

Queensland



# **GAMING MACHINE ACT 1991**

**Reprinted as in force on 15 December 2000  
(includes amendments up to Act No. 51 of 2000)**

**Warning—see last endnote for uncommenced amendments**

**Reprint No. 5A**

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

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

**Also see endnotes for information about—**

- **when provisions commenced**
- **editorial changes made in earlier reprints.**

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# **GAMING MACHINE ACT 1991**

[as amended by all amendments that commenced on or before 15 December 2000]

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

### **PART 1—PRELIMINARY**

#### **Short title**

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

#### **Object**

**1A.(1)** The object of this Act is to ensure that, on balance, the State and the community as a whole benefit from gaming machine gambling.

**(2)** The balance is achieved by allowing gaming machine gambling subject to a system of regulation and control designed to protect players and the community through—

- (a) ensuring the integrity and fairness of games; and
- (b) ensuring the probity of those involved in the conduct of gaming machine gambling; and
- (c) minimising the potential for harm from gaming machine gambling.

#### **Definitions**

2. In this Act—

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**“accepted representations”** see section 142.<sup>1</sup>

**“accounting record”**, of a licensee, means an accounting record required to be kept and maintained by the licensee under section 298(1).<sup>2</sup>

**“additional premises”** see section 61(3)(e).

**“additional premises application”** means an application, made under section 61 by a category 2 licensee, for approval of premises (additional to the existing licensed premises) as premises to which the licensee’s gaming machine licence relates.

**“administered receipt”** see *Financial Administration and Audit Act 1977*, section 4(1).

**“affected person”**, for a payout refusal decision, see section 245(2)(a).

**“appeal authority”** means—

- (a) for an appeal against a decision mentioned in section 31<sup>3</sup>—the Magistrates Court; or
- (b) for an appeal against a decision mentioned in section 32<sup>4</sup>—the commission.

**“application of significant community impact”** means an application mentioned in section 55A(1).

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

*Example of ‘standing’—*

A person’s classification level in the public service.

**“approved 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

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<sup>1</sup> Section 142 (Consideration of representations)

<sup>2</sup> Section 298 (Accounts and analyses)

<sup>3</sup> Section 31 (Appeals to Magistrates Court)

<sup>4</sup> Section 32 (Appeals to commission)

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- (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 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)(a)(ii);<sup>5</sup> or
- (d) a registered company auditor; or
- (e) a person approved by the chief executive as having the necessary experience or qualifications to conduct audits for the gaming operations of licensees.

**“approved authority”**, for licensed premises, means—

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

**“approved control system”** means a control system approved by the chief executive, and includes an approved control system changed under a direction or approval of the chief executive.

**“approved evaluator”** means an entity declared under a regulation to be an approved evaluator.

**“approved financier”** means any of the following—

- (a) a financial institution under the *Acts Interpretation Act 1954*, section 36;<sup>6</sup>
- (b) a registered corporation under the *Financial Corporations Act 1974* (Cwlth);

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<sup>5</sup> Corporations Law, section 1280 (Registration of auditors)

<sup>6</sup> Under the *Acts Interpretation Act 1954*, section 36, a “financial institution” means a bank, building society or credit union.

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(c) another entity prescribed under a regulation.

**“approved form”** see section 364.<sup>7</sup>

**“approved game”** means a game approved by the chief executive under section 281(8).

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

- (a) the number (the **“original number”**) of gaming machines originally permitted to be installed on the premises; or
- (b) if the original number is subsequently adjusted by an increase under section 83 or a decrease under section 88—the original number as adjusted under the section or sections.

**“approved place”**, for the keeping of a licensee’s accounting records for licensed premises of the licensee, means—

- (a) the licensed premises; or
- (b) a place approved by the chief executive under section 307(1)(a)<sup>8</sup> for the records.

**“approved place”**, for the keeping of monitoring records of a licensed supplier, means—

- (a) the supplier’s main office; or
- (b) a place approved by the chief executive under section 168(1)(a)<sup>9</sup> for the records.

**“approved trust account”** means an account—

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

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

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<sup>7</sup> Section 364 (Approval of forms)

<sup>8</sup> Section 307 (Notices about keeping accounting records)

<sup>9</sup> Section 168 (Notices about keeping monitoring records)

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**“assessment period”**, for licensed premises, means the period for which an assessment is required to be made under section 310(1)<sup>10</sup> for the premises.

**“associate”**, of a person, has the meaning given by section 5.

**“associates (nominees) audit program”** means an audit program, for investigating associates of licensed gaming nominees, approved by the Minister under section 211.

**“associates (suppliers) audit program”** means an audit program, for investigating associates of licensed suppliers, approved by the Minister under section 135(1).<sup>11</sup>

**“authorised gaming machine”**, of a licensee, means a gaming machine purchased or otherwise acquired by the licensee, with the chief executive’s approval,<sup>12</sup> for use for gaming on the licensee’s licensed premises.

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

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

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

**“body corporate”** means—

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

**“category 1 licensed premises”** means licensed premises for which 1 of

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<sup>10</sup> Section 310 (Monthly taxable metered win)

<sup>11</sup> Section 135 (Approving audit programs)

<sup>12</sup> See section 265(2) (Manufacture, sale, supply, obtaining or possession of gaming machines).

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the following licences under the *Liquor Act 1992* is in force—

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

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

**“category 2 licensee”** means a licensee of category 2 licensed premises.

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

**“chairperson”** means a commissioner—

- (a) appointed under section 18(2) and holding office; or
  - (b) appointed under section 24(1) and at that time acting;
- as the chairperson of the commission.

**“claimant”**, for a review of a payout refusal decision, see section 247(2).

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

**“club liquor licence”** means—

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

**“commission”** means the Queensland Gaming Commission continued in existence under section 15.

**“commissioner”** means a person—

- (a) appointed under section 18(1) or 19(2) and holding office; or
  - (b) appointed under section 24(2) and at that time acting;
- as a commissioner of the commission.



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**“community comments”** means comments on an application made in response to an advertisement under section 55C.

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

**“conduct of gaming”** has the meaning given by section 3.

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

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

**“control system (change) submission”** see section 165.

**“control system submission”** see section 164.

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

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

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

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

**“decrease”**, of approved hours of gaming, does not include a change to hours of gaming that would allow the conduct of gaming on licensed premises at a time when gaming was previously unlawful (even though the change might reduce aggregate hours of gaming).

**“decrease proposal”** means (according to context)—

- (a) a decrease proposal (gaming machines); or
- (b) a decrease proposal (hours of gaming).

**“decrease proposal (gaming machines)”** means—

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- (a) an application made by a licensee under section 86 for a decrease in the approved number of gaming machines for licensed premises of the licensee; or
- (b) a request made by an approved authority under section 86 for a decrease in the approved number of gaming machines for licensed premises of a licensee; or
- (c) a report made by an inspector under section 86 recommending a decrease in the approved number of gaming machines for licensed premises of a licensee.

**“decrease proposal (hours of gaming)”** means—

- (a) an application made by a licensee under section 90A for a decrease in the approved hours of gaming for licensed premises of the licensee; or
- (b) a request made by an approved authority under section 90A for a decrease in the approved hours of gaming for licensed premises of a licensee; or
- (c) a report made by an inspector under section 90A recommending a decrease in the approved hours of gaming for licensed premises of a licensee.

**“departmental accounts”**, of a department, means the accounts of the department under the *Financial Administration and Audit Act 1977*, section 12.

**“departmental financial-institution account”**, of a department, means an account of the department kept under the *Financial Administration and Audit Act 1977*, section 18.

**“departmental gaming officer”** means a departmental officer who performs functions as a departmental officer solely or mainly for the purposes of this Act or a gaming Act.

**“departmental officer”** means a public service employee employed in the department, and includes any person to whom section 386<sup>13</sup> applies.

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

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<sup>13</sup> Section 386 (Existing additional employees)

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

**“disclosed associate”** means a person stated in a disclosure affidavit as being a person who satisfies a description mentioned in section 182(4)(a) or (b).<sup>14</sup>

**“disclosure affidavit”** see section 182.

**“displayed win”** see section 244(1).

**“electronic monitoring system”** means any electronic or computer system or device that is designed to be used, or adapted, to receive data from gaming equipment in relation to the security, accounting or operation of gaming equipment and includes an electronic or computer system or device capable of identifying the player.

**“employ”** means to employ for fee or reward, to engage in an honorary capacity or to engage without fee or reward.

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

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

**“exempt accounting record”** see section 307.

**“exempt monitoring record”** see section 168(1)(b).

**“existing licence”** see section 64(1).

**“existing premises”** see section 63(3)(c).

**“financial institution”** means—

- (a) the Reserve Bank of Australia; or

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<sup>14</sup> Section 182 (Disclosure affidavits about persons having influence or receiving benefits)

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- (b) an authorised deposit-taking institution within the meaning of the *Banking Act 1959* (Cwlth), section 5;<sup>15</sup> or
- (c) a person who carries on State banking within the meaning of the Commonwealth Constitution, section 51(xiii); or
- (d) a body corporate that is, or that, if it had been incorporated in Australia, would be, a financial corporation within the meaning of the Commonwealth Constitution, section 51(xx); or

**“financial year”** means the period of 1 year ending on 30 June in any year or, if the chief executive, under section 4 approves some other date as the terminating date of a financial year in a particular case, the period so approved.

**“former licensee”** see section 302(2).

**“former operator”** see section 177(2).

**“game”** means a game—

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

**“gaming”** means the playing of a gaming machine.

**“gaming Act”** means any of the following Acts—

- *Casino Control Act 1982*
- *Charitable and Non-Profit Gaming Act 1999*
- *Interactive Gambling (Player Protection) Act 1998*
- *Keno Act 1996*
- *Lotteries Act 1997*
- *Wagering Act 1998*.

**“gaming duties”** means duties about the conduct of gaming prescribed

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<sup>15</sup> *Banking Act 1959* (Cwlth), section 5—

**“authorised deposit-taking institution”** means a body corporate in relation to which an authority under subsection 9(3) is in force.

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under a regulation.

**“gaming employee”** means—

- (a) a licensed gaming employee employed under section 189(3), (4) or (5); or
- (b) a licensed gaming nominee employed under section 189(3) or (4); or
- (c) an applicant for a gaming employee’s licence employed under section 189(4) or (6); or
- (d) an applicant for a gaming nominee’s licence employed under section 189(4); or
- (e) a person employed under section 189(9); or
- (f) the nominee of a licensee.

**“gaming equipment”** means—

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

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

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

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payable;

but does not include any device declared under section 343 not to be a gaming machine.

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

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

**“gaming machine licence”** means a gaming machine licence issued under section 68 that is in force.

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

**“gaming operations”**, of a licensee, means gaming conducted, and the conduct of gaming, on the licensee’s licensed premises.

**“gaming related system”** means—

- (a) an electronic monitoring system; or
- (b) a centralised credit system.

**“gaming system component”** means—

- (a) a gaming machine; or
- (b) gaming equipment, other than a gaming machine; or
- (c) equipment, other than gaming equipment, that is ancillary or related equipment for a gaming machine; or
- (d) the approved game for a gaming machine.

**“gaming system malfunction”** means a malfunction of a gaming system component.

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

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

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

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

**“increase”**, of approved hours of gaming, includes a change to hours of gaming that would allow the conduct of gaming on licensed premises at a time when gaming was previously unlawful (even though the change might leave aggregate hours of gaming unchanged or reduce the aggregate).

**“increase application”** means (according to context)—

- (a) an increase application (gaming machines); or
- (b) an increase application (hours of gaming).

**“increase application (gaming machines)”** means an application made by a licensee under section 81 for an increase in the approved number of gaming machines for licensed premises of the licensee.

**“increase application (hours of gaming)”** means an application made by a licensee under section 85A for an increase in the approved hours of gaming for licensed premises of the licensee.

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

**“information notice”** see section 8(1).

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

**“inspectors audit program”** means an audit program, for investigating inspectors, approved by the Minister under section 41(1).<sup>16</sup>

**“interested person”**, for a licensed monitoring operator, means a directly or indirectly interested person of the operator.

**“involved licensed monitoring operator”**, for a payout refusal decision for a displayed win, means—

- (a) if paragraph (b) does not apply—a licensed monitoring operator who, when the decision was made, was supplying basic monitoring services to the involved licensee; or

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<sup>16</sup> Section 41 (Approving audit program for inspectors)

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- (b) if, when the decision was made, the gaming machine to which the displayed win related was part of a linked jackpot arrangement—the licensed monitoring operator by whom the arrangement was operated.

**“involved licensee”**, for a payout refusal decision, see section 245(2)(b).

**“jackpot payout”** see section 9.

**“key monitoring employee”** see section 185(1).

**“key officer”** see section 186.

**“licensed dealer”** means—

- (a) a licensed major dealer; or
- (b) a licensed secondary dealer.

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

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

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

**“licensed major dealer”** means the holder of a major dealer’s licence in force under this Act.

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

**“licensed person”** means—

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

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

**“licensed repairer”** means the holder of a repairer’s licence, that is in force,



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issued under section 202.

**“licensed secondary dealer”** means the holder of a secondary dealer’s licence in force under this Act.

**“licensed service contractor”** means the holder of a service contractor’s licence, that is in force, issued under section 202.

**“licensed supplier”** means—

- (a) a licensed monitoring operator; or
- (b) a licensed major dealer; or
- (c) a licensed secondary dealer.

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

**“licensees audit guidelines”** see section 301(1).

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

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

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

**“liquor licence”** means—

- (a) a licence mentioned in the *Liquor Act 1992*, section 58(1); or
- (b) an authority to sell liquor under an Act, or a Commonwealth Act.
- (c) a right to sell liquor held by a person as a subsidiary operator.

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

**“main office”**, of a licensed supplier, means—

- (a) the supplier’s principal place of business in the State; or
- (b) if the supplier is a corporation and has its registered office in the State—its registered office.

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**“malfunction”**, of a gaming system component, means a failure of the component to function—

- (a) in the way it is designed to function; and
- (b) for a component programmed to function in a particular way—in the way it is programmed to function.

**“management letter”** means a written notice—

- (a) that is issued by an auditor in relation to an audit; and
- (b) that is not part of an audit report; and
- (c) in which the auditor identifies issues the auditor considers may be of concern to an entity or an entity’s executive officers.

*Examples of issues for paragraph (c)—*

1. Weaknesses in an internal control structure.
2. Inefficiencies.
3. Potential areas of risk.

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

**“metered payouts”** see section 10.

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

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

**“money clearance”** means—

- (a) for a gaming machine—the removal of gaming tokens from the cash box or banknote acceptor of the gaming machine; or
- (b) for a centralised credit system—the deduction of an amount in relation to amounts received by a licensee from persons for establishing gaming machine credits under the system for the persons.

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

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

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

- (a) the amount for the period paid into an approved trust account maintained by a licensed monitoring operator for multiple site jackpot increments; and
- (b) the amount prescribed for the period under a regulation.

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

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

**“nominee”**, of a licensee for premises, see section 193.

**“nominees audit program”** means an audit program for investigating licensed gaming nominees approved by the Minister under section 211.

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

- (a) the income, profits and assets of the body are to be applied only in the promotion of its objects; and
- (b) the payment of dividends to, or the distribution of income, profits or assets of the body among, its members is prohibited.

**“operators audit guidelines”** see section 176(1).

**“other amounts”**, of a department, means amounts received by the department other than amounts received for a fund under this Act.

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

**“parent entity”**, of a licensed monitoring operator, see Corporation’s Law,

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section 243D(1).<sup>17</sup>

**“payout refusal decision”**, for a displayed win, means a decision of a gaming employee under section 244(2)<sup>18</sup> refusing—

- (a) to make a payment, or to allow a payment to be made, to a person for the credit the subject of the displayed win; or
- (b) to pay, or to allow to be paid, to a person the amount the subject of the displayed win; or
- (c) to award, or to allow to be awarded, to a person the non-monetary prize the subject of the displayed win.

**“percentage return to player”** see section 11.

**“place”** includes any house, wharf or premises.

**“play a gaming machine”** has the meaning given by section 12.

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

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

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

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

**“progressive jackpot prize meter”** means a device for recording amounts that, if won by a player, would be—

- (a) payable to the player by the licensee as a jackpot payout; or
- (b) credited to the credit meter of the player’s gaming machine as a

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<sup>17</sup> Corporation’s Law—

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

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

<sup>18</sup> Section 244 (Gaming system malfunctions)

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jackpot credit.

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

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

**“registered company auditor”** means a person registered as an auditor, or taken to be registered as an auditor, under the Corporations Law, chapter 9, part 9.2.<sup>19</sup>

**“registrar”**, of the commission, means the officer of the department responsible for the time being for performing functions as the registrar of the commission.

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

**“restricted component”** means any component that is prescribed as a restricted component when it does not form part of any gaming machine, linked jackpot equipment, electronic monitoring system or centralised credit system but does not include anything declared under section 343 not to be a restricted component.

**“restricted official”** means an inspector or departmental officer—

- (a) to whom a direction has been given by the chief executive under section 339(1);<sup>20</sup> and
- (b) for whom the direction is in force.

**“review decision”** see section 247(4)(a).

**“service contract”** means any agreement to install, alter, adjust, maintain or repair gaming equipment on licensed premises or otherwise in a licensee’s possession, but does not include an agreement to carry out

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<sup>19</sup> Corporations Law, chapter 9 (Miscellaneous), part 9.2 (Registration of auditors and liquidators)

<sup>20</sup> Section 339 (Restricted officials prohibited from playing gaming machines)

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any installation, alteration, adjustment, maintenance or repair prescribed for the purposes of section 187(3).

**“show cause notice”** see section 140.<sup>21</sup>

**“show cause period”** see section 140.

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

**“special facility liquor licence”** means a licence mentioned in the *Liquor Act 1992*, section 58(1)(f).<sup>22</sup>

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

**“subsidiary operator”** means—

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

**“suppliers audit program”** means an audit program, for investigating licensed suppliers, approved by the Minister under section 135.<sup>23</sup>

**“supplier’s licence”** means—

- (a) a monitoring operator’s licence; or

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<sup>21</sup> Section 140 (Show cause notice)

<sup>22</sup> *Liquor Act 1992*, section 58 (Available licences)

<sup>23</sup> Section 135 (Approving audit programs)

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- (b) a major dealer's licence; or
- (c) a secondary dealer's licence.

**“supply operations”**, of a licensed supplier, means operations conducted by the licensed supplier under its supplier's licence.

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

- (a) for the making of a recommendation under section 62(1), or the giving of advice under section 62(8), by the chief executive about the application—any information or document received by the chief executive in response to a notice given under section 62(2)(b) about the application; or
- (b) for the making of a decision by the commission under section 63(1), or the fixing by the commission of a number of gaming machines under section 64, for the application—
  - (i) any information or document mentioned in paragraph (a); or
  - (ii) any information or document received by the commission in response to a notice given under section 63(2) about the application.

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

- (a) for the making of a recommendation under section 57(1), or the giving of advice under section 57(10), by the chief executive about the application—any information or document received by the chief executive in response to a notice given under section 57(2)(b) about the application; or
- (b) for the making of a decision by the commission under section 55(1)(a), or the fixing by the commission of a number of gaming machines under section 59, for the application—
  - (i) any information or document mentioned in paragraph (a); or
  - (ii) any information or document received by the commission in response to a notice given under section 58(1) about the application.

**“supporting material”**, for an application for a licence under part 5, means—

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- (a) for the making of a recommendation by the chief executive under section 200(1)(b) about the application—any information or document received by the chief executive in response to a notice given under section 200(3)(a) about the application; or
- (b) for the making of a decision by the commission under section 201(1) about the application—
  - (i) any information or document mentioned in paragraph (a); and
  - (ii) any information or document received by the commission in response to a notice given under section 201(2).

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

- (a) for the making of a recommendation by the chief executive under section 82 about the application—any information or document received by the chief executive in response to a notice given under subsection (3) of that section about the application; or
- (b) for the making of a decision by the commission under section 83 about the application—
  - (i) any information or document mentioned in paragraph (a); or
  - (ii) any information or document received by the commission in response to a notice given under section 83(2) about the application.

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

**“total wins meter”** means a device for recording amounts (other than amounts recorded on the progressive jackpot prize meter) that, if won by a player, would be—

- (a) payable to the player by the licensee; or
- (b) credited to the credit meter of the player’s gaming machine.

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



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

### **Meaning of “conduct of gaming”**

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

### **Approval of terminating date for financial year**

4. The chief executive may approve some date other than 30 June as the termination date of a financial year which may be for a period longer or shorter than 1 year, but not longer than 18 months, ending on the date so approved.

### **Meaning of “associate”**

5. For the purposes of this Act—
- (a) the following persons are associates of a person—
    - (i) the person’s spouse;
    - (ii) a parent or remoter lineal ancestor, son, daughter or remoter issue, brother or sister of the person;
    - (iii) any partner of the person;
    - (iv) any body corporate of which the person is an executive officer;

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- (v) where the person is a body corporate—an executive officer of the body corporate;
- (vi) a person who, in the previous year, has provided to the first person advice for fee or reward in relation to—
  - (A) gaming; or
  - (B) the conduct of gaming; or
  - (C) the manufacture, assembly, sale, supply, installation, alteration, obtaining, possession, operation, use, adjustment, maintenance or repair of gaming equipment;
- (vii) any employee or employer of the person;
- (viii) any officer or employee of any body corporate of which the person is an officer or employee;
- (ix) any employee of an individual of whom the person is an employee;
- (x) any body corporate whose executive officers are accustomed or under an obligation, whether formal or informal, to act in accordance with the directions, instructions or wishes of the person, or where the person is a body corporate, of the executive officers of that body corporate;
- (xi) any body corporate in accordance with the directions, instructions or wishes of which, or of the executive officers of which, the person is accustomed or under an obligation, whether formal or informal, to act;
- (xii) any body corporate in which the person holds a controlling interest;
- (xiii) where the person is a body corporate—a person who holds a controlling interest in the body corporate;
- (xiv) any person who is named in an affidavit forwarded or lodged by the person under section 92, 115, 118, 130, 154 or 210;
- (xv) any person who is because of paragraph (a), an associate of any other person who is an associate of the person (including

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a person who is an associate of the person by another application or other applications of paragraph (a)); and

- (b) a person is taken to hold a controlling interest in a body corporate if the person, alone or together with any associate or associates of the person, is in a position to control not less than 15% of the voting power in the body corporate or holds interests in not less than 15% of the issued shares in the body corporate.

