i) the justice's name; and
  - (ii) the date and time the justice issued the warrant; and
  - (iii) the terms of the warrant.

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

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

- (a) the sworn application; and
- (b) if the inspector completed a warrant form, the completed warrant form.

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

(9) A court must find the exercise of the power by an inspector was not authorised by a special warrant if—

- (a) an issue arises in a proceeding before the court whether the exercise of the power was authorised by a special warrant; and
- (b) the warrant is not produced in evidence; and
- (c) it is not proved by the person relying on the lawfulness of the entry that the inspector obtained the special warrant.

### **Warrants—procedure before entry**

**124.(1)** This section applies if an inspector named in a special warrant issued under this part for a place is intending to enter the place under the warrant.

(2) Before entering the place, the inspector must do or make a reasonable attempt to do the following things—

- (a) identify himself or herself to a person present at the place who is an occupier of the place by producing a copy of the inspector's notice of appointment or other document evidencing the appointment;
- (b) give the person a copy of the warrant or, if the entry is authorised by a facsimile warrant or warrant form mentioned in section 123(6), a copy of the facsimile warrant or warrant form;
- (c) tell the person the inspector is permitted by the warrant to enter the place;

- (d) give the person an opportunity to allow the inspector immediate entry to the place without using force.

(3) However, the inspector need not comply with subsection (2) if the inspector believes on reasonable grounds that immediate entry to the place is required to ensure the effective execution of the warrant is not frustrated.

### *Subdivision 3—General powers*

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

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

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

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

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

this Act is being complied with.

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

### **Failure to help inspector**

**126.(1)** A person required to give reasonable help under section 125(3)(g) must comply with the requirement, unless the person has a reasonable excuse for not complying with it.

Maximum penalty—40 penalty units.

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

### **Failure to give information**

**127.(1)** A person of whom a requirement is made under section 125(3)(h) must comply with the requirement, unless the person has a reasonable excuse for not complying with it.

Maximum penalty—40 penalty units.

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

## ***Subdivision 4—Power to seize evidence***

### **Seizing evidence at general gaming places**

**128.** An inspector who enters a general gaming place under this part may seize a thing at the place if the inspector reasonably believes the thing is evidence of an offence against this Act.

### **Seizing evidence at places other than general gaming places**

**129.(1)** This section applies if an inspector enters a place other than a general gaming place.

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

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

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

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

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

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

### **Securing seized things**

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

- (a) move the thing from the place where it was seized (the “**place of seizure**”); or
- (b) leave the thing at the place of seizure but take reasonable action to restrict access to it.

*Example of restricting access to a thing—*

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



**Tampering with seized things**

**131.** If an inspector restricts access to a seized thing, a person must not tamper, or attempt to tamper, with the thing, or something restricting access to the thing, without an inspector's approval.

Maximum penalty—40 penalty units.

**Powers to support seizure**

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

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

**(2)** The requirement—

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

**(3)** A person of whom a requirement is made must comply with the requirement, unless the person has a reasonable excuse for not complying with it.

Maximum penalty—40 penalty units.

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

**Receipt for seized things**

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

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

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

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

### **Forfeiture of seized things**

**134.(1)** A seized thing is forfeited to the State if the inspector who seized the thing—

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

(2) In applying subsection (1)—

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

(3) If the inspector decides to forfeit a thing under subsection (1)(c), the inspector must give the owner an information notice about the decision.

(4) Subsection (3) does not apply if—

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

(5) The information notice must state that the owner may apply for a stay of the decision if the owner appeals against the decision.

(6) Regard must be had to a thing's nature, condition and value—

- (a) in deciding—
  - (i) whether it is reasonable to make inquiries or efforts; and

- (ii) if making inquiries or efforts—what inquiries or efforts, including the period over which they are made, are reasonable; or
- (b) in deciding whether it would be unreasonable to give the notice.

### **Return of seized things**

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

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

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

### **Access to seized things**

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

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

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

### **Direction to stop using thing**

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

- (a) a thing used for conducting games is unsatisfactory for the purpose for which it is used; and
- (b) the continued use of the thing may adversely affect the integrity of the conduct of games or the public interest.

**(2)** The inspector may direct the person who has, or reasonably appears

to have, authority to exercise control over the thing to stop using it, or allowing it to be used, in conducting games.

### **Requirements about stop directions**

**138.(1)** A direction to a person under section 137 (a “**stop direction**”) may be given orally or by notice (a “**stop notice**”).

(2) However, if the direction is given orally, it must be confirmed by notice (also a “**stop notice**”) given to the person as soon as practicable.

(3) A stop direction may be given for a thing at a general gaming place.

(4) A stop direction does not apply to a use of a thing for repairing or testing it.

(5) A stop notice must state—

- (a) the grounds on which the inspector believes the thing is unsatisfactory; and
- (b) the circumstances, if any, under which the stop direction may be cancelled.