**Meaning of “control action” under the Corporations Law**

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

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

**Meaning of “due date for payment”**

7.(1) This section applies if—

- (a) a contract is entered into between a licensed supplier and a licensee under which an amount (other than a basic monitoring fee) is payable by the licensee to the licensed supplier; and
- (b) the contract does not state a due date for payment of the amount.

(2) This section also applies if—

- (a) a contract is entered into between a licensed monitoring operator and a licensee under which a basic monitoring fee is payable by the licensee to the operator; and
- (b) the contract does not state a due date for payment of the fee.

(3) In this Act, a reference to the due date for payment of the amount or

fee is a reference to the date that is 1 month after the incurring of liability for payment of the amount or fee.

### **Meaning of “information notice”**

**8.(1)** An “**information notice**” is a written notice of a decision under this Act of the commission, the chief executive or an inspector complying with the requirements of this section.

**(2)** The information notice must state—

- (a) the decision to which it relates; and
- (b) the reasons for the decision; and
- (c) the appropriate appeal details; and
- (d) how the appeal may be made.

**(3)** For subsection (2)(c) the appropriate appeal details are as follows—

- (a) for a commission appeal notice—that the person to whom the notice is given may appeal against the decision to which the notice relates to the commission within 28 days after the person receives the notice;
- (b) for a court appeal notice—that the person to whom the notice is given may appeal against the decision to which the notice relates to a Magistrates Court within 28 days after the person receives the notice;
- (c) for a Minister appeal notice—that the person to whom the notice is given may appeal against the decision to which the notice relates to the Minister within 14 days after the person receives the notice.

**(4)** In this section—

“**commission appeal notice**” means an information notice required to be given to a person who has a right to appeal against the decision to which the notice relates to the commission.

“**court appeal notice**” means an information notice required to be given to a person who has a right to appeal against the decision to which the notice relates to a Magistrates Court.

**“Minister appeal notice”** means an information notice required to be given to a person who has a right to appeal against the decision to which the notice relates to the Minister.

### **Meaning of “jackpot payout”**

**9.** For this Act, a **“jackpot payout”** is a payment by a licensee or licensed monitoring operator to a player for a winning result or promotions on a gaming machine if—

- (a) the payment does not increase the credit meter of the gaming machine; and
- (b) the payment is not discharged from the hopper; and
- (c) for promotions, the gaming machine is operated under an approval under section 287 for a linked jackpot arrangement.

### **Meaning of “metered payouts”**

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

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

### **Meaning of “percentage return to player”**

**11.** For this Act, the **“percentage return to player”**, for a game, is the percentage calculated using the formula—

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

where—

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

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

**Meaning of “play a gaming machine”**

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

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

the gaming machine.

**Act binds the Crown**

**13.** This Act binds the Crown.

**Acceptable evidence of age**

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

**PART 2—ADMINISTRATION****Establishment of commission**

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

**(2)** The commission—

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

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

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

### **Functions of commission**

16. The functions of the commission are such—

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

### **Powers of commission**

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

(2) The commission may issue guidelines.

(3) Without limiting subsection (2), a guideline may give guidance about—

- (a) the attitude the commission is likely to adopt on a particular issue; or
- (b) how an applicant for a licence, authorisation or approval should deal with issues involved in the proper formulation of the application or supporting material related to the application.

*Examples of subsection (3)—*

1. The commission might issue a guideline stating its attitude to gaming machines in shopping centres.
2. The commission might issue a guideline stating how it is likely to decide questions about the location of gaming machines in licensed premises or the proximity of gaming machines to automatic teller machines.
3. The commission might issue a guideline setting out the matters that should be dealt with in a community impact statement accompanying an

application.

(4) A guideline may be replaced or varied by a later guideline issued under this section.

(5) The chief executive must keep copies of a guideline issued under this section available for inspection and permit a person—

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

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

(7) For subsection (5)—

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

(8) The commission may on its own initiative, and must if asked by the Minister, provide the Minister with advice on—

- (a) the operation of this Act, any other gaming Act that assigns functions to the commission; or
- (b) issues related to gambling (including the identification of issues requiring further research) under this Act or another Act that assigns functions to the commission.

## **Commissioners**

**18.(1)** The commission is to consist of 7 commissioners who are to be appointed by the Governor in Council on the recommendation of the Minister.

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



chairperson.

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

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

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

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

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

(7) The Minister is to cause due inquiry to be made before a person is appointed under this section to be, or appointed under section 24 to act as, a commissioner in order to be satisfied that the person is of good repute.

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

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

### **Tenure of office**

**19.(1)** A commissioner—

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

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

**Leave of absence**

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

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

**Register and disclosure of interests**

**21.(1)** The Minister is to maintain—

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

**(2)** Each commissioner must furnish to the Minister—

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

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

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

**(5)** A disclosure under subsection (4) is to be recorded in the minutes of

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the commission and, unless the Minister or the commission otherwise determines, the commissioner must not—

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

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

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

**Termination of appointment of commissioners**

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

- (a) dies; or
- (b) resigns the commissioner's office by instrument in writing signed by the commissioner and given to the Minister; or
- (c) becomes a patient within the meaning of the *Mental Health Act 1974*; or
- (d) being the chairperson—is absent, except with the leave of the Minister, from 3 consecutive meetings of the commission; or
- (e) being a commissioner other than the chairperson, is absent, except with the leave of the chairperson, from 3 consecutive meetings of the commission; or
- (f) is convicted of an offence against this Act or another Act that confers powers on the commission; or
- (g) is convicted of an indictable offence, whether on indictment or summarily, punishable in the particular case by imprisonment for 1 year or more (irrespective of whether the offence is also punishable by a fine in addition, or as an alternative, to

imprisonment); or

- (h) is removed from office by the Governor in Council under subsection (2).

**(2) The Governor in Council—**

- (a) may remove a commissioner from office if the commissioner—
- (i) without reasonable excuse contravenes section 21; or
  - (ii) fails to discharge the commissioner's financial commitments, becomes bankrupt or compounds with creditors or otherwise takes advantage of the laws in force for the time being relating to bankruptcy; and
- (b) must remove a commissioner from office if the Governor in Council determines the commissioner is not a fit and proper person to be a commissioner.

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

### **Terms and conditions of appointment of commissioners**

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

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

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

**(3)** A commissioner holds office on such terms and conditions (if any) in

relation to matters not provided for by this Act as are determined, in writing, by the Minister.

### **Acting appointments**

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

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

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

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

### **Meetings**

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

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

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

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

commission.

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

(5) At a meeting of the commission—

- (a) the chairperson and 3 other commissioners constitute a quorum; and
- (b) a question is to be decided by a majority of the votes of the commissioners present and voting; and
- (c) the chairperson has a deliberative vote and, in the event of an equality of votes, also has a casting vote.

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

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

## **Resources**

**26.(1)** The chief executive must—

- (a) remunerate each commissioner as provided in section 23; and
- (b) make available to the commission (to the satisfaction of the Minister) sufficient—
  - (i) administrative services; and
  - (ii) funds for expenses incurred in the normal conduct of meetings of the commission;

as are necessary for the commission to perform its functions under section 16 and exercise its powers under section 17.

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

## **Annual report**

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

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

### **Decisions or determinations of commission**

**28.(1)** Subject to subsections (2) to (4) and sections 29 and 30, any decision or determination of the commission is final.

(2) A regulation may—

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

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

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

(5) Subject to section 29(5), a decision or determination of the commission has effect from the making of the decision or determination or from such other time as is specified by the commission for the purpose.

### **Appeals to Minister**

**29.(1)** A person—

- (a) who may be adversely affected by an approval under section 54(6) and to whom a notice has been given under section 54(8); or
- (b) who is or was an applicant for or a holder of a licence under this Act and is aggrieved by a decision or determination referred to in subsection (9) or (10);

may appeal against the decision or determination to the Minister.

(2) The appeal must—

- (a) be made in the approved form; and
- (b) state the nature and grounds of the appeal; and
- (c) be accompanied by the fee prescribed; and
- (d) be lodged with the chief executive within 14 days of the date

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when the appellant was given written advice of the decision or determination in respect of which the appeal is made.

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

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

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

(5) The Minister may direct that the operation of a decision or determination appealed against be stayed until the appeal is determined under section 30 if the Minister is satisfied that the integrity of gaming and the conduct of gaming will not be jeopardised and that the public interest will not be adversely affected.

(6) An appellant may, by written notice lodged with the chief executive, withdraw an appeal before it is determined under section 30.

(7) One-half of the fee lodged under section 29(2) is to be returned to the appellant upon the withdrawal of the appeal.

(8) Nothing in sections 33 to 38 applies to an appeal under this section.

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

- (a) under section 55, refusing to grant a gaming machine licence; or
- (b) under section 59(2), fixing a number of gaming machines for premises that is less than the number sought in the relevant application for the premises; or
- (ba) under section 59(2)(a)(ii), fixing hours of gaming for premises that differ from the hours of gaming sought in the relevant application for the premises; or
- (c) under section 63, refusing to approve additional premises as premises to which a category 2 licensee's gaming machine licence



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relates; or

- (d) under section 64(2), fixing a number of gaming machines for additional premises that is less than the number sought in the additional premises application; or
- (da) under section 64(2)(b), fixing hours of gaming for additional premises that differ from the hours of gaming sought in the relevant additional premises application; or
- (e) under section 73(1)(b); or
- (f) under section 74(1); or
- (g) under section 83(1), refusing to approve an increase in the approved number of gaming machines for a licensee's licensed premises; or
- (h) under section 83(1), approving an increase in the approved number of gaming machines for a licensee's licensed premises that is less than the increase sought in the relevant application; or
- (ha) under section 85C(1)(c), refusing to approve an increase in approved hours of gaming for a licensee's licensed premises; or
- (hb) under section 85C(1)(b), approving an increase in the approved hours of gaming for a licensee's licensed premises that differs from an increase sought in the relevant application; or
- (i) under section 88(1), refusing, for a decrease proposal that is an application, to approve a decrease in the approved number of gaming machines for a licensee's licensed premises; or
- (j) under section 88(1), approving, for a decrease proposal that is an application, a decrease in the approved number of gaming machines for a licensee's licensed premises that is less than the decrease sought in the application; or
- (k) under section 88(1), approving, for a decrease proposal that is a request or report, a decrease in the approved number of gaming machines for a licensee's licensed premises; or
- (ka) under section 90C(1)(c), refusing, for a decrease proposal that is an application, to approve a decrease in the approved hours of gaming for a licensee's licensed premises; or

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- (kb) under section 90C(1)(b), approving, for a decrease proposal that is an application, a decrease in the approved hours of gaming for a licensee's licensed premises that is a modification of the proposal contained in the relevant application; or
- (kc) under section 90C(1)(a), approving, for a decrease proposal that is a request or a report, a decrease in the approved hours of gaming for a licensee's licensed premises; or
- (l) under section 97(16)(d) or (17); or
- (m) under section 98(1); or
- (n) under section 201(1), refusing to grant a licence under part 5; or
- (o) under section 205; or
- (p) under section 206(1); or
- (q) under section 219(16)(d) or (17); or
- (r) under section 220(1).

**(10)** An appeal under subsection (1)(b) may be made in relation to—

- (a) a decision of the chief executive under section 76 refusing to renew a gaming machine licence; or
- (b) a decision of the chief executive under section 99 suspending a gaming machine licence; or
- (c) a decision of the chief executive under section 131<sup>24</sup> refusing to renew a supplier's licence; or
- (d) a decision of the chief executive under section 132<sup>25</sup> refusing, on an application made on the ground mentioned in subsection (1)(a) of the section, to replace a supplier's licence.
- (e) a decision of the chief executive under section 196 refusing to grant an application for a gaming nominee's licence; or
- (f) a decision of the chief executive under section 197 refusing to grant an application for a gaming employee's licence; or

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<sup>24</sup> Section 131 (Renewal of licence—decision)

<sup>25</sup> Section 132 (Replacement of licence)

- (g) a decision of the chief executive under section 207 refusing to renew a licence issued under part 5.

### **Minister's determination of appeals**

**30.(1)** The Minister is to consider—

- (a) the contents of the appeal under section 29 and information or material lodged with the appeal; and
- (b) information or material that is—
  - (i) given to the Minister by the appellant; and
  - (ii) given to the Minister by any person referred to in section 29(4)(d); and
  - (iii) given to the Minister by the commission in respect of the appeal; and
  - (iv) given to the Minister by the chief executive in respect of the appeal;within 28 days of the lodging of the appeal; and
- (c) such other information or material as the Minister considers relevant;

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

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

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

**(3)** The determination of the Minister upon an appeal instituted under section 29 is final.

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

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

### **Appeals to Magistrates Court**

**31.(1)** An applicant for a supplier's licence may appeal against the commission's decision under section 122<sup>26</sup> to refuse to grant the application for the licence.

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

- (a) a decision under section 123<sup>27</sup> to impose a condition on the licence;
- (b) a decision under section 127<sup>28</sup> to change a condition of the licence;
- (c) a decision under section 147 or 149<sup>29</sup> to suspend the licence;
- (d) a decision under section 147 to cancel the licence.

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

### **Appeals to commission**

**32.(1)** A person who seeks the chief executive's approval for section 231 or 287<sup>30</sup> may appeal to the commission against a decision of the chief executive refusing to give the approval.

(2) A person who submits a gaming machine type or game to the chief

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<sup>26</sup> Section 122 (Decision about application)

<sup>27</sup> Section 124 (Form of licence)

<sup>28</sup> Section 127 (Changing conditions of licence)

<sup>29</sup> Section 147 (Decision of commission) or 149 (Immediate suspension)

<sup>30</sup> Section 231 (Installation, operation and modification of gaming related systems) or 287 (Requirements for approvals for linked jackpot arrangements)

executive under section 281<sup>31</sup> for evaluation may appeal to the commission against a decision of the chief executive rejecting the gaming machine type or game.

(3) The owner of an article, record or other thing seized by an inspector may appeal to the commission against a decision of an inspector under section 331<sup>32</sup> resulting in the thing being forfeited.

### **Starting appeal**

**33.(1)** An appeal to the Magistrates Court is started by—

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

**(2)** An appeal to the commission is started by—

- (a) filing a written notice of appeal with the registrar of the commission; and
- (b) serving a copy of the notice on the chief executive.

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

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

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

### **Stay of operations of decisions**

**34.(1)** The appeal authority 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 appeal authority considers

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<sup>31</sup> Section 281 (Approval and rejection of gaming machines and games)

<sup>32</sup> Section 331 (Forfeiture of things that have been seized)

appropriate; and

- (b) operates for the period fixed by the appeal authority; and
- (c) may be revoked or amended by the appeal authority.

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

**35.(1)** In deciding an appeal, the appeal authority—

- (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) if the appeal authority is the commission—may hear the appeal in public or in private.

(2) An appeal is by way of rehearing.

### **Power of commission to gather evidence**

**36.(1)** This section applies only to an appeal made to the commission.

(2) The commission may, by written notice signed by the registrar, 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, related to an appeal mentioned in the notice.

(3) A notice under subsection (2)(a) may require the answers to questions given in response to the notice to be verified by statutory declaration.

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

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- (a) fail to comply with a requirement of a notice under this section; or
- (b) if appearing for examination before the commission—
  - (i) fail to take an oath or make an affirmation 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 (2)(b).

Maximum penalty—40 penalty units.

(5) A member of the commission may administer an oath or affirmation to a person appearing before the commission for examination.

(6) 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 appeal authority**

**37.(1)** In deciding an appeal, the appeal authority may—

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

(2) If the appeal authority substitutes another decision, the substituted decision is, for this Act (other than section 31 or 32), taken to be the decision maker's decision.

(3) For an appeal to the commission, the commission must immediately give the parties to the appeal written notice of its decision on the appeal and the reasons for its decision.

### **Appeal to District Court**

**38.** An appeal to the District Court from a decision of an appeal authority may be made only on a question of law.

### **Inspectors**

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

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

### **Qualifications for appointment as inspector**

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

- (a) the chief executive considers 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 chief executive is satisfied the person is a suitable person to be an inspector, having regard to—

- (a) the person's character; and
- (b) the person's current financial position and financial background.

**(3)** Before appointing a person as an inspector, the chief executive may investigate the person to help the chief executive decide whether the person is a suitable person to be an inspector.

### **Approving audit program for inspectors**

**41.(1)** The Minister may approve an audit program for investigating inspectors.

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



**Investigating inspectors**

**42.(1)** The chief executive may investigate an inspector to help the chief executive decide whether the inspector is a suitable person to be an inspector.

**(2)** However, the chief executive may investigate an inspector only if—

- (a) the investigation is conducted under an inspectors audit program;  
or
- (b) the chief executive reasonably suspects the inspector is not a suitable person to be an inspector.

**(3)** The chief executive must ensure the investigation of an inspector under an inspectors audit program is conducted in compliance with the program.

**Powers of inspectors**

**43.(1)** 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 condition of appointment; or
- (b) by written notice given by the chief executive to the inspector.

**Appointment conditions for inspectors**

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

**(2)** An inspector ceases holding office as follows—

- (a) if the appointment provides for a term of appointment—at the end of the term;
- (b) if the appointment conditions provide—on ceasing to hold another office (the “**main office**”) stated in the appointment conditions.

**(3)** An inspector may resign by signed notice of resignation given to the chief executive.

(4) However, an inspector may not resign from the office of inspector (the “**secondary office**”) if a term of the inspector’s employment for the main office requires the inspector to hold the secondary office.

### **Identity cards for inspectors**

**45.(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) include an expiry date; and
- (d) identify the person as an inspector under this Act.

### **Return of identity cards**

**46.** A person who ceases to be an inspector must return the person’s identity card to the chief executive as soon as practicable (but within 21 days) after ceasing to be an inspector, unless the person has a reasonable excuse.

Maximum penalty—40 penalty units.

### **Production or display of identity cards**

**47.(1)** An inspector may exercise a power in relation to someone else (the “**other person**”) only if the inspector—

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

**Approved evaluators**

**48.** The Governor in Council may, under a regulation, declare an entity to be an approved evaluator for evaluating—

- (a) centralised credit systems; and
- (b) electronic monitoring systems; and
- (c) gaming machine types and games; and
- (d) linked jackpot arrangements.

**Departmental gaming officers to be of good repute**

**49.(1)** Departmental gaming officers are to be of good repute, having regard to character, honesty and integrity.

**(2)** Before a person is appointed to be a departmental gaming officer, the chief executive may investigate the person for the purpose of finding out whether the person is of good repute.

**(3)** At any time the chief executive may cause to be undertaken such investigations as the chief executive considers are necessary in order to be satisfied that a departmental gaming officer, having regard to the matters specified in subsection (1), is suitable to be a departmental gaming officer.

**(4)** The chief executive may, either verbally or by written notice, require any officer, to whom investigations under subsection (3) relate, to submit such information or material as the chief executive considers is necessary.

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

Maximum penalty for subsection (5)—200 penalty units or 1 year's imprisonment.

**Delegation by Minister**

**50.(1)** The Minister may delegate the Minister's designated powers to—

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

**(2)** In this section—

**“designated powers”**, of the Minister, means—

- (a) the powers of the Minister under sections 135 and 211;<sup>33</sup> or
- (b) the power of the Minister to give a direction for section 151(3)(b);<sup>34</sup> or
- (c) the power of the Minister to determine criteria for section 191(1)(b)(ii).<sup>35</sup>

### **Delegation by commission**

**51.(1)** The commission may delegate its designated powers to—

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

**(2)** In this section—

**“designated powers”**, of the commission, means the powers of the commission under this Act, other than powers under sections 97(16) and (17), 98, 147, 219(16) and (17), 220 and 336.<sup>36</sup>

### **Delegation by chief executive**

**52.** The chief executive may delegate the chief executive’s powers under this Act to—

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

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<sup>33</sup> Sections 135 (Approving audit programs) and 211 (Approving audit programs for licensed gaming nominees and associates)

<sup>34</sup> Section 151 (Terms of appointment, and role, of administrator)

<sup>35</sup> Section 191 (Certain persons must apply for gaming employee’s licence)

<sup>36</sup> Sections 97 (Cancellation or suspension of gaming machine licences and letters of censure), 98 (Immediate suspension of gaming machine licence), 147 (Decision of commission), 219 (Cancellation or suspension of licences under this part), 220 (Immediate suspension of licences) and 336 (Review and termination of agreements)

**Criminal history reports for investigations**

**53.(1)** This section applies in relation to the investigation of a person for sections 40(3), 42(1), 49(2) and (3), 57(2)(a), 93(1), 136, 200(2)(a) and 212.<sup>37</sup>

(2) If the chief executive asks the commissioner of the police service for a written report on the person's criminal history, the commissioner must give the report to the chief executive.

(3) The report must contain—

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

**Secrecy**

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

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

(2) A person who is or was a departmental officer—

- (a) must preserve and assist in preserving secrecy with regard to all information that comes to the person's knowledge in the exercise of functions under this or another Act; and
- (b) must not communicate or reveal the information.

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

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<sup>37</sup> Sections 40 (Qualifications for appointment as inspector), 42 (Investigating inspectors), 49 (Departmental gaming officers to be of good repute), 57 (Recommendation by chief executive about application for gaming machine licence), 93 (Investigation of licensees and associates), 136 (Conducting investigations), 200 (Recommendation by chief executive about applications) and 212 (Conducting investigations of licensed persons and associates)

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

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

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

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

(5) Subsections (2), (3) and (4) do not apply to the communication or revealing of information by a person—

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

(6) The chief executive may, for a person mentioned in subsection (2), (3) or (4), approve the communication or revealing of information mentioned in the subsection by the person to—

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

(7) If, under an approval of the chief executive under subsection (6), information is communicated or revealed by a person mentioned in subsection (2), (3) or (4) to an entity, department or person, the entity, department or person, and each employee or other person under the control of the entity, department or person—

- (a) is, for the information, taken to be a person to whom the secrecy provision applies; and
- (b) is taken to have gained the information in the way mentioned in the secrecy provision.

(8) Before granting an approval under subsection (6) the chief executive must—

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

(9) In this section—

“**secrecy provision**”, for information communicated or revealed by a person under this section, means the subsection (being subsection (2), (3) or (4)) in which the person by whom the information is communicated or revealed is mentioned.

## **PART 3—GAMING MACHINE LICENCES**

### *Division 1—Authorisation of gaming machine gambling*

#### **Gaming lawful and does not constitute nuisance**

**55.(1)** Despite any other Act or law—

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

(2) Without limiting subsection (1)(a), the other information or material the commission may have regard to includes—

- (a) information or material about social and community issues; and
- (b) relevant guidelines issued by the commission under section 17.

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

*Division 2—General requirements for applications of significant community impact*

**Applications of significant community impact**

**55A.(1)** The following applications are applications of significant community impact—

- (a) an application for a gaming machine licence;
- (b) an application for additional licensed premises;
- (c) an application to have the approved number of gaming machines for licensed premises increased by a significant number (to be fixed under a regulation);
- (d) another application that the chief executive designates, by written notice to the applicant, as an application of significant community impact.

(2) The chief executive must make available for inspection, in the office of the department at Brisbane, a list of all applications currently before the chief executive that are of significant community impact.

(3) The list must include—

- (a) the nature of each application; and
- (b) the location of premises to which each application relates.

**Community impact statement and statement of responsible gambling initiatives required for application of significant community impact**

**55B.(1)** An application of significant community impact must be accompanied by—

- (a) a community impact statement; and
- (b) a statement of responsible gambling initiatives for the licensed premises or proposed licensed premises.



(2) The purpose of a community impact statement is to help the commission assess the social and economic implications of the grant of the application.

(3) The purpose of the statement of responsible gambling initiatives is to help the commission assess the adequacy of the applicant's approach to encouraging responsible gambling.

(4) In preparing a community impact statement or a statement of responsible gambling initiatives, the applicant must have regard to relevant guidelines issued by the commission.

(5) A community impact statement and a statement of responsible gambling initiatives are to be regarded as part of the supporting material for an application.

### **Advertisement of application of significant community impact**

**55C.(1)** An application of significant community impact must be advertised as required under this section.

(2) The applicant must—

- (a) in a form, and on days, approved by the chief executive generally or in a particular case, publish notice of the application, at the applicant's expense—
  - (i) once in the gazette; and
  - (ii) twice in a newspaper circulating in the locality; and
- (b) display a copy of the notice on the premises to which the application relates on a sign the dimensions of which (including dimensions of the print) are approved by the chief executive, generally or in a particular case; and
- (c) ensure the copy is displayed conspicuously for 28 days immediately before the last day for the filing of community comments on the application.

(3) If the applicant is also making an application under the *Liquor Act 1992*, the chief executive and the liquor licensing authority may approve a composite notice to be published and displayed under subsection (2) and the corresponding provision of the *Liquor Act 1992*.

(4) The applicant must give to the chief executive evidence of satisfying the publication and display requirements under this section.

### **Community comments**

**55D.(1)** If an application is advertised as required by section 55C, any member of the public may comment on the application, by writing filed with the chief executive on or before the last day for filing comments as specified in the relevant notice under section 55C(2).

*Examples of subsection (1)—*

1. A member of the public might comment on how he or she expects the grant of the application would contribute to, or detract from, a sense of community in the relevant locality.
2. A member of the public might comment on the effect the grant of the application might have for persons in, or travelling to or from, an existing or proposed place of public worship, child care centre or school.
3. A member of the public might comment on the effect the grant of the application would have on the amenity or character of the locality to which it relates.

(2) The commission may disregard comments on subjects that lie beyond a scope indicated in the commission's guidelines.

*Examples of subsection (2)—*

1. The commission's guidelines might exclude comments based on the morality of gambling or the commentator's personal views about gambling.
2. The commission's guidelines might exclude comments of a kind that might be more appropriately considered and dealt with under the *Liquor Act 1992*.
3. The commission's guidelines might exclude commentary of a statistical nature about the adverse effects of gambling in locations unrelated to the location to which the application relates.

(3) Comments may be made individually or collectively by a group of members of the public.

(4) In this section—

**“member of the public”** means an adult individual, corporation or other organisation, that in the chief executive's opinion—

- (a) has a proper interest in the locality concerned; and
- (b) is likely to be affected by the grant of the application.

### **Procedure on receipt of community comments**

**55E.(1)** The chief executive must give to the applicant written notice of all community comments properly made on an application advertised under section 55C.

**(2)** The notice—

- (a) must include a copy of the comments; and
- (b) must be given to the applicant within 14 days after the last day for filing comments as specified in the relevant notice under section 55C(2).

### **Chief executive's power to invite representations**

**55F.** The chief executive may invite representations on an application of significant community impact from—

- (a) the local government for the area in which the premises for which the licence is sought are situated; and
- (b) from any other entity that has, in the chief executive's opinion, a proper interest in the matter.

*Example of paragraph (b)—*

The chief executive might invite representations on the application from the local Member of the Legislative Assembly.

### **Waiver or variation of requirement of this division**

**55G.** The chief executive may waive or vary a requirement under this division if the chief executive is satisfied compliance with the requirement is not necessary or the requirement may be relaxed—

- (a) because the application does not involve a significant change to the licensed premises or the nature or extent of the gaming carried on from the licensed premises; or
- (b) because of the remote location of the premises; or

- (c) because the purpose of the requirement has been, or can be, achieved by other means; or
- (d) because of other special circumstances.

### *Division 3—Applications for gaming machine licences*

#### **Application for gaming machine licences**

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

- (a) a body corporate that holds a club liquor licence; or
- (b) the holder of a general liquor licence; or
- (c) the holder of a prescribed liquor licence; or
- (d) a body corporate that has applied to become the holder of—
  - (i) a general liquor licence; or
  - (ii) a club liquor licence; or
- (e) an individual who has applied to become the holder of a general liquor licence; or
- (f) a subsidiary operator, other than a subsidiary operator that is a non-proprietary club.

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

- (a) if the application is made by an applicant mentioned in subsection (1)(a), (b) or (c)—premises specified in the applicant's liquor licence; or
- (b) if the application is made by an applicant mentioned in subsection (1)(d) or (e)—premises specified in the applicant's application for a liquor licence.
- (c) if the application is made by an applicant mentioned in subsection (1)(f)—the part of special facility premises for which the applicant is a subsidiary operator.

**(3)** An application for a gaming machine licence made by a body corporate that holds, or has applied to become the holder of, a club liquor

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licence may relate to 2 or more premises.

(4) Except as provided under subsection (3), an application for a gaming machine licence may only relate to single premises.

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

- (a) is to be made in the approved form; and
- (b) for an application by an individual—must be signed by the applicant; and
- (c) for an application by a body corporate—must be signed in the appropriate way; and
- (d) is to state the full name, address and date of birth—
  - (i) in the case of an application by an individual—of the applicant; or
  - (ii) in the case of an application by a body corporate—of the secretary and each executive officer of the body corporate; and
- (e) in the case of an application by a body corporate—is to be accompanied by—
  - (i) a copy of the certificate of incorporation of the body corporate; and
  - (ii) a copy of the memorandum and articles of association, rules, constitution or other incorporating documents of the body corporate in force at the time of making the application certified as a true copy by the secretary of the body corporate or other person properly authorised in that behalf by the body corporate; and
  - (iii) unless the body corporate is a company that has only 1 director—a copy of the resolution or minute of the proceedings of the governing body of the body corporate by which approval was given to the making of the application, certified as a true copy by the person certifying the copy of the matters referred to in subparagraph (ii); and
  - (iv) a copy of the last audited balance sheet or statement of the financial affairs of the body corporate; and

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- (f) in the case of an application by a club—is also to be accompanied by—
  - (i) a statement detailing the number of members in each class of membership of the club; and
  - (ii) a statement detailing the hours and days when the club’s premises are open for the sale of liquor; and
  - (iii) a statutory declaration by the principal executive officer of the club that the matters referred to in paragraph (e)(ii) or any other applicable rules or by-laws of the club—
    - (A) have been complied with in making the application; and
    - (B) do not prohibit the playing of gaming machines on the premises to which the application relates; and
- (g) is to be accompanied by—
  - (i) if the application is made by an applicant mentioned in subsection (1)(a), (b), (c) or (f)—evidence, satisfactory to the chief executive, of the liquor licence held for the premises to which the application relates; or
  - (ii) if the application is made by an applicant mentioned in subsection (1)(d) or (e)—a copy of the application for a liquor licence made in relation to the premises to which the first application relates; and
- (h) is to be accompanied by a plan of the premises to which the application relates indicating the proposed locations on the premises where it is intended to install gaming machines; and
- (i) is to specify full particulars of the ownership and any intended ownership of the premises; and
- (j) is to specify—
  - (i) the number of gaming machines for which the licence is sought; and
  - (ii) if the application relates to 2 or more premises—the number of gaming machines sought for each of the premises; and
- (ja) is to specify—

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- (i) the hours of gaming for which the licence is sought; and
- (ii) if the application relates to 2 or more premises—the hours of gaming sought for each of the premises; and
- (k) is to be accompanied by an affidavit under section 92; and
- (l) is to contain or be accompanied by such other information, records, reports, documents and writings relating to the application and applicant as are determined by the chief executive; and
- (m) is to be forwarded to or lodged with the chief executive; and
- (n) is to be accompanied by the fee prescribed.

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

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

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

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

**Recommendation by chief executive about application for gaming machine licence**

**57.(1)** The chief executive must—

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

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

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

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

- (a) the suitability of the premises to which the application relates (the “**subject premises**”) for the installation and use of gaming machines, having regard to the size and layout of, and facilities on, the premises; and
- (b) if the applicant is an individual—the financial stability, general reputation and character of the applicant; and
- (c) if the applicant is a body corporate—
  - (i) the financial stability and business reputation of the body corporate; and
  - (ii) the general reputation and character of the secretary and each executive officer of the body corporate; and
- (d) the suitability of the applicant to be a licensee; and
- (e) if a person is stated in an affidavit under section 92<sup>38</sup> as being a

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<sup>38</sup> Section 92 (Disclosure of influential or benefiting parties)



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person who satisfies a description mentioned in subsection (4)(a) or (b) of that section—the suitability of the person to be an associate of the applicant; and

- (f) if the chief executive considers it appropriate—the suitability of any other associate of the applicant to be an associate of the applicant.

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

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

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

- (a) by written notice, advise the applicant accordingly; and
- (b) return the plan to the applicant; and
- (c) either—
  - (i) ask the applicant to amend, or further amend, and resubmit the plan within the time stated in the notice; or
  - (ii) inform the applicant that the chief executive proposes to recommend that a gaming machine licence be refused on the ground that gaming machines can not be appropriately located in the subject premises.

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

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

- (a) for an application by an individual—
  - (i) the applicant is not 18; or
  - (ii) the applicant’s fingerprints have not been taken under subsection (4) because of the applicant’s failure to agree to

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the action being taken; or

- (b) for an application by a body corporate—the secretary or an executive officer of the body corporate is not 18; or
- (ba) the grant of the licence would be contrary to a guideline issued by the commission under section 17; or
- (c) the chief executive considers the installation and use of gaming machines on the subject premises is likely to affect adversely—
  - (i) the nature or character of the premises; or
  - (ii) the general use of the premises or the enjoyment of persons using the premises; or
  - (iii) the public interest; or
- (d) the applicant fails to comply with a request of the chief executive under subsection (6)(c) without a reasonable excuse.

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

**(10)** If the chief executive recommends the grant of a gaming machine licence, the chief executive must advise the commission on—

- (a) the number of gaming machines the chief executive considers are appropriate for the subject premises, or each of the subject premises; and
- (b) the hours of gaming the chief executive considers are appropriate for the subject premises, or each of the subject premises.<sup>39</sup>

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

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

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<sup>39</sup> Section 60 sets out the matters to which the chief executive must, or may, have regard in giving advice for section 57(10).

appropriate, subsection (6), and may take the action mentioned in subsection (4), as if the chief executive were dealing with the application for making a recommendation under this section.

### **Decision on application for gaming machine licence**

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

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

- (a) any supporting material for the application; and
- (b) any relevant community comments on the application; and
- (c) any representations made in response to an invitation under section 55F.

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

- (a) the applicant, without a reasonable excuse, fails to comply with—
  - (i) a requirement of the chief executive under section 57(2)(b); or
  - (ii) a requirement of the commission under subsection (1); or
- (b) an associate of the applicant, without a reasonable excuse, fails to comply with—
  - (i) a requirement of the chief executive under section 57(2)(b); or
  - (ii) a requirement of the commission under subsection (1).

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

- (a) that the club, including a voluntary association of persons from which it was formed—
  - (i) has not been operating for at least 2 years before the application was made; or

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

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- (j) that the club is being, or may be, used as a device for individual gain or commercial gain by a person other than the club; or
- (k) that the grant of the licence would not be in the public interest.

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

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

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

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

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

- (a) the plan of the premises that accompanied the application for the licence; or
- (b) the plan mentioned in paragraph (a), as amended and resubmitted, or as last amended and resubmitted, under section 57(6).

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

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

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

(11) In this section—

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

### **Number of gaming machines and hours of gaming to be fixed on grant of gaming licence**

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

(2) The commission must—

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

(3) If the number of gaming machines and the hours of gaming fixed for premises are as sought in the application, the chief executive must immediately give written notice of the decision to the applicant.

(4) If the number of gaming machines and the hours of gaming fixed for premises are not as sought in the application, the chief executive must immediately give the applicant an information notice for the decision.

### **Basis on which number of gaming machines to be installed in premises and hours of gaming are to be decided**

**60.(1)** This section deals with the basis on which—

- (a) the chief executive is to give advice on the number of gaming machines to be installed in, or the hours of gaming for,

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premises;<sup>40</sup> and

- (b) the commission is to decide the number of gaming machines to be installed in, or the hours of gaming for, premises.<sup>41</sup>

**(2)** The chief executive and the commission must have regard to—

- (a) the number of gaming machines, and the hours of gaming, sought in the application for the gaming machine licence; and
- (b) any supporting material for the application; and
- (c) any relevant community comments on the application; and
- (d) any relevant representations made to the commission on the application in response to an invitation under section 55F; and
- (e) the size and layout of, and facilities on, the premises; and

*Example for paragraph (e)—*

The chief executive and the commission must have regard to whether automatic teller machines are installed on the premises and, if so, the proximity of the gaming machine areas to automatic teller machines.

- (f) the size and layout of the proposed gaming machine areas for the premises.

**(3)** The chief executive and the commission may also have regard to—

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

**(4)** If the gaming machine licence is to relate to single premises only, the

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<sup>40</sup> See section 57(10) (Recommendation by chief executive about application for gaming machine licence).

<sup>41</sup> See section 59.

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number of gaming machines recommended or fixed must not be greater than—

- (a) the number sought in the application; or
  - (b) the maximum number prescribed under a regulation for the category of licensed premises to which the premises will belong.
- (5) If the gaming machine licence is to relate to 2 or more premises—
- (a) the number of gaming machines recommended or fixed for particular premises must not be greater than the number sought in the application for the premises; and
  - (b) the total number of gaming machines recommended or fixed for both or all the premises must not be greater than the maximum number prescribed under a regulation for category 2 licensed premises.
- (6) For subsection (5)—
- (a) a gaming machine licence is taken to relate to 2 or more premises if the licensee operates gaming machines on premises in another State or Territory; and
  - (b) in working out whether a limit fixed under subsection (5)(b) has been exceeded, gaming machines operated by the licensee in another State or Territory are to be brought into account as if they were gaming machines installed in licensed premises in Queensland.

*Division 4—Application for additional licensed premises***Application for additional licensed premises**

**61.(1)** A category 2 licensee may apply for approval of premises, additional to its existing licensed premises, as premises to which the licensee's gaming machine licence relates.

- (2) The application for approval may be made only for—
- (a) premises to which a club liquor licence held by the applicant relates; or



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

**(3)** The application for approval must—

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

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

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

**(5)** For subsection (3)(g)(i), the required material for the application is—

- (a) a copy of the resolution or minute of the proceedings of the governing body of the applicant by which approval was given to the making of the application, certified as a true copy by the secretary of the applicant or another person authorised to certify by the applicant; and

- (b) a statement stating—
  - (i) the number of members in each class of membership of the applicant; and
  - (ii) the hours and days when the additional premises are, or are intended to be, open for the sale of liquor; and
- (c) a statutory declaration by the principal executive officer of the applicant that the rules or by-laws of the applicant—
  - (i) have been complied with in making the application; and
  - (ii) do not prohibit the playing of gaming machines on the additional premises; and
- (d) one of the following—
  - (i) evidence, satisfactory to the chief executive, that the applicant is the holder of a club liquor licence for the additional premises;
  - (ii) a copy of an application for a club liquor licence for the additional premises made by the applicant; and
- (e) a plan of the additional premises showing the proposed locations for gaming machines intended to be installed on the premises; and
- (f) an affidavit under section 92;<sup>42</sup> and
- (g) any other documents the chief executive considers necessary and reasonable to enable the application to be decided.

### **Recommendation by chief executive about additional premises application**

**62.(1)** The chief executive must—

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

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<sup>42</sup> Section 92 (Disclosure of influential or benefiting parties)

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or refused.

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

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

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

- (a) the suitability of the additional premises for the installation and use of gaming machines, having regard to the size and layout of, and facilities on, the premises; and
- (b) the financial stability and business reputation of the applicant; and
- (c) the general reputation and character of the secretary and each executive officer of the applicant; and
- (d) if a person is stated in an affidavit under section 92<sup>43</sup> as being a person who satisfies a description mentioned in subsection (4)(a) or (b) of that section—the suitability of the person to be an associate of the applicant; and
- (e) if the chief executive considers it appropriate—the suitability of any other associate of the applicant to be an associate of the applicant.

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

- (a) by written notice, advise the applicant accordingly; and

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<sup>43</sup> Section 92 (Disclosure of influential or benefiting parties)

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

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

- (a) any supporting material for the application; and
- (b) any relevant community comments on the application.

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

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

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

**(8)** If the chief executive recommends that approval of the additional premises be given, the chief executive must advise the commission on—

- (a) the number of gaming machines the chief executive considers are appropriate for the premises; and
- (b) the hours of gaming the chief executive considers are appropriate for the premises.

**(9)** For giving advice for subsection (8), the chief executive—

- (a) must have regard to the number of gaming machines, and the hours of gaming, sought in the application for the additional premises; and
- (b) must have regard to any supporting materials for the application; and

- (c) must have regard to any relevant community comments on the application; and
- (d) may have regard to the matters, in relation to the additional premises, to which the chief executive is authorised to have regard in giving corresponding advice for an application for a gaming machine licence.<sup>44</sup>

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

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

### **Decision on additional premises application**

**63.(1)** The commission may, in relation to an additional premises application, approve or refuse to approve the additional premises as premises to which the applicant's gaming machine licence relates.

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

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

- (a) must have regard to any recommendation of the chief executive about the application; and
- (b) must have regard to any supporting material for the application; and
- (ba) must have regard to any relevant community comments on the

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<sup>44</sup> See section 60(3) (Basis on which number of gaming machines to be installed in premises and hours of gaming are to be decided).

application; and

- (c) may have regard to the benefits to be offered to members of the applicant at the additional premises and, in particular, whether the benefits are distinct in nature to the benefits offered to the members at the applicant's existing licensed premises (the "**existing premises**"); and
- (d) may have regard to any other issues the commission considers relevant.

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

- (a) the additional premises are near the existing premises; and
- (b) the commission is satisfied that—
  - (i) it is in the best interests of the applicant's members that the approval be given; and
  - (ii) the giving of the approval is not contrary to the public interest.

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

- (a) the applicant, without a reasonable excuse, fails to comply with—
  - (i) a requirement of the chief executive under section 62(2)(b); or
  - (ii) a requirement of the commission under subsection (2); or
- (b) an associate of the applicant, without a reasonable excuse, fails to comply with—
  - (i) a requirement of the chief executive under section 62(2)(b); or
  - (ii) a requirement of the commission under subsection (2).

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

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

**Fixing number of gaming machines and hours of gaming for additional premises**

**64.(1)** This section applies if the commission decides to approve additional premises as premises to which the applicant's gaming machine licence (the "**existing licence**") relates.

**(2)** The commission must—

- (a) fix the number of gaming machines that may be installed on the additional premises; and
- (b) fix the hours of gaming for the additional premises.

**(3)** In fixing the number of gaming machines, and the hours of gaming for additional premises, the commission—

- (a) must have regard to the number of gaming machines, and the hours of gaming, sought in the additional premises application; and
- (b) must have regard to any supporting materials for the application; and
- (c) must have regard to any relevant community comments on the application; and
- (d) may have regard to the matters, in relation to the additional premises, to which the commission is authorised to have regard in making a corresponding decision on an application for a gaming machine licence.<sup>45</sup>

**(4)** The number of gaming machines fixed under subsection (2)—

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

**(5)** If the number of gaming machines and the hours of gaming fixed for

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<sup>45</sup> See section 60(3) (Basis on which number of gaming machines to be installed in premises and hours of gaming are to be decided).

the additional premises are as sought in the additional premises application, the chief executive must immediately give written notice of the decision to the applicant.

(6) If the number of gaming machines and the hours of gaming fixed for the additional premises are not as sought in the additional premises application, the chief executive must immediately give the applicant an information notice for the decision.

### **Application of gaming machine licence to additional premises**

**65.(1)** This section applies if the commission decides to approve additional premises as premises to which the applicant's existing licence relates.

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

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

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

- (a) the gaming machine licence relates to the additional premises for the number of gaming machines decided by the commission for the premises; and
- (b) the gaming machine areas for the additional premises are the locations on the premises shown on—
  - (i) the plan of the additional premises that accompanied the additional premises application; or
  - (ii) the plan mentioned in subparagraph (i), as amended and resubmitted, or as last amended and resubmitted, under section 62(4); and
- (c) the gaming machine licence continues to have effect in relation to the existing premises in the way the licence had effect in relation to the premises immediately before the action was taken.