### **Failure to comply with stop direction**

**139.** A person to whom a stop direction is given must comply with the direction, unless the person has a reasonable excuse for not complying with it.

Maximum penalty—40 penalty units.

## ***Subdivision 6—Power to obtain information***

### **Power to require name and address**

**140.(1)** This section applies if an inspector—

- (a) finds a person committing an offence against this Act; or
- (b) finds a person in circumstances that lead, or has information that leads, the inspector to reasonably suspect the person has just committed an offence against this Act.

(2) The inspector may require the person to state the person's name and residential address.

(3) When making the requirement, the inspector must warn the person it is an offence to fail to state the person's name or residential address, unless the person has a reasonable excuse for not stating it.

(4) The inspector may require the person to give evidence of the correctness of the stated name or residential address if the inspector reasonably suspects the stated name or address is false.

### **Failure to give name or address**

**141.(1)** A person of whom a requirement is made under section 140(2) or (4) must comply with the requirement, unless the person has a reasonable excuse for not complying with it.

Maximum penalty—40 penalty units.

(2) A person does not commit an offence against subsection (1) if—

- (a) the person was required to state the person's name and residential address by an inspector who suspected the person had committed an offence against this Act; and
- (b) the person is not proved to have committed the offence.

### **Power to require production of documents**

**142.(1)** An inspector may require a person to make available for inspection by an inspector, or produce to an inspector for inspection, at a reasonable time and place nominated by the inspector—

- (a) a document issued to the person under this Act; or
- (b) a document required to be kept by the person under this Act; or
- (c) if the person is a general licensee, a document about the activity authorised by the general licence and kept by the person under the licence.

(2) The inspector may keep the document to copy it.

(3) If the inspector copies the document, or an entry in the document, the inspector may require the person responsible for keeping the document to

certify the copy as a true copy of the document or entry.

(4) The inspector must return the document to the person as soon as practicable after copying it.

(5) However, if a requirement is made of a person under subsection (3), the inspector may keep the document until the person complies with the requirement.

### **Failure to produce document**

**143.(1)** A person of whom a requirement is made under section 142(1) must comply with the requirement, unless the person has a reasonable excuse for not complying with it.

Maximum penalty—40 penalty units.

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

### **Failure to certify copy of document**

**144.** A person of whom a requirement is made under section 142(3) must comply with the requirement, unless the person has a reasonable excuse for not complying with it.

Maximum penalty—40 penalty units.

### **Power to require attendance of persons**

**145.(1)** An inspector may require a person of whom a requirement under section 142(1) has been made to attend before the inspector to answer questions or give information about the document to which the requirement relates.

(2) Also, an inspector who reasonably believes it is necessary in performing the inspector's functions under this Act, may require any person responsible for or connected with—

- (a) the conduct of general gaming; or
- (b) the manufacture, assembly, sale, supply, installation, alteration, obtaining, possession, operation, use, adjustment, maintenance or

repair of general gaming equipment;

to attend before the inspector to answer any questions or supply any information with respect to the matters referred to in this subsection.

(3) A requirement made of a person under this section must—

- (a) be made by notice given to the person; and
- (b) state a reasonable time and place for the person's attendance.

(4) When making the requirement, the inspector must warn the person it is an offence to fail to comply with the requirement, unless the person has a reasonable excuse for not complying with it.

### **Failure to comply with requirement about attendance**

**146.(1)** A person of whom a requirement is made under section 145 must not, unless the person has a reasonable excuse—

- (a) fail to attend before the inspector at the time and place stated in the notice imposing the requirement; or
- (b) when attending before the inspector—
  - (i) fail to comply with a requirement to answer a question or give information; or
  - (ii) state anything the person knows is false or misleading in a material particular.

Maximum penalty—40 penalty units.

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

### **Power to require financial records**

**147.(1)** This section applies to a person (the “**financial institution officer**”) who is the manager or other principal officer at a place of business of a financial institution at which a person keeps an account for the person's general gaming operations.

(2) An inspector may, by notice given to the financial institution officer,

require the officer to give to the inspector, within the time, of not less than 7 days, stated in the notice—

- (a) a statement of account for the account; or
- (b) copies of cheques or other records relevant to the account; or
- (c) other particulars or documents relevant to the account stated in the notice.

(3) An inspector may make a requirement under subsection (2) only with the written approval of the chief executive.

### **Effect of compliance with s 147**

**148.(1)** No liability attaches to a person who is the manager or other principal officer at a place of business of a financial institution for any breach of trust or other reason, merely because the person complies with a requirement under section 147(2).

(2) No liability attaches to the financial institution, for any breach of trust or other reason, merely because a person who is the manager or other principal officer at a place of business of the institution complies with the requirement.

### **Failure to comply with s 147**

**149.** A person of whom a requirement is made under section 147(2) must comply with the requirement within the time stated in the relevant notice, unless the person has a reasonable excuse for not complying with it in the stated time.

Maximum penalty—40 penalty units.

## *Division 3—Other enforcement matters*

### **Direction about management practices**

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

- (a) the management, supervision or control of any part of a person's general gaming operations (the “**management practice**”) is



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unsatisfactory; and

- (b) the management practice may adversely affect the integrity of the person's conduct of games or the public interest.

(2) The chief executive may direct the person to stop, or change, the management practice.

(3) The direction must—

- (a) be in writing; and
- (b) if the direction is to change the management practice—clearly describe how it is required to be changed; and
- (c) state when the person is required to comply with the direction.

(4) A person to whom a direction is given must comply with it, unless the person has a reasonable excuse for not complying with it.

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

**Direction about conduct of general gaming**

**151.(1)** The chief executive may give a direction to a person about the person's conduct of general gaming.

(2) The direction must—

- (a) be in writing; and
- (b) state when the person is required to comply with the direction; and
- (c) be accompanied by, or include, an information notice about the chief executive's decision to give the direction.

(3) A person to whom a direction is given under subsection (1) must comply with the direction, unless the person has a reasonable excuse for not complying with it.

Maximum penalty—40 penalty units.

**Forfeiture on conviction**

**152.(1)** On the conviction of a person for an offence against this Act, the court may order the forfeiture to the State of—

(a) anything used to commit the offence; or

(b) anything else the subject of the offence.

(2) The court may make the order—

(a) whether or not the thing has been seized; and

(b) if the thing has been seized—whether or not it has been returned to its owner.

(3) The court may make any order to enforce the forfeiture it considers appropriate.

(4) This section does not limit the court's powers under the *Penalties and Sentences Act 1992* or another law.

### **Forfeiture on payment of infringement notice penalty**

**153.(1)** This section applies if—

(a) an offence against this Act is declared under another Act to be an infringement notice offence; and

(b) a person is served with an infringement notice for the offence; and

(c) the person pays the infringement notice penalty as required by the notice.

(2) The chief executive may order the forfeiture to the State of—

(a) anything used to commit the alleged offence; or

(b) anything else the subject of the alleged offence.

(3) The chief executive may make the order—

(a) whether or not the thing has been seized; and

(b) if the thing has been seized—whether or not it has been returned to its owner.

(4) The owner of the thing may appeal to a Magistrates Court about the chief executive's decision to make the order.

(5) Without limiting the court's powers, it may, unaffected by the chief executive's decision, either confirm the decision or set it aside.

**Dealing with forfeited things**

**154.(1)** On the forfeiture of a thing to the State, the thing becomes the State's property and may be dealt with by the chief executive as the chief executive considers appropriate.

**(2)** Without limiting subsection (1), the chief executive may destroy the thing.

**Notice of damage**

**155.(1)** This section applies if—

- (a) an inspector damages something when exercising or purporting to exercise a power; or
- (b) a person (the **“other person”**) acting under the direction of an inspector damages something.

**(2)** The inspector must immediately give notice of particulars of the damage to the person who appears to the inspector to be the thing's owner.

**(3)** If the inspector believes the damage was caused by a latent defect in the thing or circumstances beyond the inspector's or other person's control, the inspector may state the belief in the notice.

**(4)** If, for any reason, it is impracticable to comply with subsection (2), the inspector must leave the notice in a conspicuous position and in a reasonably secure way where the damage happened.

**(5)** This section does not apply to damage the inspector reasonably believes is trivial.

**(6)** In this section—

**“owner”**, of a thing, includes the person in possession or control of it.

**Compensation**

**156.(1)** A person may claim compensation from the State if the person incurs loss or expense because of the exercise or purported exercise of a power under any of the following subdivisions of division 2<sup>5</sup>—

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<sup>5</sup> Division 2 (Powers of inspectors)

- subdivision 1
- subdivision 3
- subdivision 4
- subdivision 6.<sup>6</sup>

(2) Without limiting subsection (1), compensation may be claimed for loss or expense incurred in complying with a requirement made of the person under the subdivision.

(3) Compensation may be claimed and ordered in a proceeding—

- (a) brought in a court with jurisdiction in proceedings for the recovery of the amount of compensation claimed; or
- (b) for an offence against this Act brought against the person claiming compensation.

(4) A court may order compensation to be paid only if it is satisfied it is just to make the order in the circumstances of the particular case.

(5) A regulation may prescribe matters that may, or must, be taken into account by the court when considering whether it is just to make the order.

### **Protecting officials from liability**

**157.(1)** An official is not civilly liable for an act done, or omission made, honestly and without negligence under this Act.

(2) If subsection (1) prevents a civil liability attaching to an official, the liability attaches instead to the State.

(3) In this section—

**“official”** means—

- (a) the Minister; or
- (b) the chief executive; or
- (c) an inspector; or
- (d) a person acting under the direction of an inspector.