***Division 5—Change of circumstance*****Changes in circumstances of applicants for gaming machine licences and licensees generally**

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

Maximum penalty—100 penalty units.

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

Maximum penalty—100 penalty units.

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

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

**Changes in circumstances of category 2 licensees**

**67.(1)** This section applies to a category 2 licensee, in relation to the

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category 2 licensed premises, if—

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

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

Maximum penalty—40 penalty units.

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

- (a) the time the licensee became the licensee of the category 2 licensed premises; or
- (b) if appropriate, the time the gaming machine licence held by the licensee for the premises was renewed, or last renewed.

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

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

***Division 6—Gaming machine licences generally*****Issue of gaming machine licences generally**

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

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

- (a) the name of the licensee;
- (b) the location of the premises, or each of the premises, to which the licence relates;
- (c) the expiry date of the licence;
- (d) any conditions of the licence imposed under section 73(1)(b).

**Issue of amalgamated gaming machine licences to clubs**

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

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

**(3)** The amalgamated licence—

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

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

- (a) the name of the licensee;
- (b) the location of each of the premises to which the licence relates;
- (c) the date of issue of the licence;
- (d) the expiry date of the licence;

(e) any conditions of the licence (other than conditions applying because of section 73(1)(a)).

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

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

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

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

Maximum penalty—40 penalty units.

(9) In this section—

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

### **Gaming machine licences to be displayed**

**70.(1)** If a licensee's gaming machine licence relates to single premises only, the licensee must display the licensee's licence in a conspicuous position on the licensed premises in question unless the licence at any material time is in the possession of the chief executive.

Maximum penalty—40 penalty units.

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

Maximum penalty—40 penalty units.

### **Issue of copy or replacement gaming machine licences**

**71.(1)** If the chief executive is satisfied that a gaming machine licence has been damaged, lost or destroyed, the chief executive, upon payment of the fee prescribed, may issue to the licensee a copy of the gaming machine

licence.

(2) If the chief executive is satisfied the name of a licensee has been changed, the chief executive must issue to the licensee a fresh licence, stating the licensee's current name, to replace the licence (the "**affected licence**") previously issued to the licensee.

(3) However, the chief executive is required to issue a licence to a licensee under subsection (2) only if—

- (a) the fee prescribed under a regulation for the issue of the licence has been paid to the chief executive; and
- (b) the licensee's affected licence has been returned to the chief executive.

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

### **Term of gaming machine licences**

**72.(1)** Subject to this Act, a gaming machine licence remains in force for 5 years from the date of issue of the licence.

(2) A gaming machine licence may be renewed.

### **Conditions of gaming machine licences**

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

- (a) such conditions as are prescribed; and
- (b) such other conditions (including any variation of the conditions made under section 74) as the commission may impose in the public interest or for the proper conduct of gaming at the time of granting the licence or under section 74.

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

Maximum penalty—200 penalty units.

**Imposition or variation of conditions**

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

- (a) the imposition of conditions or further conditions on the licence; or
- (b) a variation to the conditions imposed on the licence under section 73(1)(b) or paragraph (a) of this subsection;

is warranted, the commission may impose the conditions or further conditions or vary the conditions.

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

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

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

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

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

**Payment and recovery of amounts**

**75.(1)** All amounts received by the chief executive under conditions referred to in section 73 must be paid into the consolidated fund.

**(2)** The chief executive, for any reason that the chief executive considers is sufficient, may forgive or refund any penalty payable under conditions referred to in section 73.

**(3)** All amounts payable by a licensee under conditions referred to in section 73 that remain unpaid may be recovered as a debt payable by the licensee to the Crown.

**(4)** The chief executive, instead of proceeding with or continuing an

action under subsection (3), may accept in full payment of any debt payable an amount that is less than the amount payable or remaining unpaid where—

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

### **Renewal and continuance of gaming machine licences**

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

**(2)** Application under subsection (1)—

- (a) is to be in the approved form; and
- (b) is to be accompanied by the fee prescribed; and
- (c) is to be made, unless the chief executive otherwise allows, at least 1 month before the expiration of the licence; and
- (d) in the case of an application by a body corporate—is to be accompanied by a list of the names, addresses and dates of birth of—
  - (i) the secretary of the body corporate; and
  - (ii) the executive officers of the body corporate; and
  - (iii) all other persons who have been the secretary or an executive officer of the body corporate since the licence was granted or last renewed; and
- (e) is to be accompanied by an affidavit under section 92.

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

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

**(5)** If a licensee complies with this section, the chief executive must

renew the licence for 5 years starting on—

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

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

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

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

### **Gaming machine licences can not be transferred**

77. A gaming machine licence can not be transferred to another person or to other premises.

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

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

- (2) The chief executive may issue the certificate only if—
  - (a) the premises for which the application under the *Liquor Act 1992* was made are not licensed premises under this Act; or
  - (b) if the premises for which the application was made are licensed premises under this Act—
    - (i) the commission is prepared to grant a gaming machine licence to the applicant; and



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- (ii) satisfactory arrangements have been made for payment of any amounts payable by the current licensee under conditions mentioned in section 73 or under part 9.

**(3)** If a person—

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

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

### **Directions to licensees about authorised gaming machines**

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

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

- (a) the game that may be played on the machine is not an approved game; or
- (b) if the game that may be played on the machine is an approved game—the chief executive reasonably believes subsection (3) applies to the machine.

**(3)** This subsection applies for subsection (2)(b) if—

- (a) the machine malfunctions when it is being used; and
- (b) the making of the proposed alteration will stop the machine malfunctioning; and
- (c) without the proposed alteration being made, the continued use of

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the machine may compromise proper standards of integrity affecting gaming or adversely affect the public interest in some other way.

(4) A direction must—

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

(5) A licensee to whom a direction is given must comply with the direction, unless the licensee has a reasonable excuse.

Maximum penalty for subsection (5)—200 penalty units.

***Division 7—Increase of approved number of gaming machines***

**Application to increase approved number of gaming machines**

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

(2) An application must—

- (a) be in the approved form; and
- (b) be given to the chief executive; and
- (c) be signed in the same way an application for a gaming machine licence is required to be signed;<sup>46</sup> and
- (d) if the licensee's gaming machine licence relates to 2 or more premises—state the premises to which the application relates; and
- (e) state the number of gaming machines sought under the increase; and
- (f) state the approved number of gaming machines that would apply to the licensed premises if the increase were to be approved; and
- (g) if appropriate, be accompanied by an application under section 91;

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<sup>46</sup> See section 56(5)(b) and (c) and (7).

and

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

### **Recommendation by chief executive about increase application**

**82.(1)** The chief executive must—

- (a) consider an increase application received by the chief executive; and
- (b) after considering the application—make a recommendation to the commission about the application.<sup>47</sup>

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

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

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

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

**(5)** The chief executive is not required to make a recommendation about an increase application under this section if the commission has delegated its powers under section 83 in relation to the application to the chief executive.

### **Decision on increase application**

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

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<sup>47</sup> Section 84 sets out matters to which the chief executive must, or may, have regard in making a recommendation about an increase application.

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

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

(3) In making its decision, the commission must have regard to any recommendation of the chief executive about the application.<sup>48</sup>

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

- (a) a requirement of the chief executive under section 82(3); or
- (b) a requirement of the commission under subsection (2).

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

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

(7) If the approved number of gaming machines for licensed premises has been fixed (or increased or decreased) within the last 12 months, the commission may only approve an increase in the approved number of gaming machines if there are exceptional reasons for the increase.

**Matters to be taken into account for increase application**

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

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

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<sup>48</sup> Section 84 sets out other matters to which the commission must, or may, have regard in deciding an increase application.

- (3) The commission or the chief executive must have regard to—
- (a) the increased number of gaming machines sought in the application; and
  - (b) any supporting material for the application; and
  - (c) any relevant community comments on the application.
- (4) The commission or chief executive also may have regard to—
- (a) the liquor consumption on the premises to which the application relates; and
  - (b) the monthly taxable metered win of gaming machines currently operated on the premises; and
  - (c) the hours and days when the premises are open for the sale of liquor; and
  - (d) the size and layout of, and facilities on, the premises, together with any proposed changes to, or relocation of, the gaming machine areas of the premises; and
  - (e) any other matters the commission or chief executive considers relevant.

### **Fixing increase number of gaming machines**

**85.(1)** This section applies for the giving of an approval by the commission under section 83(1) for an increase in the approved number of gaming machines for licensed premises of a licensee.

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

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

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

### *Division 8—Increase of approved hours of gaming*

#### **Application to increase approved hours of gaming**

**85A.(1)** A licensee may apply to have the approved hours of gaming for licensed premises of the licensee increased.

(2) A proposed change to the approved hours of gaming for licensed premises is taken to be an increase if the change would allow the conduct of gaming on the licensed premises at a time when gaming was previously unlawful (even though the change might reduce aggregate hours of gaming or leave the aggregate unchanged).

(3) An application must—

- (a) be in the approved form; and
- (b) be given to the chief executive; and
- (c) be signed in the same way as an application for a gaming machine licence is required to be signed;<sup>49</sup> and
- (d) if the licensee's gaming machine licence relates to 2 or more premises—state the premises to which the application relates; and
- (e) state the hours of gaming for which approval is sought.

#### **Recommendation by chief executive about increase application**

**85B.(1)** The chief executive must—

- (a) consider an increase application received by the chief executive; and

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<sup>49</sup> See section 56(5)(b) and (c) and (7).

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(b) after considering the application—make a recommendation to the commission about the application.<sup>50</sup>

(2) The recommendation must be a recommendation that—

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

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

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

(5) The chief executive is not required to make a recommendation about an increase application under this section if the commission has delegated its powers under section 85C in relation to the application to the chief executive.

**Decision on increase application**

**85C.(1)** The commission may, in relation to an increase application—

- (a) approve the hours of gaming sought by the applicant; or
- (b) approve an increase that differs from the increase sought by the applicant; or
- (c) refuse to approve an increase to the hours of gaming for the licensed premises.

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

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<sup>50</sup> Section 85D sets out matters to which the chief executive must, or may, have regard in making a recommendation about an increase application.

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is necessary and reasonable to help the commission make the decision.

(3) In making its decision, the commission must have regard to any recommendation of the chief executive about the application.<sup>51</sup>

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

- (a) a requirement of the chief executive under section 85B(3); or
- (b) a requirement of the commission under subsection (2).

(5) If the commission approves an increase as sought by the licensee, the chief executive must immediately give written notice of the decision to the licensee.

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

**Matters to be taken into account for increase application**

**85D.(1)** This section applies to the chief executive in making a recommendation to the commission about an increase application.

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

(3) The chief executive and the commission must have regard to—

- (a) the increase in approved hours of gaming sought in the application; and
- (b) any supporting material for the application; and
- (c) any relevant community comments on the application.

(4) The chief executive and the commission also may have regard to—

- (a) the hours and days when the licensed premises are open for the sale of liquor; and

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<sup>51</sup> Section 85D sets out other matters to which the commission must, or may, have regard in deciding an increase application.



- (b) any other matters the chief executive or the commission considers relevant.

### ***Division 9—Decrease of approved number of gaming machines***

#### **Proposals to decrease approved number of gaming machines**

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

**(2)** An approved authority may request that the approved number of gaming machines for licensed premises of a licensee be decreased.

**(3)** An inspector may make a report—

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

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

- (a) be in writing; and
- (b) be given to the chief executive; and
- (c) state, by reference to a number, the decrease applied for, requested or recommended; and
- (d) state the approved number of gaming machines that would apply to the licensed premises if the decrease were to be approved; and
- (e) for an application—if appropriate, be accompanied by an application under section 91.

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

- (a) a general change of conditions in the neighbourhood in which the licensee's licensed premises are situated; or
- (b) a change in the licensee's circumstances; or

- (c) a change in any of the matters mentioned in section 60(4)<sup>52</sup> relating to the licensee or licensee's licensed premises.

### **Recommendation by chief executive about decrease proposal**

**87.(1)** The chief executive must—

- (a) consider a decrease proposal received by the chief executive; and
- (b) after considering the proposal—make a recommendation to the commission about the proposal.<sup>53</sup>

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

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

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

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

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

**(5)** If the commission has delegated its powers under section 88 in

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<sup>52</sup> Section 60 (Basis on which number of gaming machines to be installed in premises and hours of gaming are to be decided)

<sup>53</sup> Section 89 sets out the matters to which the chief executive must, or may, have regard in making a recommendation about a decrease proposal.

relation to a decrease proposal to the chief executive, the chief executive—

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

### **Decision on decrease proposal**

**88.(1)** The commission may, in relation to a decrease proposal—

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

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

- (a) any recommendation of the chief executive about the proposal; and
- (b) any submission accompanying the recommendation.<sup>54</sup>

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

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

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

**(5)** If the commission approves a decrease in the approved number of gaming machines for licensed premises of a licensee, the chief executive must approve the way in which the gaming machines subject to the decrease may be disposed of.

**(6)** An approval under subsection (5) may provide for the disposal of the

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<sup>54</sup> Section 89 sets out other matters to which the commission must, or may, have regard in deciding a decrease proposal.

gaming machines either—

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

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

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

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

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

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

### **Matters to be taken into account for decrease proposal**

**89.(1)** This section applies to the chief executive in making a recommendation to the commission about a decrease proposal.

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

(3) The commission or chief executive must have regard to the decrease

sought or recommended in the proposal.

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

- (a) the public interest;
- (b) whether or not there are any other licensed premises in close proximity to the licensed premises to which the decrease proposal relates (the “**subject premises**”);
- (c) the interests of persons using the subject premises;
- (d) if the licensee of the subject premises is a category 2 licensee—
  - (i) the interests of the members of the licensee; and
  - (ii) whether or not the members have indicated support for a decrease in the approved number of gaming machines for the premises.

### **Surrender or disposal of gaming machines on approval of decrease**

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

(2) The licensee must, within the required time, dispose of the number of gaming machines stated for the decrease.<sup>55</sup>

(3) For subsection (2), the required time for disposing of the gaming machines is—

- (a) the period ending 1 month after the licensee receives notice of the decision approving the decrease; or
- (b) if the chief executive extends, or further extends, the period for taking the action, by written notice given to the licensee in the period or extended period—the period as extended.

(5) The chief executive may give an extension for subsection (4)(b) only

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<sup>55</sup> This subsection does not deal with the issue of the disposal of gaming machines contrary to an approval. However, in this regard, see sections 265 (Manufacture, sale, supply, obtaining or possession of gaming machines) and 277 (Destruction of gaming machines).

if the chief executive considers it is appropriate to take the action in the circumstances of the particular case.

***Division 10—Decrease of approved hours of gaming***

**Proposals to decrease approved hours of gaming**

**90A.(1)** A licensee may apply to have the approved hours of gaming for licensed premises of the licensee decreased.

**(2)** An approved authority may request that the approved hours of gaming for licensed premises of a licensee be decreased.

**(3)** An inspector may make a report—

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

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

- (a) be in writing; and
- (b) be given to the chief executive; and
- (c) state the hours of gaming that would apply to the licensed premises if the decrease were to be approved.

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

- (a) a general change of conditions in the neighbourhood in which the licensee's licensed premises are situated; or
- (b) a change in the licensee's circumstances; or
- (c) a change in any of the matters to which the chief executive or the commission is authorised to have regard in fixing the hours of gaming for the licensed premises.<sup>56</sup>

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<sup>56</sup> See section 60(3) (Basis on which number of gaming machines to be installed in premises and hours of gaming are to be decided).

**Recommendation by chief executive about decrease proposal (hours of gaming)**

**90B.(1)** The chief executive must—

- (a) consider a decrease proposal (hours of gaming) received by the chief executive; and
- (b) after considering the proposal—make a recommendation to the commission about the proposal.<sup>57</sup>

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

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

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

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

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

**(5)** If the commission has delegated its powers under section 90C in relation to a decrease proposal (hours of gaming) to the chief executive, the chief executive—

- (a) is not required to make a recommendation about the proposal

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<sup>57</sup> Section 90D sets out the matters to which the chief executive must, or may, have regard in making a recommendation about a decrease proposal (hours of gaming).

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under this section; but

- (b) must take the action mentioned in subsection (3) as if the chief executive were dealing with the proposal for making a recommendation under this section.

**Decision on decrease proposal (hours of gaming)**

**90C.(1)** The commission may, in relation to a decrease proposal (hours of gaming)—

- (a) approve the proposal without modification; or
- (b) modify the proposal and approve the proposal as modified by the commission; or
- (c) refuse to approve the proposal.

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

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

**(3)** If the decrease proposal (hours of gaming) is an application, the commission—

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

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

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

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



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

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

**Matters to be taken into account for decrease proposal (hours of gaming)**

**90D.(1)** This section applies to the chief executive in making a recommendation to the commission about a decrease proposal (hours of gaming).

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

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

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

- (a) the public interest;
- (b) whether or not there are any other licensed premises in close proximity to the licensed premises to which the decrease proposal (hours of gaming) relates (the “**subject premises**”);
- (c) the interests of persons using the subject premises;
- (d) if the licensee of the subject premises is a category 2 licensee—
  - (i) the interest of the members of the licensee; and
  - (ii) whether or not the members have indicated support for a decrease in the approved hours of gaming for the premises.

***Division 11—Relocation of gaming machine areas*****Relocation of gaming machine areas**

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

Maximum penalty—40 penalty units.

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

**(3)** Where—

- (a)** the commission approves a decrease in the approved number of gaming machines for licensed premises; or
- (b)** the chief executive considers that it is necessary for the proper conduct of gaming that the gaming machine areas of licensed premises be relocated;

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

**(4)** The licensee must comply with the chief executive's direction.

Maximum penalty—200 penalty units.

**(5)** The chief executive may before—

- (a)** granting an approval under subsection (1); or
- (b)** giving a direction under subsection (3);

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

Maximum penalty—200 penalty units.

**(6)** The chief executive, having regard to—

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

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

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

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

*Division 12—Disclosure and investigations***Disclosure of influential or benefiting parties**

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

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

Maximum penalty—100 penalty units.

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

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

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

- (a) whether or not there is any person (other than, where the applicant or licensee is a body corporate, the secretary, an executive officer,

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a member or shareholder of the body corporate carrying out the duties or exercising the normal rights the person has as such secretary, executive officer, member or shareholder) who will by any lease, agreement or arrangement be able to influence any decision made—

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

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

- (b) whether or not there is any person other than the applicant or licensee who by any lease, agreement or arrangement may expect any benefit from the applicant or licensee in relation to the conduct of gaming by the applicant or licensee; and
- (c) if there are any persons able to influence as referred to in paragraph (a) or expect benefit as referred to in paragraph (b)—
  - (i) where any such person is an individual—the person's full name, address and date of birth; and
  - (ii) where any such person is a body corporate other than a club—the name of the body corporate and the full name, address and date of birth of the secretary and each executive officer of the body corporate; and
  - (iii) where any such person is a club or other voluntary association of persons—
    - (A) the name of the club or voluntary association of persons; and
    - (B) the full name, address and date of birth of the secretary and each executive officer of the club or voluntary association of persons; and
    - (C) particulars of any liquor licence held by the club or voluntary association of persons; and
    - (D) details of the objectives (if any) of the club or voluntary

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association of persons and whether or not the club is a non-proprietary club or the voluntary association of persons conducts its business in the same way as a non-proprietary club; and

(iv) full and correct particulars of the lease, agreement or arrangement; and

(d) in the case of the applicant or licensee being a body corporate other than a club—the names of all persons who are substantial shareholders of the body corporate under of the Corporations Law, section 708.

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

**Investigation of licensees and associates**

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

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

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

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

**Cessation or commencement of executive officer or secretary**

**94.** If an applicant under section 56 or a licensee is a body corporate, the body corporate must notify the chief executive in the form determined by the chief executive—

(a) that a person has ceased to be the secretary or an executive officer of the body corporate; and

(b) that a person has commenced as the secretary or an executive

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officer of the body corporate; and

- (c) the full name, address and date of birth of any person referred to in paragraph (b);

within 7 days of such cessation or commencement.

Maximum penalty—40 penalty units.

***Division 13—Surrender, suspension, cancellation etc.***

**Surrender of gaming machine licences**

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

**(2)** The notification is to be signed in the same way as that specified for an application made under section 56(5)(b) or (c).

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

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

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

**(5)** As soon as practicable after receiving the documents mentioned in subsection (1), the chief executive must, by written notice given to the licensee, approve the way in which the gaming machines may be disposed of.

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

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

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

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

(b) by the destruction of the machines.

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

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

(b) if the chief executive extends, or further extends, the period for the disposal, by written notice given to the licensee in the period or extended period—within the period as extended.<sup>58</sup>

Maximum penalty—200 penalty units.

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

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

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

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

(11) In this section—

**“clearance day”**, for the surrender of a gaming machine licence, means the day on which the chief executive becomes satisfied that the licensee has disposed of the gaming machines for the surrender.

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

(a) if paragraph (b) or (c) does not apply—the day (the **“set day”**) that is 3 months after the notification of surrender is given; or

(b) if a day of effect that is later than the set day is stated in the notification of surrender—the day stated in the notification; or

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<sup>58</sup> Section 95(8) does not deal with the issue of the disposal of privately acquired gaming machines contrary to an approval. However, in this regard, see sections 265 (Manufacture, sale, supply, obtaining or possession of gaming machines) and 277 (Destruction of gaming machines).

- (c) if, at the request of the licensee, the chief executive, by written notice, approves a day of effect that is earlier than the set day—the day approved by the chief executive.

### **Action affecting gaming machine licences based on action affecting liquor licences**

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

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

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

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

**(5)** In this section—

“**associated gaming licence**”, for a liquor licence, means a gaming machine licence for the premises, or a part of the premises, to which the liquor licence relates.