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<sup>6</sup> Subdivisions 1 (Power to enter places), 3 (General powers), 4 (Power to seize evidence) and 6 (Power to obtain information)

***Division 4—General enforcement offences*****False or misleading statements**

**158.(1)** A person must not state anything to an inspector the person knows is false or misleading in a material particular.

Maximum penalty—40 penalty units.

(2) It is enough for a complaint against a person for an offence against subsection (1) to state that the statement made was ‘false or misleading’ to the person’s knowledge, without specifying which.

**False or misleading documents**

**159.(1)** A person must not give an inspector a document containing information the person knows is false or misleading in a material particular.

Maximum penalty—40 penalty units.

(2) Subsection (1) does not apply to a person if the person, when giving the document—

- (a) tells the inspector, to the best of the person’s ability, how it is false or misleading; and
- (b) if the person has, or can reasonably obtain, the correct information—gives the correct information.

(3) Also, a person must not make an entry in a document required or permitted to be made or kept under this Act knowing the entry to be false or misleading in a material particular.

Maximum penalty—40 penalty units.

(4) It is enough for a complaint against a person for an offence against subsection (1) or (3) to state that the document or entry was ‘false or misleading’ to the person’s knowledge, without specifying which.

**Obstructing inspectors**

**160.(1)** A person must not obstruct an inspector in the exercise of a power, unless the person has a reasonable excuse for the obstruction.

Maximum penalty—40 penalty units.

(2) If a person has obstructed an inspector and the inspector decides to proceed with the exercise of the power, the inspector must warn the person that—

- (a) it is an offence to obstruct the inspector, unless the person has a reasonable excuse for the obstruction; and
- (b) the inspector considers the person's conduct is an obstruction.

## **PART 7—LEGAL PROCEEDINGS**

### *Division 1—Evidence*

#### **Application of division**

**161.** This division applies to a proceeding under this Act.

#### **Appointments and authority**

**162.** It is not necessary to prove—

- (a) the chief executive's appointment; or
- (b) an inspector's appointment; or
- (c) the authority of the chief executive or an inspector to do anything under this Act.

#### **Signatures**

**163.** A signature purporting to be the signature of the chief executive or an inspector is evidence of the signature it purports to be.

#### **Evidentiary aids**

**164.** A certificate purporting to be signed by the chief executive stating

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any of the following matters is evidence of the matter—

- (a) on a stated day, or during a stated period, a stated person was or was not the holder of a general licence;
- (b) on a stated day, or during a stated period, a general licence—
  - (i) was or was not in force; or
  - (ii) was or was not subject to a stated condition;
- (c) on a stated day, a general licence was suspended for a stated period or cancelled;
- (d) on a stated day, or during a stated period, a stated appointment (including a person's appointment as an inspector under a gaming Act) or stated approval was, or was not, in force for a stated person or thing;
- (e) on a stated day, a stated person was given a stated notice or direction under this Act;
- (f) on a stated day, a stated requirement was made of a stated person;
- (g) a stated amount is payable under this Act by a stated person and has not been paid;
- (h) a stated document is one of the following things made, given, issued or kept under this Act—
  - (i) an appointment, approval or decision;
  - (ii) a notice, direction or requirement;
  - (iii) a general licence;
  - (iv) a record or an extract from a record;
- (i) a stated document is another document kept under this Act;
- (j) a stated document is a copy of a thing mentioned in paragraph (h) or (i).

***Division 2—Proceedings*****Indictable and summary offences**

**165.(1)** An offence against section 105, 106 or 108<sup>7</sup> is an indictable offence.

**(2)** Any other offence against this Act is a summary offence.

**Proceedings for indictable offences**

**166.(1)** A proceeding for an indictable offence against this Act may be taken, at the election of the prosecution—

- (a) by way of summary proceedings under the *Justices Act 1886*; or
- (b) on indictment.

**(2)** A magistrate must not hear an indictable offence summarily if—

- (a) the defendant asks at the start of the hearing that the charge be prosecuted on indictment; or
- (b) the magistrate considers the charge should be prosecuted on indictment.

**(3)** If subsection (2) applies—

- (a) the magistrate must proceed by way of an examination of witnesses for an indictable offence; and
- (b) a plea of the person charged at the start of the proceeding must be disregarded; and
- (c) evidence brought in the proceeding before the magistrate decided to act under subsection (2) is taken to be evidence in the proceeding for the committal of the person for trial or sentence; and
- (d) before committing the person for trial or sentence, the magistrate must make a statement to the person as required by the *Justices*

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<sup>7</sup> Section 105 (Bribery), 106 (Cheating) or 108 (Forgery and uttering)



*Act 1886*, section 104(2)(b).<sup>8</sup>

(4) The maximum penalty that may be summarily imposed for an indictable offence is 165 penalty units.

### **Limitation on who may summarily hear indictable offence proceedings**

**167.(1)** A proceeding must be before a magistrate if it is a proceeding—

- (a) for the summary conviction of a person on a charge for an indictable offence; or
- (b) for an examination of witnesses for a charge for an indictable offence.