### **Cancellation or suspension of gaming machine licences and letters of censure**

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

- (a) the licensee—
- (i) ceases to use the licensed premises for the conduct of gaming; or
  - (ii) obtained the licence on false, erroneous or misleading



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- information; or
- (iii) acquires, installs, locates, relocates or uses any gaming machine on the licensed premises contrary to this Act; or
  - (iv) fails to comply with any provision of part 9; or
  - (v) fails to comply with any condition to which the licence is subject under section 73; or
  - (vi) fails to forward or lodge an affidavit in accordance with section 92(2); or
  - (vii) fails to take all reasonable steps to establish and maintain satisfactory controls, and administrative and accounting procedures, for the conduct of gaming in carrying on the licensee's operations; or
- (b) the licensee or an associate of the licensee—
- (i) is convicted of an offence against this Act; or
  - (ii) fails to discharge the licensee's or associate's financial commitments, becomes bankrupt or compounds with creditors or otherwise takes advantage of the laws in force for the time being relating to bankruptcy; or
  - (iii) is affected by control action under the Corporations Law; or
  - (iv) is convicted of an indictable offence, whether on indictment or summarily, punishable in the particular case by imprisonment for 1 year or more (irrespective of whether the offence is also punishable by a fine in addition, or as an alternative, to imprisonment); or
  - (v) is required to comply with any written direction given to the licensee or associate by the commission or chief executive, and fails to comply with the direction; or
  - (vi) is required under this Act to supply information or material to the commission, the chief executive or an inspector, and fails to supply the information or material or supplies information or material that to the knowledge of the licensee or associate is false, erroneous or misleading in a material particular; or

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- (vii) contravenes a provision of this Act (not being a provision a contravention of which is an offence against this Act, or a provision imposing a requirement of a kind mentioned in subparagraph (v) or (vi)); or
- (c) the chief executive—
  - (i) considers that the licensee has not made all reasonable efforts to comply with section 261; or
  - (ii) considers that the licensee has not made all reasonable efforts to enforce rules required to be enforced under section 237; or
  - (iii) considers that the licensee or an associate of the licensee is not a fit and proper person in respect of financial stability, general reputation, character or business reputation to be a licensee or to be an associate of the licensee; or
  - (iv) becomes aware of any information or matter that, had it been known when the application for the licence was being considered, the chief executive is of the opinion that the recommendation under section 57(1) would have been that the licence be refused; or
  - (v) if the licensee is a category 2 licensee—considers—
    - (A) that the licensee has ceased to be a non-proprietary club; or
    - (B) that the proceeds from the conduct of gaming are being applied in a way that does not promote the objectives of the licensee; or
    - (C) that the licensee has not been pursuing its objects or purposes in good faith; or
    - (D) that payments made under the licensee's objects are not in the best interests of the licensee's members; or
    - (E) that payments made for things purchased by the licensee are unreasonable; or
    - (F) that salaries, wages, allowances or benefits paid or payable by the licensee to the licensee's executive officers or employees are unreasonable; or

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- (G) that payments for services provided to the licensee are unreasonable or are on the basis of a percentage of the licensee's income, profits or earnings from the conduct of gaming or spending related to the conduct of gaming; or
- (H) that a matter mentioned in a paragraph of section 58(4)<sup>59</sup> (other than paragraph (a)) exists in relation to the licensee.

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

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

(4) Also, the chief executive may, by the notice to show cause—

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

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

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

(7) If the chief executive makes a requirement of the licensee under subsection (4)(a) about an indirectly interested person of the licensee, the

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<sup>59</sup> Section 58 (Decision on application for gaming machine licence)

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chief executive may, at the licensee's request, by written notice given to the licensee, designate the person to be an excluded interested person for the licensee.

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

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

**(9)** If a requirement is made of the licensee under subsection (4), the licensee must comply with the requirement, unless—

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

Maximum penalty—40 penalty units.

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

**(11)** Any person to whom a copy of the notice to show cause is given, or is required to be given, under this section may make such written submissions to the chief executive as the person thinks fit at any time not later than the date specified under subsection (5).

**(12)** The chief executive is to consider any answers given in reply to the notice to show cause and any submissions made under subsection (11) and, if the chief executive considers that—

- (a) satisfactory answers are given or submissions made in reply to or in respect of the notice, the chief executive is not to take any action or any further action in relation to the notice and, by written

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notice, is to advise the licensee accordingly; or

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

**(13)** If a direction given by the chief executive under subsection (12)(c)(i) is not complied with within the time specified in the notice, the chief executive may recommend to the commission that the gaming machine licence be cancelled or suspended.

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

**(15)** If the chief executive makes a recommendation to the commission, the chief executive must submit the notice to show cause and answers, any submissions made and such other information or material in the chief executive's possession as the chief executive considers is relevant to the recommendation.

**(16)** The commission, having regard to the recommendation of the chief executive, other matters referred to in subsection (15) and to such other information or material as the commission considers is relevant, may—

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

(17) If the commission gives a direction to the licensee under subsection (16)(c) and the licensee fails to comply with the direction within the time stated in the relevant notice, the commission may—

- (a) cancel the gaming machine licence; or
- (b) suspend the gaming machine licence for the period the commission considers appropriate.

(18) If, under subsection (16), the commission decides to take no action about a gaming machine licence, the chief executive must immediately give the licensee written notice of the decision.

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

(20) The cancellation or suspension of a licence under this section takes effect from the date of the issue of the notice under subsection (19) or from another date specified in the notice.

(21) Upon receipt of a notice of cancellation under subsection (19), the person to whom the notice is addressed must cause the licence to be delivered to the chief executive within 14 days.

Maximum penalty—40 penalty units.

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

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

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(b) reduce the period of suspension;  
imposed under subsection (16)(d) or (17).

(23) In the application of subsection (1)(c)(v)(H) to a category 2 licensee, a reference in a paragraph of section 58(4) to a club that is an applicant for a gaming machine licence is taken to be a reference to the licensee.

(24) In this section—

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

- (a) an approved financier with whom the licensee has entered into an agreement or arrangement relating to operations conducted by the licensee under the licensee’s gaming machine licence; or
- (b) a secured creditor of the licensee; or
- (c) for a category 2 licensee—a member of the licensee.

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

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

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

### **Immediate suspension of gaming machine licence**

**98.(1)** Where the commission, having regard to the advice of the chief executive, is of the opinion that any act, omission or other thing that constitutes a ground under section 97(1) is of such a serious nature that the integrity of gaming or the conduct of gaming is jeopardised or the public interest is adversely affected, the commission may suspend the gaming machine licence.

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

- (a) must immediately give the licensee written notice of, and the reasons for, the suspension; and

(b) is not to take any action under section 97(12)(a), (b), (c)(i) or (14), in respect of the licence without the approval of the commission.

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

(4) Without prejudice to a suspension under subsection (1), where the commission suspends a gaming machine licence under that subsection the chief executive is to take action under section 97 as if the chief executive had formed the opinion referred to in section 97(2) in respect of the act, omission or other thing that constitutes the ground referred to in subsection (1).

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

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

**99.(1)** This section applies if the amount (the “**required amount**”) a licensee is, under section 317(1),<sup>60</sup> required to ensure is received by the chief executive for a month is not received by the chief executive on or before the due date for payment of the amount.

(2) This section also applies if the amount of an instalment (also the “**required amount**”) a licensee is, because of a direction given to the licensee under section 317(2), required to ensure is received by the chief executive is not received by the chief executive on or before the due date for payment of the amount.

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

(4) The suspension—

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

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<sup>60</sup> Section 317 (Payment of taxes etc.)



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to the licensee with a notice to show cause (an **“associated show cause notice”**) issued to the licensee under section 97(2); and

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

(5) The associated show cause notice must be a notice for which the ground for cancellation or suspension on which the notice is based is the ground that the licensee has failed to comply with section 317, and the ground must relate to the same omission as the suspension under subsection (1) relates.

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

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

(8) In this section—

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

- (a) the day on or before which the amount is, under section 317(1), required to be received by the chief executive; or
- (b) if the chief executive, by written notice given to the licensee before the day mentioned in paragraph (a), fixes a later day—the later day fixed by the chief executive.

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

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

**“outstanding amount”**, for the required amount, means the difference between the required amount and any amount received under section 317(1) by the chief executive, on or before the due date for payment of the required amount.

### **Effect of suspension of licence**

**100.** The suspension of a gaming machine licence under section 96, 97(16) or (17) or 98(1) has the same effect as the cancellation of the licence but without prejudice to—

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

### **Notices to interested persons**

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

- (a) is required, under section 97(12)(a), not to take any action or any further action about a notice to show cause issued to a licensee under section 97(2); or
- (b) issues a letter of censure to a licensee under section 97(12)(b); or
- (c) gives directions to a licensee under section 97(12)(c); or
- (d) suspends a gaming machine licence under section 99(3).

**(2)** This section also applies if, under section 97(16), the commission—

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

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

- (a) cancels or suspends a gaming machine licence under section 97(17); or
- (b) suspends a gaming machine licence under section 98(1).

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(4) As soon as practicable after an event mentioned in subsection (1), (2) or (3) happens, the chief executive must give written notice of the event to each person to whom the chief executive gave a copy of the relevant notice to show cause under section 97(3).

(5) Also, the licensee must, within 7 days after receiving a show cause result notice for an event mentioned in subsection (1), (2) or (3), give a copy of the notice to each person to whom the licensee gave, or was required to give, a copy of the relevant notice to show cause because of a requirement under section 97(4).

Maximum penalty—40 penalty units.

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

(7) In this section—

**“show cause result notice”** means—

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

### **Gaming machines not to be played**

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

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

**Amounts payable under gaming machine licence that ceases to have effect**

**103.** The cancellation, surrender or non-renewal of a gaming machine licence does not affect—

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

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

**104.(1)** This section applies if a gaming machine licence—

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

**(3)** The chief executive must, by written notice given to the person who held the licence, immediately approve the way in which the gaming machines may be disposed of.

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

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

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

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

extended period—within the period as extended.<sup>61</sup>

Maximum penalty—200 penalty units.

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

### **Destruction of fingerprints**

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

### **Appointment of administrator instead of suspension**

**106.(1)** Without derogating from section 97 or 98, the commission may, in respect of a category 2 licensee, instead of suspending a gaming machine licence under section 97(16) or (17) or 98(1), appoint a person to administer the affairs of the licensee.

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

### **Expenses of administration**

**107.(1)** The expenses of and incidental to the administration of the affairs of a category 2 licensee by a person appointed under section 106 are payable by the licensee.

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

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<sup>61</sup> Section 104(5) does not deal with the issue of the disposal of privately acquired gaming machines contrary to an approval. However, in this regard, see sections 265 (Manufacture, sale, supply, obtaining or possession of gaming machines) and 277 (Destruction of gaming machines).

**Liability for losses incurred during administration**

**108.(1)** A person appointed by the commission to administer the affairs of a category 2 licensee is not liable for any loss incurred by the licensee during the person's term of office unless the loss was attributable to the person's—

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

**(2)** Neither the Crown nor the commission is liable for any loss incurred by a category 2 licensee during the term of office of a person appointed under section 106 to administer the affairs of the licensee, whether or not the person is liable.

**Special authorisation to conduct gaming**

**109.(1)** This section applies if—

- (a) a person holds licences under the *Liquor Act 1992* and this Act for the same premises; and
- (b) a person applies under the *Liquor Act 1992*, part 5, division 2 for authorisation to conduct the business of a licensee under that Act on the premises.

**(2)** The applicant must give a copy of the application to the chief executive.

**(3)** If a person (the “**substitute licensee**”) is authorised under the *Liquor Act 1992*, part 5, division 2 to conduct the business of a licensee under that Act on the premises,<sup>62</sup> the chief executive may grant a concurrent authorisation to the substitute licensee under this section.

**(4)** While an authorisation under this section remains in force, the substitute licensee—

- (a) is authorised to conduct gaming on the licensed premises as if the substitute licensee were the licensee under the gaming machine

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<sup>62</sup> See *Liquor Act 1992*, section 131A (Decision by chief executive on application to continue trading in certain circumstances).

licence; and

- (b) is subject to all the liabilities of the licensee under the gaming machine licence.

(5) An authorisation under this section is terminated if—

- (a) the chief executive gives written notice of termination to the substitute licensee; or
- (b) the authorisation under the *Liquor Act 1992* is revoked or comes to an end.

## **PART 4—LICENSING OF MONITORING OPERATORS AND DEALERS**

### *Division 1—Interpretation*

#### **References to particular licensed suppliers**

**110.** In this Act, a reference to a licensed supplier in association with a reference to a supplier’s licence is a reference to the licensed supplier who holds the supplier’s licence.

#### **References to particular suppliers’ licences**

**111.** In this Act, a reference to a supplier’s licence in association with a reference to a licensed supplier is a reference to the supplier’s licence held by the licensed supplier.

### *Division 2—Suitability of persons*

#### **Suitability of applicants for, and holders of, suppliers’ licences**

**112.(1)** This section applies to the chief executive in deciding whether—

- (a) an applicant (the “**involved body**”) for an operator’s licence, or a

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licensed monitoring operator (also the **“involved body”**), is a suitable person to hold an operator’s licence; or

- (b) an applicant (also the **“involved body”**) for a major dealer’s licence, or a licensed major dealer (also the **“involved body”**), is a suitable person to hold a major dealer’s licence; or
- (c) an applicant (also the **“involved body”**) for a secondary dealer’s licence, or a licensed secondary dealer (also the **“involved body”**), is a suitable person to hold a secondary dealer’s licence.

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

- (a) the involved body’s business reputation;
- (b) the involved body’s current financial position and financial background;
- (c) for the secretary and each executive officer of the involved body—
  - (i) the person’s character; and
  - (ii) the person’s current financial position and financial background;
- (d) the involved body’s general suitability to hold a supplier’s licence of the kind applied for, or held, by the involved body;
- (e) whether the involved body has, or has arranged, a satisfactory ownership, trust or corporate structure;
- (f) whether the involved body has, or is able to obtain, enough financial resources to ensure the financial viability of operations conducted under a supplier’s licence of the kind applied for, or held, by the involved body;
- (g) whether the involved body has, or is able to obtain, the services of persons with appropriate business ability, knowledge or experience to enable the involved body to successfully conduct operations under a supplier’s licence of the kind applied for, or held, by the involved body;
- (h) if the involved body has a business association with another entity—
  - (i) the entity’s character or business reputation; and



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

### **Suitability of associates**

**113.(1)** This section applies to the chief executive in deciding whether—

- (a) an associate of an applicant for an operator's licence, or of a licensed monitoring operator, is a suitable person to be associated with the monitoring operations of a licensed monitoring operator; or
- (b) an associate of an applicant for a major dealer's licence, or of a licensed major dealer, is a suitable person to be associated with the supply operations of a licensed major dealer; or
- (c) an associate of an applicant for a secondary dealer's licence, or of a licensed secondary dealer, is a suitable person to be associated with the supply operations of a licensed secondary dealer.

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

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

### **Other issues about suitability**

**114.** Sections 112 and 113 do not limit the issues the chief executive may have regard to in deciding a matter to which the section relates.

***Division 3—Applications for, and issue of, suppliers' licences*****Application for licence**

**115.(1)** An application for a supplier's licence may be made only by a body corporate.

**(2)** An application must—

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

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

- (a) a copy of the certificate of registration or incorporation as a body corporate of the applicant;
- (b) a copy of the memorandum and articles of association, rules, constitution or other incorporating documents of the applicant, in force when making the application;
- (c) a copy of the last audited balance sheet or statement of the financial affairs of the applicant;
- (d) a disclosure affidavit;<sup>63</sup>
- (e) the application fee prescribed under a regulation.

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

**Further information to support application**

**116.(1)** The chief executive may, by written notice given to an applicant or an associate of an applicant for a supplier's licence, require the applicant or associate to give the chief executive further information about the application within the reasonable time stated in the notice.

**(2)** A notice under subsection (1) must relate to information the chief

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<sup>63</sup> Section 182 (Disclosure affidavits about persons having influence or receiving benefits) deals with the requirements for disclosure affidavits.

executive considers reasonable for making a recommendation to the commission about the application.

### **Change in circumstances of applicant**

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

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

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

Maximum penalty—100 penalty units.

### **Fresh disclosure affidavit by applicant**

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

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

**(2)** Within 7 days after the change, the applicant must give a fresh disclosure affidavit to the chief executive.<sup>64</sup>

Maximum penalty—100 penalty units.

### **Consideration of application**

**119.** The chief executive must consider an application for a supplier's licence as soon as practicable after receiving the application.

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<sup>64</sup> Section 182 (Disclosure affidavits about persons having influence or receiving benefits) deals with the requirements for disclosure affidavits.

**Investigations about application**

**120.(1)** In considering an application for a supplier's licence, the chief executive must conduct the investigations the chief executive considers are necessary to help the chief executive decide—

- (a) whether the applicant is a suitable person to hold a supplier's licence of the kind applied for; and
- (b) if there is a disclosed associate for the applicant—whether the associate is a suitable person to be associated with the operations of a licensed supplier holding a supplier's licence of the kind applied for.

**(2)** Without limiting subsection (1), the chief executive may conduct the investigations the chief executive considers are necessary to help the chief executive decide whether a general associate of the applicant is a suitable person to be associated with the operations of a licensed supplier holding a supplier's licence of the kind applied for.

**Recommendation about application**

**121.(1)** After completing the consideration of an application for a supplier's licence, the chief executive must recommend to the commission the application be granted or refused.

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

- (a) the suitability of the applicant to hold a supplier's licence of the kind applied for; and
- (b) for a person who is a disclosed associate of the applicant—the suitability of the person to be associated with the operations of a licensed supplier holding a supplier's licence of the kind applied for.

**(3)** Also, if the chief executive considers it is appropriate, the chief executive may, in making a recommendation, have regard to the suitability of a general associate of the applicant to be associated with the operations of a licensed supplier holding a supplier's licence of the kind applied for.

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

hold a supplier's licence of the kind applied for.

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

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

(6) If the commission has delegated its powers under section 122 in relation to an application for a supplier's licence to the chief executive, the chief executive—

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

### **Decision about application**

**122.(1)** The commission may grant or refuse to grant an application for a supplier's licence.

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

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

(4) In making its decision, the commission—

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

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

grant is not contrary to the public interest.

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

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

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

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

### **Conditions of licences**

**123.(1)** A supplier's licence is issued on the conditions the commission considers necessary or desirable—

- (a) in the public interest; or
- (b) for the proper conduct of gaming; or
- (c) for the proper conduct of the licensed supplier's supply operations, including, for a licensed monitoring operator, its operations involving electronic monitoring systems.

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

### **Form of licence**

**124.(1)** A supplier's licence must be in the approved form.

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

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

### **Duration of licence**

**125.(1)** An operator's licence remains in force for 10 years from its date of issue.

**(2)** A dealer's licence remains in force for 5 years from its date of issue.

### **Provisional licences**

**126.(1)** The commission may grant to an applicant for a supplier's licence a provisional licence for the kind of licence applied for.

**(2)** However, the commission may grant a provisional licence only if the commission considers—

- (a) a decision about the applicant's application for a supplier's licence may not be made for some time; and
- (b) the conduct of gaming may be prejudiced or disadvantaged if the applicant is not granted the provisional licence; and
- (c) the issue of the provisional licence to the applicant will not prejudice or disadvantage gaming or the conduct of gaming.

**(3)** The commission may grant a provisional licence—

- (a) on conditions the commission considers necessary or desirable for the proper conduct of gaming; and
- (b) on other conditions the commission considers necessary or desirable in the public interest.

**(4)** If the commission grants a provisional licence to a person, the chief executive must immediately issue the licence to the person.

**(5)** A provisional licence must be in the approved form.

(6) A provisional licence issued to an applicant for a supplier's licence remains in force until—

- (a) a supplier's licence of the kind applied for is issued to the applicant; or
- (b) the commission decides to refuse to grant the application; or
- (c) the licence is surrendered or cancelled.

(7) While a provisional licence for a particular kind of supplier's licence is in force, it has the same effect, and this Act applies to the holder of the licence, as if the licence were a supplier's licence of that kind.

#### *Division 4—Dealings affecting suppliers' licences*

### **Changing conditions of licence**

**127.(1)** The commission may change the conditions of a supplier's licence if the commission considers it is necessary or desirable to make the change—

- (a) in the public interest; or
- (b) for the proper conduct of gaming; or
- (c) for the proper conduct of the licensed supplier's supply operations, including, for a licensed monitoring operator, its operations involving electronic monitoring systems.

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

(3) The change of the conditions—

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

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



**Recording change of conditions**

**128.(1)** A licensed supplier who receives an information notice under section 127(2) must return the supplier's licence to the chief executive within 14 days after receiving the notice, unless the licensed supplier has a reasonable excuse.

Maximum penalty—40 penalty units.

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

**Extension of licence**

**129.(1)** A licensed supplier may apply for an extension of the supplier's licence.

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

**Renewal of licence—application**

**130.(1)** A licensed supplier may apply for renewal of its supplier's licence.

**(2)** An application must—

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

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

- (a) a list of the names, addresses and dates of birth of—
  - (i) the secretary of the applicant; and
  - (ii) the executive officers of the applicant; and
  - (iii) all other persons who have been the secretary or an executive officer of the applicant since the licence was issued or last renewed;
- (b) a disclosure affidavit;<sup>65</sup>
- (c) the application fee prescribed under a regulation.

**Renewal of licence—decision**

**131.(1)** The chief executive must consider an application for renewal of a supplier's licence and renew, or refuse to renew, the licence.

**(2)** The chief executive must renew the licence if the licensed supplier complies with section 130 and pays the licence renewal fee prescribed under a regulation.

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

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<sup>65</sup> Section 182 (Disclosure affidavits about persons having influence or receiving benefits) deals with the requirements for disclosure affidavits.

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

(4) The renewal of a licence is for the standard licence period starting on—

- (a) the day after its last expiry; or
- (b) if the term of the licence has been extended—the day after the licence would have last expired apart from the extension.

(5) In this section—

**“standard licence period”** means—

- (a) for an operator’s licence—10 years; or
- (b) for a dealer’s licence—5 years.

### **Replacement of licence**

**132.(1)** A licensed supplier may apply to the chief executive for the replacement of its supplier’s licence if—

- (a) the licence is lost, stolen, destroyed or damaged; or
- (b) the licensee’s name changes.