(2) However, if a proceeding for an indictable offence is brought before a justice who is not a magistrate, jurisdiction is limited to taking or making a procedural action or order within the meaning of the *Justices of the Peace and Commissioners for Declarations Act 1991*.

### **Limitation on time for starting summary proceedings**

**168.** A proceeding for an offence against this Act by way of summary proceeding under the *Justices Act 1886* may be started within—

- (a) 1 year after the offence is committed; or
- (b) 6 months after the offence comes to the complainant's knowledge, but within 2 years after the offence is committed.

### **Responsibility for acts or omissions of representatives**

**169.(1)** Subsections (2) and (3) apply in a proceeding for an offence against this Act.

(2) If it is relevant to prove a person's state of mind about a particular act or omission, it is enough to show—

- (a) the act was done or omitted to be done by a representative of the person within the scope of the representative's actual or apparent

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<sup>8</sup> *Justices Act 1886*, section 104 (Proceedings upon an examination of witnesses in relation to an indictable offence)

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authority; and

(b) the representative had the state of mind.

(3) An act done or omitted to be done for a person by a representative of the person within the scope of the representative's actual or apparent authority is taken to have been done or omitted to be done also by the person, unless the person proves the person could not, by the exercise of reasonable diligence, have prevented the act or omission.

(4) In this section—

**“representative”** means—

(a) of a corporation—an executive officer, employee or agent of the corporation; or

(b) of an unincorporated association—a member of the association, or an employee or agent of the association; or

(c) of an individual—an employee or agent of the individual.

**“state of mind”** of a person includes—

(a) the person's knowledge, intention, opinion, belief or purpose; and

(b) the person's reasons for the intention, opinion, belief or purpose.

### **Executive officers must ensure corporation complies with Act**

**170.(1)** The executive officers of a corporation must ensure the corporation complies with this Act.

(2) If a corporation commits an offence against a provision of this Act, each of the corporation's executive officers also commits an offence, namely, the offence of failing to ensure that the corporation complies with the provision.

Maximum penalty—the penalty for the contravention of the provision by an individual.

(3) Evidence that the corporation has been convicted of an offence against a provision of this Act is evidence that each of the executive officers committed the offence of failing to ensure that the corporation complies with the provision.

(4) However, it is a defence for an executive officer to prove—

- (a) if the officer was in a position to influence the conduct of the corporation in relation to the offence—the officer exercised reasonable diligence to ensure the corporation complied with the provision; or
- (b) the officer was not in a position to influence the conduct of the corporation in relation to the offence.

### **Treatment of unincorporated associations**

**171.(1)** This section applies to the extent that, because of the definition of “person” in the dictionary, a provision of this Act that applies to a person is extended to apply also to an unincorporated association.

**(2)** Subject to subsection (6), an obligation or liability that, apart from this subsection, would be imposed by the provision on an unincorporated association, is imposed on the management members of the association.

**(3)** An amount that, apart from this subsection, would be payable under the provision by an unincorporated association, is payable by the management members of the association.

**(4)** If, under the provision, an offence against this Act is taken to have been committed by an unincorporated association, the offence is taken to have been committed by the management members of the association.

**(5)** However, it is a defence for a management member to prove—

- (a) if the member was in a position to influence the conduct of the association in relation to the offence—the member exercised reasonable diligence to ensure the association complied with the provision; or
- (b) the member was not in a position to influence the conduct of the association in relation to the offence.

**(6)** Also, subsection (2) or (4) does not impose an obligation or liability under section 105, 106 or 108<sup>9</sup> on a management member of an association.

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<sup>9</sup> Section 105 (Bribery), 106 (Cheating) or 108 (Forgery and uttering)

**Attempts to commit offences**

**172.(1)** A person who attempts to commit an offence against this Act commits an offence.

(2) The maximum penalty for an attempt is one-half the maximum penalty for the completed offence.

(3) The Criminal Code, section 4<sup>10</sup> applies to subsection (1).

**Additional powers of court**

**173.(1)** On the conviction of a person for an offence against section 18, 19 or 20,<sup>11</sup> the court may order the forfeiture to the State of an amount received by the person in conducting a game in contravention of the section.

(2) The court may make any order to enforce the forfeiture it considers appropriate.

(3) This section does not limit the court's powers under the *Penalties and Sentences Act 1992* or another law.

**PART 8—APPEALS****Appeals**

**174.(1)** This section applies if the chief executive makes a decision—

- (a) refusing an application for a general licence; or
- (b) imposing a condition on a general licence; or
- (c) changing a condition on a general licence; or
- (d) suspending or cancelling a general licence; or
- (e) refusing an application for renewal of a general licence; or

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<sup>10</sup> Criminal Code, section 4 (Attempts to commit offences)

<sup>11</sup> Section 18 (Category 1 games), 19 (Category 2 games) or 20 (Category 3 games)

- (f) refusing an application to amend a general licence; or
- (g) appointing an administrator to conduct a general licensee's operations under a general licence; or
- (h) refusing to approve regulated general gaming equipment; or
- (i) refusing to approve a modification of regulated general gaming equipment.

(2) The applicant or licensee may appeal to the Gaming Commission against the decision.

### **Appeals about forfeiture of seized things**

**175.** The owner of a thing seized by an inspector may appeal to the Gaming Commission against a decision of an inspector under section 134 to forfeit the thing.

### **Starting appeal**

**176.(1)** An appeal is started by—

- (a) filing a notice of appeal with the registrar of the Gaming Commission; and
- (b) serving a copy of the notice on the person (the “**decision maker**”) who made the decision appealed against.

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

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

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

### **Stay of operation of decisions**

**177.(1)** The Gaming Commission 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 Gaming Commission considers appropriate; and
- (b) operates for the period fixed by the commission; and
- (c) may be revoked or amended by the commission.

(3) The period of a stay under this section must not extend past the time when the Gaming Commission 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**

**178.(1)** In deciding an appeal, the Gaming Commission—

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

(2) An appeal is by way of rehearing.

### **Power to gather evidence**

**179.(1)** The Gaming Commission may, by notice signed by the registrar of the Gaming Commission, require a person—

- (a) to give written answers to questions, or produce a document, stated in the notice for an appeal mentioned in the notice; or
- (b) to appear before the commission at a stated time and place to answer questions, or produce a stated document, relating to an appeal mentioned in the notice.

(2) The answers mentioned in subsection (1)(b) must, if the notice so requires, be verified by statutory declaration.

(3) A person must not, without reasonable excuse—

- (a) fail to comply with a requirement under this section; or

- (b) if appearing for examination before the Gaming Commission—
- (i) fail to take or make an oath when required to do so by a member of the commission or the registrar; or
  - (ii) fail to answer a question relevant to the subject of the appeal to the best of the person's knowledge, information or belief; or
  - (iii) fail to produce a document the person is required to produce under subsection (1)(b).

Maximum penalty—40 penalty units.

(4) A member of the Gaming Commission may administer an oath to a person appearing before the commission for examination.

(5) It is a reasonable excuse for a person to fail to comply with a requirement to answer a question or produce a document if complying with the requirement might tend to incriminate the person.

### **Powers of Gaming Commission on appeal**

**180.(1)** In deciding an appeal, the Gaming Commission may—

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

(2) If the Gaming Commission substitutes another decision, the substituted decision is, for this Act, other than this part, taken to be the decision maker's decision.

### **Appeals to District Court**

**181.** An appeal lies to the District Court from a decision of the Gaming Commission on a question of law.

## **PART 9—MISCELLANEOUS**

### **Recovery of amounts**

**182.** The amount of a fee payable by a person under this Act is a debt payable by the person to the State.

### **Confidentiality of information**

**183.(1)** A person who is, or has been, an inspector, or officer or employee of the department, must not disclose information gained by the person in performing functions under this Act.

Maximum penalty—200 penalty units or 2 years imprisonment.

**(2)** Subsection (1) does not apply to the disclosure of information by a person—

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

**(3)** The chief executive may approve the disclosure of information by a person to—

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

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

- (a) give notice of the proposed approval to any person the chief executive considers is likely to be affected adversely by the disclosure; and
- (b) give the person the opportunity of making a submission about the proposed approval within the time, of not less than 14 days, stated in the notice.

**(5)** If information is disclosed to a person under an approval given by the chief executive, the person, and any employee or other person under the



control of the person, are taken to be persons to whom subsection (1) applies and to have gained the information in performing functions under this Act.

### **Delegations**

**184.(1)** The Minister may delegate the Minister's powers under this Act to the chief executive or an appropriately qualified officer of the department.

**(2)** The chief executive may delegate the chief executive's powers under this Act to an appropriately qualified inspector or an appropriately qualified officer of the department.

**(3)** In this section—

**“appropriately qualified”** includes having the qualifications, experience or standing appropriate to the exercise of the power.

*Example of 'standing'—*

A person's classification level in the public service.

### **Approval of forms**

**185.** The chief executive may approve forms for use under this Act.

### **Regulation-making power**

**186.(1)** The Governor in Council may make regulations under this Act.

**(2)** A regulation may—

- (a) be made about fees; or
- (b) impose a penalty of not more than 20 penalty units for contravention of a regulation.

## **PART 10—TRANSITIONAL PROVISIONS AND REPEAL**

### *Division 1—Interpretation*

#### **Definition for pt 10**

**187.** In this part—

“**repealed Act**” means the *Art Unions Act 1992*.

### *Division 2—Transitional provisions*

#### **References to repealed Act**

**188.** In an Act or document, a reference to the repealed Act may, if the context permits, be taken to be a reference to this Act.

#### **Continuation of conduct of art unions**

**189.** An art union started under the repealed Act that has not finished before the commencement of this section may be continued from the commencement as if the art union were a game.