(2) The application must be accompanied by—

- (a) the fee prescribed under a regulation for issuing a replacement licence; and
- (b) for a lost licence application based on damage or a name change application—the licensed supplier’s current licence.

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

- (a) replace the licence by issuing another supplier’s licence to the applicant with, for a name change application, the name of the licensed supplier changed to reflect the licensed supplier’s current name; or
- (b) refuse to replace the licence.

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

- (a) for a lost licence application—the chief executive is satisfied the licence—
  - (i) has been lost, stolen or destroyed; or
  - (ii) has been damaged in a way to require its replacement; or
- (b) for a name change application—the chief executive is satisfied the change of name has taken place.

(5) If, on a lost licence application, the chief executive refuses to replace the licence, the chief executive must immediately give the applicant an information notice for the decision.

(6) If, on a name change application, the chief executive refuses to replace the licence, the chief executive must immediately give the applicant a written notice stating the decision and the reason for the decision.

(7) In this section—

**“lost licence application”** means an application under this section made on a ground mentioned in subsection (1)(a).

**“name change application”** means an application under this section made on the ground mentioned in subsection (1)(b).

### **Licence not transferable**

**133.** A supplier’s licence is not transferable.

### **Surrender of licence**

**134.(1)** A licensed supplier may surrender its supplier’s licence by written notice given to the chief executive.

(2) The notice must—

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

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

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

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

(5) If the licensed supplier is a licensed monitoring operator, the licensed supplier must give a copy of the notice of surrender to—

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

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

*Division 5—Investigation of licensed suppliers and associates***Approving audit programs**

**135.(1)** The Minister may approve—

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

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

**Conducting investigations**

**136.(1)** The chief executive may investigate a licensed supplier to help the chief executive decide whether the licensed supplier is a suitable person to hold the supplier's licence.

(2) The chief executive may investigate an associate of a licensed supplier to help the chief executive decide whether the associate is a suitable person to be associated with the licensed supplier's supply operations.

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

- (a) the investigation is conducted under a suppliers audit program; or

- (b) the chief executive reasonably suspects the licensed supplier is not a suitable person to hold the supplier's licence.

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

- (a) the investigation is conducted under an associates (suppliers) audit program; or
- (b) the chief executive reasonably suspects the associate is not a suitable person to be associated with the licensed supplier's supply operations; or
- (c) for an associate who became an associate of the licensed supplier after the issue of its supplier's licence—the associate has not been investigated previously under an associates (suppliers) audit program.

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

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

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

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

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

**138.(1)** A person of whom a requirement is made under section 137 must comply with the requirement, unless the person has a reasonable excuse.

Maximum penalty—200 penalty units.

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

person.

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

### *Division 6—Suspension and cancellation of suppliers' licences*

#### **Grounds for suspension or cancellation**

**139.(1)** A ground for suspending or cancelling a supplier's licence exists if the licensed supplier, or an associate of the licensed supplier—

- (a) is convicted of an offence against this Act; or
- (b) is convicted of an indictable offence (whether on indictment or summarily) punishable by imprisonment for at least 1 year (irrespective of whether the offence is also punishable by a fine in addition, or as an alternative, to imprisonment); or
- (ba) is required to comply with any written direction given to the licensee or associate by the commission or chief executive, and fails to comply with the direction; or
- (bb) is required under this Act to supply information or material to the commission, the chief executive or an inspector, and fails to supply the information or material or supplies information or material that, to the knowledge of the licensee or associate, is false or misleading in a material particular; or
- (c) contravenes a provision of this Act (not being a provision a contravention of which is an offence against this Act, or a provision imposing a requirement of a kind mentioned in paragraph (ba) or (bb)); or
- (d) fails to discharge the licensed supplier's, or associate's, financial commitments; or
- (e) is affected by control action under the Corporations Law.
- (f) helps or induces a licensee to do or fail to do something that constitutes a ground for suspending or cancelling the licensee's

gaming machine licence.<sup>66</sup>

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

- (a) the licensed supplier is not a suitable person to hold the supplier's licence; or
- (b) an associate of the licensed supplier is not a suitable person to be associated with the licensed supplier's supply operations; or
- (c) the licensed supplier contravenes a condition of the licence; or
- (d) the licence was issued because of a materially false or misleading representation or declaration.

### **Show cause notice**

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

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

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

- (a) stating that action (the “**proposed action**”) is proposed to be taken under this division about the supplier's licence; and
- (b) stating the grounds for the proposed action; and
- (c) outlining the facts and circumstances forming the basis for the grounds; and
- (d) inviting the licensed supplier to show within a stated period (the

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<sup>66</sup> See section 97 (Cancellation or suspension of gaming machine licences and letters of censure).



“**show cause period**”) why the proposed action should not be taken.

- (e) if the licensed supplier is a licensed monitoring operator—stating any requirements made of the licensed supplier by the chief executive under section 141(3).

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

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

### **Involvement of interested persons of licensed monitoring operators in show cause process**

**141.(1)** This section applies only if the licensed supplier to whom the show cause notice is given is a licensed monitoring operator.

(2) The chief executive must give a copy of the show cause notice to each person the chief executive believes is an interested person of the licensed supplier.

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

- (a) require the licensed supplier, within the period stated in the notice, to give a copy of the notice to each interested person of the licensed supplier (other than an interested person to whom a copy of the notice is given under subsection (2)); and
- (b) if the chief executive considers it appropriate—require the licensed supplier to give the copy in the way the chief executive considers appropriate.

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

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

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

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

(6) If a requirement is made of the licensed supplier under subsection (3), the licensed supplier must comply with the requirement, unless—

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

Maximum penalty—40 penalty units.

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

### **Consideration of representations**

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

- (a) the licensed supplier; or
- (b) if the licensed supplier is a licensed monitoring operator—an interested person of the licensed supplier to whom a copy of the show cause notice is given, or is required to be given.

### **Ending show cause process without further action**

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

(2) The chief executive must not take further action about the show cause notice and, by written notice, must advise the licensed supplier accordingly.

### **Censuring licensed supplier**

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

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

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

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

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

### **Direction to rectify**

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

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

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

(3) The chief executive may—

- (a) by written notice given to the licensed supplier, direct the licensed supplier to rectify a matter relating to the ground for suspension or cancellation within the period stated in the notice; or

(b) take action under section 146.

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

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

(a) the matter is reasonably capable of being rectified; and

(b) it is appropriate to give the licensed supplier an opportunity to rectify the matter.

### **Recommendation to suspend or cancel**

**146.(1)** This section applies if—

(a) the circumstances mentioned in section 145(1) or (2) exist and the chief executive has not directed the licensed supplier to rectify a matter; or

(b) the licensed supplier fails to comply with a direction to rectify a matter within the period stated in the relevant notice.

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

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

(a) a copy of the show cause notice; and

(b) the accepted representations for the show cause notice; and

(c) any other information or material in the chief executive's possession the chief executive considers is relevant to the recommendation.

### **Decision of commission**

**147.(1)** This section applies to the commission on receiving a recommendation from the chief executive about a supplier's licence held by a licensed supplier.

(2) The commission may—

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- (a) decide not to take any action in relation to the licensed supplier or licence; or
  - (b) by written notice given to the licensed supplier, censure the licensed supplier for a matter relevant to the show cause notice; or
  - (c) if the commission considers a matter relevant to the show cause notice is reasonably capable of being rectified—by written notice given to the licensed supplier, direct the licensed supplier to rectify the matter within the reasonable period stated in the commission’s notice; or
  - (d) suspend the licence for the period the commission considers appropriate; or
  - (e) cancel the licence; or
  - (f) if the licensed supplier is a licensed monitoring operator—appoint an administrator to conduct the monitoring operations of the licensed supplier under its operator’s licence.
- (3)** In making its decision under subsection (2), the commission—
- (a) must have regard to—
    - (i) the chief executive’s recommendation; and
    - (ii) the accepted representations, and any other information or material, given to the commission by the chief executive with the recommendation; and
  - (b) may have regard to any other information or material the commission considers is relevant.
- (4)** If the commission directs the licensed supplier to rectify a matter and the licensed supplier fails to comply with the direction within the period stated in the relevant notice, the commission may—
- (a) take the action mentioned in subsection (2)(d) or (e); or
  - (b) if the licensed supplier is a licensed monitoring operator—take the action mentioned in subsection (2)(f).
- (5)** If the commission decides not to take any action about the licensed supplier or supplier’s licence, the chief executive must immediately give the licensed supplier written notice of the decision.

**Suspension, cancellation and appointment of administrator**

**148.(1)** This section applies if the commission decides—

- (a) to suspend or cancel a supplier's licence held by a licensed supplier; or
- (b) for a licensed supplier who is a licensed monitoring operator—to appoint an administrator to conduct the licensed supplier's monitoring operations.

**(2)** The chief executive must immediately give the licensed supplier an information notice for the decision.

**(3)** The decision takes effect on—

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

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

Maximum penalty—40 penalty units.

**(5)** At any time a suspension of a supplier's licence is in force, the commission may, by written notice given to the licensed supplier, for any remaining period of suspension—

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

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

**Immediate suspension**

**149.(1)** The commission may suspend a supplier's licence if the commission believes—

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

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

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

**(3)** If the commission decides to suspend a supplier's licence, the chief executive—

- (a) must promptly give the licensed supplier an information notice; and
- (b) must give the licensed supplier a show cause notice as if the chief executive had formed the belief mentioned in section 140(1)<sup>67</sup> about the act, omission or other thing constituting the ground for suspending the licence; and
- (c) must not, without the commission's agreement—
  - (i) make a decision under section 143;<sup>68</sup> or
  - (ii) take action under section 144 or 145.<sup>69</sup>

**(4)** The suspension of a supplier's licence—

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

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

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<sup>67</sup> Section 140 (Show cause notice)

<sup>68</sup> Section 143 (Ending show cause process without further action)

<sup>69</sup> Section 144 (Censuring licensed supplier) or 145 (Direction to rectify)

**Effect of suspension**

**150.** The suspension of a supplier's licence has the same effect as the cancellation of the licence, but does not affect—

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

**Terms of appointment, and role, of administrator**

**151.(1)** This section applies if the commission appoints an administrator to conduct the monitoring operations of a licensed monitoring operator.

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

**(3)** The administrator—

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

**(4)** The costs of and incidental to the conduct and administration of the monitoring operations by the administrator (the "**administration costs**") are payable by the licensed monitoring operator.

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

**Notices to interested persons**

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

- (a) is required, under section 143(2), not to take further action about a show cause notice given to a licensed supplier under section 140(2); or



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- (b) censures a licensed supplier under section 144(3); or
  - (c) directs a licensed supplier to rectify a matter under section 145(3).
- (2) This section also applies if, under section 147(2), the commission—
- (a) decides not to take any action about a licensed supplier or supplier's licence; or
  - (b) censures a licensed supplier; or
  - (c) directs a licensed supplier to rectify a matter; or
  - (d) suspends or cancels a supplier's licence; or
  - (e) appoints an administrator to conduct the monitoring operations of a licensed monitoring operator.
- (3) This section also applies if the commission—
- (a) suspends or cancels a supplier's licence under section 147(4); or
  - (b) appoints an administrator under section 147(4) to conduct the monitoring operations of a licensed monitoring operator; or
  - (c) suspends a supplier's licence under section 149(1).
- (4) However, this section applies only if the licensed supplier is a licensed monitoring operator and—
- (a) the chief executive gave a copy of the relevant show cause notice to a person under section 141;<sup>70</sup> or
  - (b) the licensed supplier gave, or was required to give, a copy of the relevant show cause notice to a person because of a requirement made of the licensed supplier under section 141.
- (5) If the chief executive took the action mentioned in subsection (4)(a) in relation to a person, the chief executive must, as soon as practicable after an event mentioned in subsection (1), (2) or (3) happens, give written notice of the event to the person.
- (6) If the licensed supplier took, or was required to take, the action mentioned in subsection (4)(b) in relation to a person, the licensed supplier must, within 7 days after receiving a show cause result notice for an event

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<sup>70</sup> Section 141 (Involvement of interested persons of licensed monitoring operators in show cause process)

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mentioned in subsection (1), (2) or (3), give a copy of the notice to the person.

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

(8) In this section—

**“show cause result notice”** means—

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

*Division 7—Obligations of licensed suppliers*

*Subdivision 1—Obligations for all licensed suppliers*

**Change in circumstances of licensed supplier**

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

Maximum penalty—100 penalty units.

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

- (a) the licensed supplier changes its name or address;
- (b) the licensed supplier is convicted of—
  - (i) an offence against this Act; or
  - (ii) an indictable offence (whether on indictment or summarily)

punishable by imprisonment for at least 1 year (irrespective of whether the offence is also punishable by a fine in addition, or as an alternative, to imprisonment);

- (c) the licensed supplier is affected by control action under the Corporations Law.

### **Fresh disclosure affidavit by licensed supplier**

**154.(1)** This section applies to a licensed supplier if a change happens affecting information contained in—

- (a) the disclosure affidavit that accompanied the application for its supplier's licence; or
- (b) a disclosure affidavit, or the last disclosure affidavit, given to the chief executive under section 118<sup>71</sup> by the licensed supplier; or
- (c) a disclosure affidavit, or the last disclosure affidavit, given to the chief executive under this section by the licensed supplier.

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

Maximum penalty—100 penalty units.

### **Change of officers of licensed supplier**

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

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

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

Maximum penalty—40 penalty units.

**(3)** The notice must—

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<sup>71</sup> Section 118 (Fresh disclosure affidavit by applicant)

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

### **Returns about employees**

**156.(1)** A licensed supplier must give the chief executive a return as required under section 183<sup>72</sup> stating the name of each person employed by the licensed supplier for the supply operations of the licensed supplier when the return is given.

Maximum penalty—40 penalty units.

**(2)** However, if the licensed supplier is a licensed monitoring operator, the licensed supplier is not required to state under subsection (1) in the return—

- (a) the name of a person employed by the licensed supplier as a licensed key monitoring employee; or
- (b) the name of a person employed by the licensed supplier as a licensed repairer.

### **Notice about failure of licensee to pay amount**

**157.(1)** This section applies if a licensee fails to pay to a licensed supplier, on or before the due date for payment, an amount or a part of an amount (other than a basic monitoring fee) payable by the licensee to the licensed supplier for a matter relating to the supply operations of the licensed supplier.

**(2)** The licensed supplier must give the chief executive a notice as required under section 184<sup>73</sup> advising of the licensee's failure to pay the amount, or the part of the amount, on or before the due date for payment.

Maximum penalty for subsection (2)—40 penalty units.

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<sup>72</sup> Section 183 (Requirements for returns about employees)

<sup>73</sup> Section 184 (Requirements for notices about unpaid amounts)

***Subdivision 2—Additional obligations for licensed monitoring operators*****Returns about licensed key monitoring employees**

**158.** A licensed monitoring operator must give the chief executive a return as required under section 183<sup>74</sup> stating the name and licence number of each person employed by the operator as a licensed key monitoring employee when the return is given.

Maximum penalty—40 penalty units.

**Change of licensed key monitoring employees**

**159.(1)** This section applies to a licensed monitoring operator if—

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

**(2)** The licensed monitoring operator must give the chief executive a notice as required by this section stating—

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

Maximum penalty—40 penalty units.

**(3)** The notice must—

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

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<sup>74</sup> Section 183 (Requirements for returns about employees)

**Ending person's employment**

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

Maximum penalty—200 penalty units.

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

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

**Requirement to end key officer's role**

**161.(1)** This section applies if—

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

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

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

Maximum penalty—40 penalty units.

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

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

**Notice about failure of licensee to pay basic monitoring fee**

**162.(1)** This section applies if a licensee fails to pay to a licensed monitoring operator, on or before the due date for payment, a basic

monitoring fee, or a part of a basic monitoring fee, payable by the licensee to the operator for basic monitoring services supplied by the operator to the licensee.

(2) The licensed monitoring operator must give the chief executive a notice as required under section 184<sup>75</sup> advising of the licensee's failure to pay the fee, or the part of the fee, on or before the due date for payment.

Maximum penalty for subsection (2)—40 penalty units.

### *Division 8—Compliance requirements*

#### *Subdivision 1—Control systems*

#### **Approved control system for monitoring operations**

**163.(1)** A licensed monitoring operator must not conduct the operator's monitoring operations unless—

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

Maximum penalty—200 penalty units.

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

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

#### **Control system submission**

**164.(1)** A licensed monitoring operator may make a submission (a “**control system submission**”) to the chief executive for approval of the operator's proposed control system.

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

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<sup>75</sup> Section 184 (Requirements for notices about unpaid amounts)

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

(3) A control system submission must describe and explain the control system proposed for the monitoring operations of the licensed monitoring operator.

(4) In particular, a control system submission must include information about—

- (a) the following things to be used for the monitoring operations—
  - (i) accounting systems and procedures and chart of accounts;
  - (ii) administrative systems and procedures;
  - (iii) computer software;
  - (iv) standard forms and terms; and
- (b) the general procedures to be followed for the monitoring operations; and
- (c) the procedures and standards for the maintenance, security, storage and transportation of equipment to be used for the monitoring operations; and
- (d) the procedures for using and maintaining security facilities.

(5) A control system submission may include information additional to the information mentioned in subsection (4).

### **Control system (change) submission**

**165.(1)** A licensed monitoring operator may make a submission (a “**control system (change) submission**”) to the chief executive for approval to change the operator's approved control system.

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

- (a) at least 90 days before the licensed monitoring operator proposes to put the proposed changes into effect; or



- (b) if the chief executive considers it appropriate to allow a submission to be made at a later time—by the time allowed by the chief executive.

(3) A control system (change) submission must contain particulars of the changes proposed to be made to the approved control system of the licensed monitoring operator.

### **Dealing with submissions**

**166.(1)** This section applies to a control system submission or control system (change) submission made to the chief executive by a licensed monitoring operator.

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

(3) In considering the submission, the chief executive may, by written notice given to the licensed monitoring operator, require the operator, within a reasonable time stated in the notice, to give the chief executive further information that is necessary and reasonable to help the chief executive make a decision about the submission.

(4) In considering whether to give an approval, the chief executive must have regard to the following issues—

- (a) whether the submission satisfies the requirements under this subdivision for the submission;
- (b) whether the proposed control system, or approved control system as proposed to be changed, is capable of providing satisfactory and effective control over the operator's monitoring operations.

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

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

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

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

**Direction to change approved control system**

**167.(1)** The chief executive may, by written notice given to a licensed monitoring operator, direct the operator to change the operator's approved control system within the time, and in the way, stated in the notice.

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

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

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

**168.(1)** The chief executive may, by written notice given to a licensed supplier—

- (a) approve, as a place at which the supplier may keep the supplier's monitoring records, a place, other than the supplier's main office, nominated by the supplier; or
- (b) specify a monitoring record of the supplier (an “**exempt record**”) that may be kept at a place that is not an approved place for the keeping of the record; or
- (c) specify a monitoring record of the supplier that may be kept temporarily at a place (a “**holding place**”) that is not an approved place for the keeping of the record, and the period for which, or

the circumstances in which, the record may be kept at the holding place; or

- (d) approve the keeping of information contained in a monitoring record of the supplier in a way different from the way the information was originally kept; or
- (e) approve the destruction of a monitoring record the chief executive considers need not be kept.

(2) The chief executive may specify a monitoring record for subsection (1)(b) only if the chief executive considers there is sufficient reason for the record to be kept at a place that is not an approved place for the keeping of the record.

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

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

(4) The exercise of the chief executive’s power under subsection (1)(d) or (e) is subject to any other law about the retention or destruction of the monitoring record.

### **Places at which monitoring records to be kept**

**169.(1)** A licensed supplier must keep the supplier’s monitoring records at a place that is an approved place for the keeping of the records.

Maximum penalty—40 penalty units.

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

### **Period for which monitoring records to be kept**

**170.(1)** A licensed supplier must keep a monitoring record of the supplier for 5 years after the end of the transaction to which the record relates.

Maximum penalty—40 penalty units.

- (2) Subsection (1) does not apply to a monitoring record if—

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

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

### *Subdivision 3—Financial accounts, statements and reports*

#### **Keeping of accounts**

**171.** A licensed monitoring operator must—

- (a) keep accounting records that correctly record and explain the transactions and financial position for the operator's monitoring operations; and
- (b) keep the accounting records in a way that allows—
  - (i) true and fair financial statements and accounts to be prepared from time to time; and
  - (ii) the financial statements and accounts to be conveniently and properly audited.

Maximum penalty—100 penalty units.

#### **Preparation of financial statements and accounts**

**172.(1)** A licensed monitoring operator must prepare financial statements and accounts as required by this section giving a true and fair view of the financial operations of the operator conducted under the operator's licence.

Maximum penalty—100 penalty units.

- (2) The financial statements and accounts must include the following—
- (a) trading accounts, if applicable, for each financial year;
  - (b) profit and loss accounts for each financial year;
  - (c) a balance sheet as at the end of each financial year.

**Submission of reports**

**173.(1)** A licensed monitoring operator must give reports to the chief executive as required by this section about the operator's monitoring operations.

Maximum penalty—100 penalty units.

(2) The reports must be given at the times stated in a written notice given to the licensed monitoring operator by the chief executive.

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

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

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

Maximum penalty—100 penalty units.

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

Maximum penalty—200 penalty units.

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

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

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

***Subdivision 4—Financial institution accounts*****Keeping of accounts**

**174.** A licensed monitoring operator must keep a financial institution account, or financial institution accounts, approved by the chief executive for use for all banking or similar transactions for the operator's monitoring operations.

Maximum penalty—40 penalty units.

**Use of accounts**

**175.** A licensed monitoring operator must not use a financial institution account approved by the chief executive other than for a purpose for which it is approved.

Maximum penalty—40 penalty units.

***Subdivision 5—Audit*****Operators audit guidelines**

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

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

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

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

**(4)** For subsection (2)—

- (a) copies of the operators audit guidelines—
  - (i) must be kept at the head office and any regional office of the department; and

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

### **Audit of monitoring operations**

**177.(1)** As soon as practicable after the end of a financial year, a licensed monitoring operator must, at the operator's own expense, cause the operator's books, accounts and financial statements for the operator's monitoring operations for the financial year to be audited by a registered company auditor approved by the chief executive.

Maximum penalty—200 penalty units.

**(2)** If a licensed monitoring operator ceases to be a licensed monitoring operator, the person (the **“former operator”**) must, within the required time, at the former operator's own expense, take the appropriate audit action.

Maximum penalty—200 penalty units.

**(3)** The appropriate audit action for subsection (2) is for the former operator to cause the former operator's books, accounts and financial statements for the former operator's monitoring operations for the operating period to be audited by a registered company auditor approved by the chief executive.

**(4)** The required time for the former operator to take the appropriate audit action is—

- (a) the period ending 1 month after the former operator ceases to be a licensed monitoring operator; or
- (b) if the chief executive extends, or further extends, the period for the former operator to take the action, by written notice given to the former operator in the period or extended period—the period as extended.

**(5)** In this section—

**“operating period”**, for a former operator, means—

- (a) if an audit for the former operator's monitoring operations has

been done for subsection (1)—the period—

- (i) starting on the day immediately after the end of the period to which the audit, or last audit, related; and
  - (ii) ending on the day the former operator ceased to be a licensed monitoring operator; or
- (b) if paragraph (a) does not apply—the period starting on the day the former operator’s monitoring operations started and ending on the day the former operator ceased to be a licensed monitoring operator.

### **Carrying out of audit**

**178.(1)** A registered company auditor carrying out an audit for section 177 must—

- (a) to the extent it is reasonably practicable, comply with any operators audit guidelines; and
- (b) complete the audit within 3 months after the end of the financial year or other period to which the audit relates; and
- (c) immediately after completing the audit, give a copy of the audit report to the licensed monitoring operator or former operator.

Maximum penalty—40 penalty units.

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

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

### **Dealing with audit report**

**179.** Within 14 days after a licensed monitoring operator or former operator receives a copy of an audit report under section 178(1)(c), the operator or former operator must give a copy of the report to the chief executive.

Maximum penalty—200 penalty units.



**Associated documents for audit report for licensed monitoring operator**

**180.(1)** A licensed monitoring operator, on receiving a copy of an audit report under section 178(1)(c) for a financial year, must, in addition to giving a copy of the report to the chief executive under section 179, give to the chief executive, as required under this section—

- (a) if the registered company auditor who carried out the audit issued a management letter for the audit—a copy of the management letter; and
- (b) a copy of the audited financial statements for the operator's monitoring operations for the financial year; and
- (c) a copy of a profit and loss statement containing the required details of revenue and expenditure for the operator's monitoring operations for the financial year; and
- (d) if an entity is a parent entity of the licensed monitoring operator—a copy of the consolidated financial statements for the parent entity.

Maximum penalty—200 penalty units.

**(2)** A document mentioned in subsection (1)(a) must be given to the chief executive with the copy of the audit report given to the chief executive.

**(3)** A document mentioned in subsection (1)(b) to (d) must be given to the chief executive—

- (a) if the licensed monitoring operator's annual general meeting for the financial year was held before the operator received the copy of the audit report—with the copy of the audit report given to the chief executive; or
- (b) if paragraph (a) does not apply—within 14 days after the licensed monitoring operator's annual general meeting for the financial year is held.

**(4)** Subsection (1) applies to the licensed monitoring operator for a profit and loss statement only to the extent to which the audited financial statements given to the chief executive do not contain the required details of revenue and expenditure for the operator's monitoring operations for the relevant financial year.

(5) In this section—

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

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

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

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

**Further information about audit report or associated documents**

**181.(1)** This section applies on the receipt by the chief executive of—

- (a) a copy of an audit report under section 179; or
- (b) a document under section 180.

(2) The chief executive may, by written notice given to the person from whom the copy of the audit report or other document is received, require the person to give the chief executive, within a reasonable time stated in the notice, the information stated in the notice.

(3) The chief executive may require a person to give the chief executive information about a matter under subsection (2) only if—

- (a) the matter relates to the person's monitoring operations; and
- (b) the matter is mentioned in, or arises out of—
  - (i) the audit report a copy of which is received by the chief executive from the person; or
  - (ii) the other document received by the chief executive from the person.

(4) When making a requirement of a person under subsection (2), 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.

(5) A person to whom a notice is given under subsection (2) must comply with the requirement mentioned in the notice within the stated time, unless the person has a reasonable excuse.

Maximum penalty—200 penalty units.

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

***Division 9—Other matters*****Disclosure affidavits about persons having influence or receiving benefits**

**182.(1)** This section applies to each of the following affidavits (a “**disclosure affidavit**”)—

- (a) an affidavit required by section 115(3)<sup>76</sup> to accompany an application made by a person for a supplier’s licence;
- (b) an affidavit required by section 118<sup>77</sup> to be given to the chief executive by an applicant for a supplier’s licence;
- (c) an affidavit required by section 130<sup>78</sup> to accompany an application for renewal of a supplier’s licence made by the licensed supplier;
- (d) an affidavit required by section 154<sup>79</sup> to be given to the chief executive by a licensed supplier.

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

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

**(3)** The affidavit must be made by—

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

**(4)** The affidavit must disclose the following—

- (a) whether or not a person (other than an authorised involved person

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<sup>76</sup> Section 115 (Application for licence)

<sup>77</sup> Section 118 (Fresh disclosure affidavit by applicant)

<sup>78</sup> Section 130 (Renewal of licence—application)

<sup>79</sup> Section 154 (Fresh disclosure affidavit by licensed supplier)

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of the responsible body) may, under an agreement, be able to influence a decision made by the responsible body, or the secretary or an executive officer of the responsible body, about the performance of the general functions that are, or are to be, permitted by the supplier's licence;

- (b) whether or not a person (other than the responsible body) may, under an agreement, expect to receive a benefit from the responsible body because of the performance of the general functions that are, or are to be, permitted by the supplier's licence;
- (c) the names of all persons who are substantial shareholders of the responsible body under the Corporations Law, section 708.<sup>80</sup>

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

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

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

(7) In this section—

**“agreement”** includes a lease or arrangement.

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

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<sup>80</sup> Corporations Law, section 708 (Substantial shareholdings and substantial shareholders)

**Requirements for returns about employees**

**183.(1)** This section applies to—

- (a) a return required to be given to the chief executive under section 156<sup>81</sup> by a licensed supplier (the “**licensed entity**”); or
- (b) a return required to be given to the chief executive under section 158<sup>82</sup> by a licensed monitoring operator (also the “**licensed entity**”).

**(2)** The return must—

- (a) be in the approved form; and
- (b) be given within 14 days after the licensed entity receives a written request from the chief executive to give the return.

**(3)** However, the chief executive must not, for subsection (2)(b), ask a licensed entity to give the chief executive a return under section 156 or 158 within 1 month after the time by which the licensed entity was last required to give a return under the section.

**Requirements for notices about unpaid amounts**

**184.(1)** This section applies to—

- (a) a notice required to be given to the chief executive by a licensed supplier under section 157;<sup>83</sup> or
- (b) a notice required to be given to the chief executive by a licensed monitoring operator under section 162.<sup>84</sup>

**(2)** The notice must—

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

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<sup>81</sup> Section 156 (Returns about employees)

<sup>82</sup> Section 158 (Returns about licensed key monitoring employees)

<sup>83</sup> Section 157 (Notice about failure of licensee to pay amount)

<sup>84</sup> Section 162 (Notice about failure of licensee to pay basic monitoring fee)

(3) The notice must state—

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

## **PART 5—LICENSING OF REPAIRERS, SERVICE CONTRACTORS, GAMING NOMINEES, GAMING EMPLOYEES AND KEY MONITORING EMPLOYEES**

### **Meaning of key monitoring employee**

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

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

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

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

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

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

### **Meaning of key officer**

**186.** A person is a “**key officer**” of a licensed monitoring operator if the person is a person (other than a person employed by the operator) who—

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

### **Unlicensed persons not to install etc. gaming equipment**

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

Maximum penalty—200 penalty units.

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

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

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

Maximum penalty—200 penalty units.

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

### **Entering into service contracts**

**188.(1)** A person must not enter into a service contract with a licensed



monitoring operator or the chief executive unless the person is—

- (a) an authorised service provider; or
- (b) a licensee.

Maximum penalty—100 penalty units.

(2) A person must not enter into a service contract with an authorised service provider unless the person is—

- (a) a licensed monitoring operator; or
- (b) a gaming trainer.

Maximum penalty—100 penalty units.

(3) A person must not enter into a service contract with a licensee unless the person is a licensed monitoring operator.

Maximum penalty—100 penalty units.

(4) A person must not enter into an agreement with an authorised service provider to subcontract a service contract from the authorised service provider unless the person is an authorised service provider.

Maximum penalty—100 penalty units.

(5) An authorised service provider must not enter into an agreement with another person to subcontract a service contract to the other person unless the other person is an authorised service provider.

Maximum penalty—100 penalty units.

(6) An authorised service provider to whom a service contract is subcontracted under an agreement with another authorised service provider must not subcontract the service contract.

Maximum penalty—100 penalty units.

(7) A person must not enter into an agreement with a licensed monitoring operator to subcontract a service contract from the operator unless the person is a licensed monitoring operator.

Maximum penalty—100 penalty units.

(8) A licensed monitoring operator must not enter into an agreement with another person to subcontract a service contract to the other person unless the other person is a licensed monitoring operator.

Maximum penalty—100 penalty units.

(9) A licensed monitoring operator to whom a service contract is subcontracted under an agreement with another licensed monitoring operator must not subcontract the service contract.

Maximum penalty—100 penalty units.

(10) In this section—

“**authorised service provider**” means—

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

### **Licensing requirements for carrying out gaming duties on licensed premises**

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

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

Maximum penalty—200 penalty units.

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

- (a) an appropriately licensed person employed under subsection (3), (4) or (5) to carry out the duties for the premises; or

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

Maximum penalty—200 penalty units.

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

Maximum penalty—200 penalty units.

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

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

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

Maximum penalty—200 penalty units.

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

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

Maximum penalty—200 penalty units.

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

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premises.

Maximum penalty—200 penalty units.

(9) Subsection (7) does not apply to a licensee for licensed premises of the licensee, and subsection (8) does not apply to an eligible licensee for the licensee's licensed premises, if there is present on the premises, or readily available for carrying out gaming duties for the premises, a person—

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

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

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

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

- (a) the person is a nominee of the licensee under section 193(4); and
- (b) the licensee has given an identity card to the person under section 194(1).

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

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

Maximum penalty—20 penalty units.

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

(15) In this section—

**“applicant”**, for an appropriate licence, means—

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

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

**“appropriately licensed person”** means—

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

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

- (a) is an individual; and
- (b) is not required under section 195(2) to have a nominee for the premises; and
- (c) is ordinarily present on the premises when the premises are open for the conduct of gaming.

### **Unlicensed persons not to be key monitoring employees**

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

Maximum penalty—200 penalty units.

**(2)** A licensed monitoring operator must not—

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

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

### **Certain persons must apply for gaming employee's licence**

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

- (a) has the power to exercise a significant influence over the conduct of gaming by the licensee; or

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(b) because of—

- (i) that person's remuneration or policy-making position; or
- (ii) any other criteria determined by the Minister;

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

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

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

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

Maximum penalty—200 penalty units.

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

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

Maximum penalty—200 penalty units.

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

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

Maximum penalty—200 penalty units.

(7) A licensee does not incur any liability in respect of the termination

under this section of any connection or employment referred to in subsection (1).

### **Certain persons must apply for key monitoring employee's licence**

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

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

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

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

Maximum penalty—200 penalty units.

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

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

Maximum penalty—200 penalty units.

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

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

Maximum penalty—200 penalty units.

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

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

### **Meaning of nominee**

**193.(1)** A person is a nominee of a licensee for premises if—

- (a) the person is a licensed gaming nominee; and
- (b) the person is designated by the licensee to be the licensee's nominee for the premises; and
- (c) when the designation takes effect—
  - (i) the person is not the nominee of the licensee or another licensee for other premises; and
  - (ii) another person is not the licensee's nominee for the premises.

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

- (a) the person is a licensed gaming employee employed by the licensee; and
- (b) the person is designated by the licensee to be the licensee's nominee for the premises for a period of not more than 1 month; and
- (c) when the designation takes effect—
  - (i) the person is not the nominee of the licensee or another licensee for other premises; and
  - (ii) another person is not the licensee's nominee for the premises under this subsection or subsection (3), (4) or (5).

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

- (a) is a licensed gaming employee employed by the licensee; and
- (b) is, with the chief executive's approval, designated by the licensee



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to be the licensee's nominee for the premises for a period longer than 1 month.

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

- (a) is an applicant for a gaming nominee's licence; and
- (b) is, with the chief executive's approval, designated by the licensee to be the licensee's nominee for the premises.

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

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

- (a) the designation by the licensee of the person as the licensee's nominee is done with the person's agreement; and
- (b) the designation and agreement are in force; and
- (c) for a person designated by the licensee to be the licensee's nominee for a stated period—the stated period has not ended.

(7) A person stops being a nominee of a licensee for premises under subsection (1) during any period for which another person is the licensee's nominee for the premises under subsection (2), (3), (4) or (5).

(8) The chief executive must refuse to give an approval for subsection (3), (4) or (5) if—

- (a) the person sought to be designated by the licensee for the premises is the nominee of the licensee or another licensee for other premises; or
- (b) another person is the licensee's nominee for the premises under a provision of this section other than subsection (1).

### **Identity cards for certain nominees**

**194.(1)** A licensee must give an identity card to a person who is a nominee of the licensee under section 193(3) or (4).

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

(3) A person to whom an identity card is given must return the card to

the licensee on the day the person ceases to be the licensee's nominee.

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

### **Nominees of licensees**

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

Maximum penalty—200 penalty units.

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

Maximum penalty—200 penalty units.

**(3)** A licensee's nominee must, for the licensed premises for which the nominee is the licensee's nominee, ensure the conduct of gaming is in accordance with the authority conferred by the licensee's gaming machine licence.

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

### **Application for gaming nominee's licence by licensed gaming employee**

**196.(1)** A licensed gaming employee may apply for a gaming nominee's licence under this section.

**(2)** The application must—

- (a) be made to the chief executive; and
- (b) be in the approved form; and
- (c) be accompanied by a notice in the approved form from a licensee nominating the applicant to be the licensee's nominee for licensed premises of the licensee; and
- (d) be accompanied by any fee prescribed under a regulation for the application.

**(3)** If the applicant's fingerprints were not taken for the application for the gaming employee's licence held by the applicant, the chief executive may,

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with the applicant's agreement, cause the applicant's fingerprints to be taken for the application under this section.

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

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

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

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

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

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

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

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

**Application for gaming employee's licence by licensed gaming nominee**

**197.(1)** A licensed gaming nominee may apply for a gaming employee's licence under this section.

(2) The application must—

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

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

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

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

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

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

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

**Applications for licences under this part**

**198.(1)** This section deals with applications for repairers', service contractors', gaming nominees', gaming employees' and key monitoring employees' licences.

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

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

(4) An application under this part—

- (a) is to be made in the approved form; and
- (b) in the case of an application by an individual—must be signed by the applicant; and
- (c) in the case of an application by a body corporate—must be signed in the appropriate way; and
- (d) is to state the full name, address and date of birth—

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- (i) in the case of an application by an individual—of the applicant; and
  - (ii) in the case of an application by a body corporate—of the secretary and each executive officer of the body corporate; and
- (e) in the case of an application for a repairer's, gaming nominee's, gaming employee's or key monitoring employee's licence—is to be accompanied by photographs of the applicant, of such type and number as are determined by the chief executive and certified in such way as is so determined; and
- (f) in the case of an application by a body corporate—is to be accompanied by—
- (i) a copy of the certificate of incorporation of the body corporate; and
  - (ii) a copy of the memorandum and articles of association, rules, constitution or other incorporating documents in force at the time of making the application certified as a true copy by the secretary of the body corporate or other person properly authorised to certify by the body corporate; and
  - (iii) unless the body corporate is a company that has only 1 director—a copy of the resolution or minute of the proceedings of the governing body of the body corporate by which approval was given to the making of the application, certified as a true copy by the person certifying the copy of the matters referred to in subparagraph (ii); and
  - (iv) a copy of the last audited balance sheet or statement of the financial affairs of the body corporate; and
- (g) in the case of an application for a repairer's licence, or an application for a key monitoring employee's licence made by a person who is not a key officer for a licensed monitoring operator—must be accompanied by an employment notice for the application; and
- (h) in the case of an application for a gaming nominee's licence—must be accompanied by a notice in the approved form from a licensee nominating the applicant to be the licensee's

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nominee for licensed premises of the licensee; and

- (i) in the case of an application for a repairer's or service contractor's licence—is to be accompanied by an affidavit under section 210; and
- (j) is to contain or be accompanied by such other information, records, reports, documents and writings relating to the application and applicant as are determined by the chief executive; and
- (k) is to be forwarded to or lodged with the chief executive; and
- (l) is to be accompanied by the fee prescribed.

(5) Subsection (4)(g) does not apply to an application if the applicant intends, on the issue of a repairer's licence, to carry on the business of a licensed repairer in the applicant's own right.

(6) For subsection (4)(c), an application for a licence under this part made by a body corporate is signed in the appropriate way—

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

(7) In this section—

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

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

**“employment notice”**, for an application for a repairer's licence, means a

notice that—

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

### **Changes in circumstances of applicants for and holders of licences**

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

Maximum penalty—100 penalty units.

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

Maximum penalty—100 penalty units.

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

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

**Recommendation by chief executive about applications**

**200.(1)** The chief executive must—

- (a) consider an application for a licence under this part; and
- (b) recommend to the commission that a licence either be granted or refused.

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

- (a) must conduct investigations the chief executive considers are necessary and reasonable to help the chief executive make a recommendation; and
- (b) may require the applicant, or an associate of the applicant, to give the chief executive further information or a document for the application.

**(3)** A requirement under subsection (2)(b)—

- (a) must be made by written notice given to the applicant or associate; and
- (b) may only relate to information or a document that is necessary and reasonable to help the chief executive make a recommendation.

**(4)** The notice mentioned in subsection (3)(a) must state the period within which the requirement is to be complied with.

**(5)** Also, in considering the application, the chief executive must assess—

- (a) if the applicant is an individual—the financial stability, general reputation and character of the applicant; and
- (b) if the applicant is a body corporate—
  - (i) the financial stability and business reputation of the body corporate; and
  - (ii) the financial stability, general reputation and character of the secretary and each executive officer of the body corporate; and
- (c) the suitability of the applicant to be the holder of a licence of the kind to which the application relates; and



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- (d) if a person is stated in an affidavit under section 210<sup>85</sup> as being a person who satisfies a description mentioned in subsection (4)(a) or (b) of that section—the suitability of the person to be an associate of the applicant; and
- (e) if the chief executive considers it appropriate—the suitability of any other associate of the applicant to be an associate of the applicant; and
- (f) whether the applicant has, or is able to obtain, the services of persons with appropriate business ability, knowledge or experience to enable the applicant to conduct operations successfully under a licence of the kind to which the application relates.

(6) If the applicant is an individual, the chief executive may, with the applicant's agreement, cause the applicant's fingerprints to be taken.

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

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

(9) The chief executive must recommend that a licence be refused if—

- (a) for an application by an individual—
  - (i) the applicant is not 18; or
  - (ii) the applicant's fingerprints have not been taken under subsection (6) because of the applicant's failure to agree to the action being taken; or
- (b) for an application by a body corporate—the secretary or an executive officer of the body corporate is not 18.

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

(11) If the commission has delegated its powers under section 201 in

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<sup>85</sup> Section 210 (Disclosure of influential or benefiting parties)

relation to an application for a licence under this part to the chief executive, the chief executive—

- (a) is not required to make a recommendation about the application under this section; but
- (b) must take the action mentioned in subsection (2)(a) and (5), and may take the action mentioned in subsection (6), as if the chief executive were dealing with the application for making a recommendation under this section.

### **Decision on applications**

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

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

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

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

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

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

- (a) the applicant, without a reasonable excuse, fails to comply with—
  - (i) a requirement of the chief executive under section 200(2)(b); or
  - (ii) a requirement of the commission under subsection (2); or
- (b) an associate of the applicant, without a reasonable excuse, fails to

comply with—

- (i) a requirement of the chief executive under section 200(2)(b); or
- (ii) a requirement of the commission under subsection (2).

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

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

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

(9) If the applicant is a person in relation to whom the chief executive has given an approval to a licensee for section 189(4) or (6),<sup>86</sup> the chief executive must give a copy of the notice under subsection (7) or (8) to the licensee.

### **Issue of licences**

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

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

- (a) specify the name of the holder of the licence; and
- (b) in the case of a repairer's, gaming nominee's, gaming employee's or key monitoring employee's licence—show on the licence the photograph of the holder of the licence; and
- (c) specify the expiry date of the licence.

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

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<sup>86</sup> Section 189 (Licensing requirements for carrying out gaming duties on licensed premises)

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

### **Issue of copy or replacement licence**

**203.(1)** If the chief executive is satisfied that a licence under this part that is in force has been damaged, lost or destroyed, the chief executive, upon payment of the fee prescribed, may issue to the holder of the licence a copy of the licence.

(2) If the chief executive is satisfied the name of a person who is the holder of a licence under this part has been changed, the chief executive must issue to the person a fresh licence, stating the person's current name, to replace the licence (the "**affected licence**") previously issued to the person.

(3) However, the chief executive is required to issue a licence to a person under subsection (2) only if—

- (a) the fee prescribed under a regulation for the issue of the licence has been paid to the chief executive; and
- (b) the person's affected licence has been returned to the chief executive.

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

### **Term of licences**

**204.(1)** Subject to this Act, a licence under this part remains in force for 5 years from the date of issue of the licence.

(2) A licence under this part may be renewed.

### **Conditions of licences**

**205.** A licence under this part is subject to such conditions (including any variation of the conditions made under section 206) as the commission may impose in the public interest or for the proper conduct of gaming at the time of granting the licence or under section 206.