#### **Existing approvals for lucky envelope vending machines**

**190.(1)** This section applies to an approval for a lucky envelope vending machine given under section 66 of the repealed Act and in force immediately before the commencement of this section.

**(2)** The approval continues in force as if it were an approval for a lucky envelope vending machine given under section 100<sup>12</sup> of this Act.

**(3)** However, if the approval was given more than 2 years before the commencement, the approval continues in force only for 1 year from the commencement.

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<sup>12</sup> Section 100 (Deciding application)

**Existing licences and permits**

**191.** A licence or permit in force under the repealed Act immediately before the commencement of this section continues in force from the commencement, subject to this Act, as if it were—

- (a) for a licence to print and supply lucky envelopes—a lucky envelope printer licence; or
- (b) for a bingo centre licence—a bingo centre licence; or
- (c) for a permit to conduct a major art union under which the permit holder conducted an art union with gross proceeds of more than \$20 000—a category 3 gaming licence; or
- (d) for a permit to conduct a calcutta sweep under which the permit holder conducted calcutta sweeps with gross proceeds of more than \$20 000—a category 3 gaming licence.

**Existing orders etc.**

**192.** An order, direction, requirement or decision of the Minister, chief executive or an inspector under the repealed Act is, if its effect is not exhausted at the commencement of this section, subject to appeal under this Act in the same way as if it were an order, direction, requirement or decision of the Minister, chief executive or an inspector under this Act.

**Inspectors**

**193.** A person who, immediately before the commencement of this section, was an inspector under the repealed Act is taken from the commencement to be an inspector appointed under this Act.

**Transitional regulations**

**194.(1)** A regulation may make provision of a saving or transitional nature for which—

- (a) it is necessary or convenient to assist the transition from the conduct of an art union under the repealed Act to its conduct as a game under this Act; and

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(b) this Act does not make provision or sufficient provision.

(2) A regulation under this section may have retrospective operation to a day not earlier than the commencement of this section.

(3) Subject to subsection (4), a regulation under this section expires 1 year after it is made.

(4) This section expires 1 year after it commences.

***Division 3—Repeal***

**Repeal**

**195.** The *Art Unions Act 1992* is repealed.

**SCHEDULE 2****DICTIONARY**

section 5

**“accepted representation”**, for a show cause notice, see section 61.

**“administrator”** means a person appointed as an administrator under section 65(3)(b)(iii).

**“applicant”** means an applicant for a general licence under this Act.

**“application”** means—

- (a) for part 3, division 4—an application for approval for an event for a calcutta sweep; or
- (b) for part 4, division 2—an application for the issue or renewal of a general licence; or
- (c) for part 5, division 9—an application for approval of regulated general gaming equipment.

**“approved audit program”** means an audit program approved under section 68(1).

**“approved evaluator”** means an entity declared under a regulation to be an approved evaluator.

**“approved form”** means a form approved under section 185.

**“art union”** see section 6.

**“association”** see section 7.

**“benefit”** includes property, advantage, service, entertainment, the use of or access to property or facilities, and anything of benefit to a person whether or not it has any inherent or tangible value, purpose or attribute.

**“bingo”** see section 8.

**“bingo centre licence”** means a licence issued under section 36(a).

## SCHEDULE 2 (continued)

**“bingo session”** means the period in which the number of bingo games for the session, decided by the person conducting the session, are played.

**“business associate”**, of an applicant for a general licence, means a person who the chief executive reasonably believes—

- (a) is associated with the ownership or management of the applicant’s operations; or
- (b) will, if a general licence is issued to the applicant, be associated with the ownership or management of the general licensee’s operations under the licence.

**“calcutta sweep”** see section 9.

**“category 1 game”** see section 14.

**“category 1 gaming operations”** means operations for conducting a category 1 game.

**“category 2 game”** see section 15.

**“category 2 gaming operations”** means operations for conducting a category 2 game.

**“category 3 game”** see section 16.

**“category 3 gaming licence”** means a license issued under section 36(b).

**“category 3 gaming operations”** means operations for conducting a category 3 game.

**“category 4 game”** see section 17.

**“category 4 gaming operations”** means operations for conducting a category 4 game.

**“commercial gain”** means profit derived in business.

**“conduct”** includes promote, organise, manage, control and operate.

**“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

## SCHEDULE 2 (continued)

- (b) despite section 5 of that Act, includes a charge made against the person for an offence.

**“decision maker”** see section 176(1)(b).

**“detriment”** includes—

- (a) personal injury or prejudice to safety; and
- (b) property damage or loss; and
- (c) intimidation or harassment; and
- (d) adverse discrimination, disadvantage or adverse treatment about career, profession, employment, trade or business; and
- (e) threats of detriment; and
- (f) financial loss from detriment.

**“eligible association”** see section 10.

**“executive associate”**, of an applicant for a general licence, means an executive officer of a corporation, partner or trustee, or another person stated by the chief executive whom the chief executive reasonably believes—

- (a) is associated with the ownership or management of the applicant’s operations; or
- (b) will, if a licence is issued to the applicant, be associated with the ownership or management of the general licensee’s operations under the licence.

**“executive officer”**, of a corporation, means a person who is concerned with, or takes part in, the corporation’s management, whether or not the person is a director or the person’s position is given the name of executive officer.

**“game”** see section 11.

**“gaming Act”** means any of the following Acts—

- *Casino Control Act 1982*
- *Gaming Machine Act 1991*

## SCHEDULE 2 (continued)

- *Interactive Gambling (Player Protection) Act 1998*
- *Keno Act 1996*
- *Lotteries Act 1997*
- *Wagering Act 1998.*

**“Gaming Commission”** means the Queensland Gaming Commission established under the *Gaming Machine Act 1991*, section 10.

**“general gaming”** means the playing of a game.

**“general gaming equipment”** means a machine or other device (whether electronic, electrical or mechanical), computer software, or another thing, used, or suitable for use, in the conduct of a game.

**“general gaming official”** means—

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

**“general gaming operations”** means category 1, 2, 3 or 4 gaming operations.

**“general gaming place”** means a place used for—

- (a) conducting games, or parts of games; or
- (b) a purpose related to conducting games; or
- (c) printing lucky envelopes.

**“general gaming records”** see sections 74(1), 75(1) and 76(1).

**“general licence”** means a licence issued under this Act.

**“general licensee”**, for a general licence, means the person named in it as the person to whom it is issued.

**“give”**, for a ticket, includes allot electronically.

**“gross proceeds”**, of a game, means the total value of tickets sold in the game.

**“information notice”**, for a decision of the chief executive or an inspector, is a notice stating—



## SCHEDULE 2 (continued)

- (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 the Gaming Commission within 28 days after the notice is given; and
- (d) how to start the appeal.

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

**“issued”** includes given.

**“lucky envelope printer licence”** means a licence issued under section 36(c).

**“lucky envelopes”** see section 12.

**“lucky envelope vending machine”** means a machine from which a person is given a ticket for lucky envelopes.

**“management committee”**, for an association, see section 10(2)(b).

**“management member”**, of an unincorporated association, means—

- (a) if the association has a management committee—each member of the management committee; or
- (b) otherwise—each member who is concerned with, or takes part in, the association’s management, whatever name is given to the member’s position in the association.

**“notice”** means written notice.

**“person”** includes an unincorporated association.

**“personal gain”**, for an individual, does not include an amount paid to the individual as an employee of, or paid fundraiser for, a person authorised to conduct a game.

**“play”**, a game, means participate in the game.

**“promotional game”** see section 13.

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

## SCHEDULE 2 (continued)

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

**“regulated general gaming equipment”** means—

- (a) a lucky envelope vending machine with a random number generator; or
- (b) other general gaming equipment prescribed under a regulation.

**“rule”** means a rule made under section 72.

**“show cause notice”** see section 59(2).

**“show cause period”** see section 59(2).

**“special category 3 gaming licence”** means a licence issued under section 36(d).

**“stop direction”** see section 138(1).

**“stop notice”** see section 138(1) and (2).

**“suitable person”**, in relation to a general licence, means a suitable person as decided in the way provided under section 46 for the grant of the licence.

**“ticket”**, for a game, means a document or thing that evidences, or is intended to evidence, a person’s right to play the game.

**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 21 December 1999. Future amendments of the Charitable and Non-Profit Gaming Act 1999 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	none	1 December 1999

## 5 List of legislation

### **Charitable and Non-Profit Gaming Act 1999 No. 26**

date of assent 16 June 1999

ss 1–2 commenced on date of assent

remaining provisions commenced 1 December 1999 (1999 SL No. 282)

as amended by—

### **Gaming Machine and Other Legislation Amendment Act (No. 2) 1999 No. 77**

ss 1–2(1), pt 4

date of assent 14 December 1999

commenced on date of assent (see s 2(1))

## 6 List of annotations

### **Meaning of “eligible association”**

s 10 amd 1999 No. 77 s 164

### **Evaluating equipment**

s 99 sub 1999 No. 77 s 165

### **Deciding application**

s 100 amd 1999 No. 77 s 166

### **Approved evaluators**

s 100A ins 1999 No. 77 s 167

### **Appeals**

s 174 amd 1999 No. 77 s 168

### **Transitional regulations**

s 194 exp 1 December 2000 (see s 194(4))

## **PART 11—CONSEQUENTIAL AND OTHER AMENDMENTS**

pt hdg om R1 (see RA s 7(1)(k))

### **Acts amended in sch 1**

s 196 om R1 (see RA s 40)

**SCHEDULE 1—ACTS AMENDED**

om R1 (see RA s 40)

**SCHEDULE 2—DICTIONARY**

def “**approved evaluator**” ins 1999 No. 77 s 169