**Variation of conditions imposed on a licence**

**206.(1)** Where the commission in the public interest or for the proper conduct of gaming, at any time after granting a licence under this part, considers that—

- (a) the imposition of conditions or further conditions on the licence; or
- (b) a variation to the conditions imposed on the licence under section 205 or paragraph (a) of this subsection;

is warranted, the commission may impose the conditions or further conditions or vary the conditions.

**(2)** If the commission imposes or varies conditions under subsection (1), the chief executive must immediately give the holder of the licence written notice of—

- (a) the conditions or varied conditions; and
- (b) reasons for the imposition or variation.

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

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

Maximum penalty—40 penalty units.

**(5)** After endorsing the licence, the chief executive is to return it to the holder of the licence.

**Renewal and continuance of licences**

**207.(1)** A holder of a licence under this part may apply to the chief executive for renewal of the licence.

**(2)** Application under subsection (1)—

- (a) is to be in the approved form; and
- (b) in the case of a repairer's, gaming nominee's, gaming employee's or key monitoring employee's licence—is to be accompanied by

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photographs of the applicant, of such type and number as are required under the form; and

- (c) is to be accompanied by the fee prescribed; and
- (d) is to be made, unless the chief executive otherwise allows, at least 1 month before the expiration of the licence; and
- (e) in the case of an application by a body corporate—is to be accompanied by a list of the names, addresses and dates of birth of—
  - (i) the secretary of the body corporate; and
  - (ii) the executive officers of the body corporate; and
  - (iii) all other persons who have been the secretary or an executive officer of the body corporate since the licence was granted or last renewed; and
- (f) in the case of a repairer's or service contractor's licence—is to be accompanied by an affidavit under section 210.

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

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

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

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

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

**Licences not to be transferred**

**208.** A licence under this part is not to be transferred.

**Display of certain licences, identity cards and particulars**

**209.(1)** A licensed repairer must at all times whilst installing, altering, adjusting, maintaining or repairing gaming equipment on licensed premises display the licensed repairer's licence currently in force on the licensed repairer's person in such way as to be visible to other persons unless the licence at any material time is in the possession of the chief executive.

Maximum penalty—40 penalty units.

**(2)** A licensed key monitoring employee carrying out functions as a key monitoring employee must, if asked by another person, produce the key monitoring employee's licence held by the employee for the other person's inspection, unless, at the material time, the licence is in the chief executive's possession.

Maximum penalty—40 penalty units.

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

Maximum penalty—40 penalty units.

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

Maximum penalty—40 penalty units.

**(5)** A licensee who has a nominee for licensed premises of the licensee must display in a conspicuous position inside the premises, and in a way that is legible from a reasonable distance—

- (a) the nominee's name; and

(b) notice that the nominee is the licensee's nominee for the premises.

Maximum penalty—40 penalty units.

(6) In this section—

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

- (a) if the gaming employee is a licensed gaming employee employed under section 189(3), (4) or (5)<sup>87</sup>—the gaming employee's licence held by the employee; or
- (b) if the gaming employee is a licensed gaming nominee employed under section 189(3) or (4)—the gaming nominee's licence held by the employee; or
- (c) for another gaming employee—the identity card given to the gaming employee under section 189(10) or 194(1).

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

- (a) for a nominee mentioned in section 193(1)<sup>88</sup>—the gaming nominee's licence held by the nominee; or
- (b) for a nominee mentioned in section 193(2)—the gaming employee's licence held by the nominee; or
- (c) for another nominee—the identity card given to the nominee under section 194(1).<sup>89</sup>

### **Disclosure of influential or benefiting parties**

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

- (a) a repairer's or service contractor's licence—the applicant; or
- (b) a renewal of a repairer's or service contractor's licence—the licensed repairer or licensed service contractor;

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

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<sup>87</sup> Section 189 (Licensing requirements for carrying out gaming duties on licensed premises)

<sup>88</sup> Section 193 (Meaning of nominee)

<sup>89</sup> Section 194 (Identity cards for certain nominees)



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

Maximum penalty—100 penalty units.

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

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

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

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

in relation to the performance of the general functions that are, or are to be, permitted by the licence; and

- (b) whether or not there is any person other than the applicant or holder of the licence who by any lease, agreement or arrangement may expect any benefit from the applicant or holder in relation to

the performance of the general functions that are, or are to be, permitted by the licence; and

- (c) if there is any person able to influence as referred to in paragraph (a) or expect benefit as referred to in paragraph (b)—
  - (i) where any such person is an individual—the person's full name, address and date of birth; and
  - (ii) where any such person is a body corporate—the name of the body corporate and the full name, address and date of birth of the secretary and each executive officer of the body corporate; and
  - (iii) full and correct particulars of the lease, agreement or arrangement; and
- (d) in the case of the applicant or holder of the licence being a body corporate—the names of all persons who are substantial shareholders of the body corporate under the Corporations Law, section 708.

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

### **Approving audit programs for licensed gaming nominees and associates**

**211.(1)** The Minister may approve—

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

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

### **Conducting investigations of licensed persons and associates**

**212.(1)** The chief executive may investigate a licensed person to help the chief executive decide whether the person is a suitable person to hold a licence of the kind held by the person.

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

(3) However, the chief executive may investigate a licensed person—

- (a) only if the chief executive reasonably suspects the person is not a suitable person to hold a licence of the kind held by the person; or
- (b) if the licensed person is a licensed gaming nominee—only if the investigation is conducted under a nominees audit program.

(4) Also, the chief executive may investigate an associate of a licensed person—

- (a) only if the chief executive reasonably suspects the associate is not a suitable person to be an associate of the licensed person; or
- (b) if the associate is an associate of a licensed gaming nominee—only if—
  - (i) the investigation is conducted under an associates (nominees) audit program; or
  - (ii) for an associate who became an associate of the licensed gaming nominee after the issue of the nominee's licence—the associate has not been investigated previously under an associates (nominees) audit program.

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

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

**213.(1)** In investigating a person under section 212, the chief executive may, by written notice given to the person, require the person to give the chief executive information or a document the chief executive considers relevant to the investigation.

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

**Failure to give information or document for investigation**

**214.(1)** A person of whom a requirement is made under section 213 must comply with the requirement, unless the person has a reasonable excuse.

Maximum penalty—200 penalty units.

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

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

**Cessation or commencement of executive officer or secretary**

**215.** A licensed service contractor that is a body corporate must notify the chief executive in the approved form—

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

within 7 days of ceasing or starting.

Maximum penalty—40 penalty units.

**Employment of licensed repairers**

**216.** A person (an “**employer**”) must not employ a licensed repairer to carry out functions as a licensed repairer, unless the employer is a licensed monitoring operator, a licensed service contractor or another licensed repairer.

Maximum penalty—100 penalty units.

**Returns about employees and agreements**

**217.(1)** In this section—

**“employer”** means a licensed monitoring operator, licensed repairer or licensed service contractor.

**(2)** An employer must give the chief executive a return as required by this section stating the name and licence number of each person employed by the employer as a licensed repairer when the return is given.

Maximum penalty—40 penalty units.

**(3)** An employer must give the chief executive a return as required by this section stating the name and licence number of each person with whom the employer has a service contract when the return is given.

Maximum penalty—40 penalty units.

**(4)** A licensee must give the chief executive a return as required by this section stating—

- (a) the name and licence number of each licensed gaming employee employed by the licensee under section 189(3), (4) or (5)<sup>90</sup> for licensed premises of the licensee when the return is given; and
- (b) the name of each applicant for a gaming employee’s licence employed by the licensee under section 189(4) or (6) for licensed premises of the licensee when the return is given; and
- (c) the name and licence number of each licensed gaming nominee who is a nominee of the licensee under section 193(1)<sup>91</sup> for licensed premises of the licensee when the return is given; and
- (d) the name and licence number of each licensed gaming employee who is a nominee of the licensee under section 193(2) for licensed premises of the licensee when the return is given; and
- (e) the name of each applicant for a gaming nominee’s licence who is a nominee of the licensee under section 193(3) for licensed premises of the licensee when the return is given.

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<sup>90</sup> Section 189 (Licensing requirements for carrying out gaming duties on licensed premises)

<sup>91</sup> Section 193 (Meaning of nominee)

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Maximum penalty—40 penalty units.

(5) A return for subsection (2), (3) or (4) must—

- (a) be in the approved form; and
- (b) be given within 14 days after being requested by the chief executive to give the return.

(6) A request made by the chief executive to an employer or licensee for subsection (5)(b)—

- (a) must be in writing; and
- (b) must not be made within 1 month of a previous request made to the employer or licensee for subsection (5)(b).

(7) If it becomes known to an employer that a person employed by the employer as a licensed repairer is not a licensed repairer the employer must immediately terminate the employment of that person as a licensed repairer.

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

(8) If it becomes known to the chief executive or a licensed monitoring operator that a person with whom the chief executive or licensed monitoring operator has made a service contract is not a licensed repairer or licensed service contractor the chief executive or licensed monitoring operator must immediately terminate the service contract.

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

(9) If it becomes known to a licensed repairer or licensed service contractor that a person (other than the chief executive or a licensed monitoring operator) with whom the repairer or service contractor has made a service contract is not a licensed repairer or licensed service contractor the licensed repairer or licensed service contractor must immediately terminate the service contract.

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

(10) A licensee must immediately end the employment of a person employed by the licensee if—

- (a) the person is employed on the basis the person is a licensed gaming employee and the licensee becomes aware the person is not a licensed gaming employee; or

- (b) the person is employed on the basis the person is a licensed gaming nominee and the licensee becomes aware the person is not a licensed gaming nominee; or
- (c) the person is employed under section 189(4)(b) or (6)<sup>92</sup> and the licensee becomes aware the application of the person for a gaming employee's or nominee's licence has been refused.

Maximum penalty—200 penalty units.

**(11)** A licensee must immediately take action to stop a person being the licensee's nominee for licensed premises of the licensee if—

- (a) the licensee designated the person as the licensee's nominee for the premises on the basis the person was a licensed gaming nominee and the licensee becomes aware the person is not a licensed gaming nominee; or
- (b) the licensee designated the person as the licensee's nominee for the premises on the basis the person was a licensed gaming employee and the licensee becomes aware the person is not a licensed gaming employee; or
- (c) the person became the licensee's nominee for the premises under section 193(3) and the licensee becomes aware the application of the person for a gaming nominee's licence has been refused.

Maximum penalty—200 penalty units.

**(12)** The provisions of subsection (7), (8), (9), (10) or (11) are sufficient authority to take the action mentioned in that subsection, despite any other Act or law or any industrial award or agreement.

**(13)** No right of action arises against any person because of that termination.

### **Surrender of licences**

**218.(1)** The holder of a licence under this part, at any time, by forwarding to or lodging with the chief executive notification in the approved form, and the licence under this part, may surrender the licence.

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<sup>92</sup> Section 189 (Licensing requirements for carrying out gaming duties on licensed premises)

(2) The notification must be signed in the same way an application for a licence under this part is required to be signed.

(3) The surrender of the licence takes effect—

- (a) if paragraph (b) or (c) does not apply—on the day (the “**set day**”) that is 14 days after the notification of surrender is given; or
- (b) if a day of effect that is later than the set day is stated in the notification of surrender—on the day stated in the notification; or
- (c) if, at the request of the holder of the licence, the chief executive, by written notice, approves a day of effect that is earlier than the set day—on the day approved by the chief executive.

### **Cancellation or suspension of licences under this part**

**219.(1)** A ground for cancellation or suspension of a licence under this part arises if—

- (a) the holder of the licence—
  - (i) obtained the licence on false, erroneous or misleading information; or
  - (ii) fails to comply with any condition to which the licence is subject under section 205; or
  - (iii) fails to forward or lodge an affidavit in accordance with section 210(2); or
- (b) the holder of the licence or an associate of the holder—
  - (i) is convicted of an offence against this Act; or
  - (ii) contravenes a provision of this Act (being a provision a contravention of which is not an offence against this Act); or
  - (iii) fails to discharge the holder’s or associate’s financial commitments, becomes bankrupt or compounds with creditors or otherwise takes advantage of the laws in force for the time being relating to bankruptcy; or
  - (iv) is affected by control action under the Corporations Law; or
  - (v) is convicted of an indictable offence, whether on indictment or summarily, punishable in the particular case by



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imprisonment for 1 year or more (irrespective of whether the offence is also punishable by a fine in addition, or as an alternative, to imprisonment); or

(vi) is required to comply with any written direction given to the holder or associate by the commission or chief executive, and fails to comply with the direction; or

(vii) is required under this Act to supply information or material to the commission, the chief executive or an inspector, and fails to supply the information or material or supplies information or material that to the knowledge of the holder or associate is false, erroneous or misleading in a material particular; or

(c) the chief executive—

(i) considers that the holder of the licence or an associate of the holder is not a fit and proper person in respect of financial stability, general reputation, character or business reputation to be a holder of a licence or to be an associate of the holder of a licence; or

(ii) becomes aware of any information or matter that, had it been known when the application for the licence was being considered, the chief executive is of the opinion that the recommendation under section 200(1) would have been that the licence be refused.

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

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

**(4)** Also, the chief executive may, by the notice to show cause—

(a) require the holder of the licence, within the period stated in the

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notice, to give a copy of the notice to each interested person of the holder (other than an interested person to whom a copy of the notice is given under subsection (3)); and

- (b) if the chief executive considers it appropriate—require the holder to give the copy in the way the chief executive considers appropriate.

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

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

(7) If the chief executive makes a requirement of the holder of the licence under subsection (4)(a) about an interested person of the holder, the chief executive may, at the holder's request, by written notice given to the holder, designate the person to be an excluded interested person for the holder.

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

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

(9) If a requirement is made of the holder of the licence under subsection (4), the holder must comply with the requirement, unless—

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

Maximum penalty—40 penalty units.

(10) Each person to whom the notice to show cause is issued may give a

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written answer to the chief executive at any time not later than the date specified in the notice in that respect.

**(11)** Any person to whom a copy of the notice to show cause is given, or is required to be given, under this section may make such written submissions to the chief executive as the person thinks fit at any time not later than the date specified under subsection (5).

**(12)** The chief executive is to consider any answers given in reply to the notice to show cause and any submissions made under subsection (11) and, if the chief executive considers that—

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

**(13)** If a direction given by the chief executive under subsection (12)(c)(i) is not complied with within the time specified in the notice, the chief executive may recommend to the commission that the licence be cancelled or suspended.

**(14)** If the chief executive is of the opinion that any act, omission or other

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

**(15)** If the chief executive makes a recommendation to the commission, the chief executive must submit the notice to show cause and answers, any submissions made and such other information or material in the chief executive's possession as the chief executive considers is relevant to the recommendation.

**(16)** The commission, having regard to the recommendation of the chief executive, other matters referred to in subsection (15) and to such other information or material as the commission considers is relevant, may—

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

**(17)** If the commission gives a direction to the holder of the licence under subsection (16)(c) and the holder fails to comply with the direction within the time stated in the relevant notice, the commission may—

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

**(18)** If, under subsection (16), the commission decides to take no action about a licence under this part, the chief executive must immediately give the holder of the licence written notice of the decision.

**(19)** If the commission cancels or suspends a licence, the chief executive

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must immediately give the applicant written notice of, and the reasons for, the cancellation or suspension.

(20) The cancellation or suspension of a licence under this section takes effect from the date of the issue of the notice under subsection (19) or from another date specified in the notice.

(21) Upon receipt of a notice of cancellation under subsection (19), the person to whom the notice is addressed must cause the licence to be delivered to the chief executive within 14 days.

Maximum penalty—40 penalty units.

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

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

imposed under subsection (16)(d) or (17).

(23) In this section—

**“excluded interested person”**, for the holder of a licence under this part, means an interested person of the holder designated by the chief executive to be an excluded interested person for the holder.

**“interested person”**, for the holder of a licence under this part, means a person the holder knows, or ought reasonably to know, has an interest in the licence.

### **Immediate suspension of licences**

**220.(1)** Where the commission, having regard to the advice of the chief executive, is of the opinion that any act, omission or other thing that constitutes a ground under section 219(1) is of such a serious nature that the integrity of gaming or the conduct of gaming is jeopardised or the public interest is adversely affected, the commission may suspend a licence under this part.

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

- (a) must immediately give the holder of the licence written notice of,

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and the reasons for, the suspension; and

- (b) is not to take any action under section 219(12)(a), (b) or (c)(i) or (14) in respect of the licence without the approval of the commission.

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

(4) Without prejudice to a suspension under subsection (1), where the commission suspends a licence under that subsection the chief executive is to take action under section 219 as if the chief executive had formed the opinion referred to in section 219(2) in respect of the act, omission or other thing that constitutes the ground referred to in subsection (1).

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

**Effect of suspension of licence**

**221.** The suspension under section 219(16) or (17) or 220(1) of a licence under this part has the same effect as the cancellation of the licence but without prejudice to—

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

**Notices to interested persons**

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

- (a) is required, under section 219(12)(a), not to take any action or any further action about a notice to show cause issued to the holder of a licence under section 219(2); or
- (b) issues a letter of censure to the holder of a licence under section 219(12)(b); or
- (c) gives directions to the holder of a licence under

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section 219(12)(c).

(2) This section also applies if, under section 219(16), the commission—

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

(3) This section also applies if the commission—

- (a) cancels or suspends a licence under section 219(17); or
- (b) suspends a licence under section 220(1).

(4) As soon as practicable after an event mentioned in subsection (1), (2) or (3) happens, the chief executive must give written notice of the event to each person to whom the chief executive gave a copy of the relevant notice to show cause under section 219(3).

(5) Also, the holder of the licence must, within 7 days after receiving a show cause result notice for an event mentioned in subsection (1), (2) or (3), give a copy of the notice to each person to whom the holder gave, or was required to give, a copy of the relevant notice to show cause because of a requirement under section 219(4).

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

(7) In this section—

**“show cause result notice”** means—

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

**Destruction of fingerprints**

**223.(1)** This section applies if—

- (a) a person ceases to be a licensed repairer, licensed gaming nominee, licensed gaming employee or licensed key monitoring employee; or
- (b) a person who is an individual ceases to be a licensed service contractor.

**(2)** The chief executive must have any fingerprints of the person taken for the application for the licence held by the person destroyed as soon as practicable.

**Provisional licences**

**224.(1)** The commission may grant to an applicant for a licence under this part a provisional licence if the commission considers that—

- (a) a decision in respect of the application may not be made for some time; and
- (b) the conduct of gaming may be prejudiced or disadvantaged if the applicant is not granted a provisional licence; and
- (c) the issue of the provisional licence will not prejudice or disadvantage gaming or the conduct of gaming.

**(2)** The commission may impose on a provisional licence such conditions as the commission considers are necessary in the public interest.

**(3)** Where the commission grants a provisional licence, the chief executive must issue the licence in the approved form and endorse on the licence any conditions imposed under subsection (2).

**(4)** A provisional licence remains in force until—

- (a) a repairer's licence, service contractor's licence, gaming nominee's licence, gaming employee's licence or key monitoring employee's licence is granted and issued or the commission refuses to grant the licence; or
- (b) it is surrendered by its holder; or
- (c) it is cancelled by the commission.



(5) The commission, at any time, may cancel a provisional licence granted under subsection (1).

(6) No right of action arises against the commission or any other person because of a decision under subsection (5) in respect of the termination of employment or otherwise.

(7) A provisional licence while it remains in force and subject to conditions imposed under subsection (2) has the same effect as if it were a repairer's licence, service contractor's licence, gaming nominee's licence, gaming employee's licence or key monitoring employee's licence.

## **PART 6—SUPERVISION AND MANAGEMENT OF GAMING**

### **Installation and storage of gaming machines by licensees**

**225.(1)** Subject to subsection (2), a licensee must install each authorised gaming machine of the licensee in a gaming machine area on the licensee's licensed premises.

(2) A licensee must cause an authorised gaming machine of the licensee that is not installed in a gaming machine area on the licensee's licensed premises—

- (a) to be stored on premises approved by the chief executive; and
- (b) to be secured in the way approved by the chief executive.

Maximum penalty—200 penalty units.

(3) A licensee must not store a gaming machine for more than 2 months without the chief executive's written approval.

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

### **Licensee's register of gaming machines**

**226.(1)** Each licensee must, at each of the licensee's licensed premises,

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keep a register listing all gaming machines on the premises.

Maximum penalty—100 penalty units.

(2) The register must be in the approved form and must show if each gaming machine—

- (a) is owned or leased by the licensee; and
- (b) is, or is not, connected to an electronic monitoring system.

(3) In this section—

“**leased**” includes supplied under a hire-purchase agreement under the *Hire-purchase Act 1959*.

**Gaming machines not to be played if not installed in gaming machine area**

**227.(1)** Subject to subsection (2), a person who plays or allows another person to play a gaming machine—

- (a) that is an authorised gaming machine of a licensee; and
- (b) that is not installed in a gaming machine area;

commits an offence against this Act.

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

(2) Subsection (1) does not apply to a licensed repairer who plays a gaming machine—

- (a) that is an authorised gaming machine of a licensee; and
- (b) that is not installed in a gaming machine area;

in the course of altering, adjusting, maintaining, repairing or testing the gaming machine.

(3) Where winnings become payable because of playing a gaming machine as authorised by subsection (2), those winnings remain the property of—

- (a) if the gaming machine is part of a multiple site linked jackpot arrangement for which a licensed monitoring operator has an approval for its operation under section 287—the licensed monitoring operator who has the approval; or

(b) otherwise—the licensee for the gaming machine.

(4) Subsection (3) applies to winnings whether the winnings are attributable to obtaining a winning result or promotions.

### **Gaming equipment not to be an annoyance etc.**

**228.(1)** A licensee must not locate, or allow to be located, gaming equipment on the licensee's licensed premises in such a way as to be an annoyance due to the location of the gaming equipment, the noise generated by the operation of the equipment or for any other reason.

Maximum penalty—40 penalty units.

(2) A licensed dealer or licensee must not allow any gaming equipment to convey or exhibit—

- (a) any false, misleading, rude or offensive message; or
- (b) excessive or unnecessary advertising by—
  - (i) any words, whether written or spoken; or
  - (ii) a pictorial representation or design; or
  - (iii) any other way.

Maximum penalty—40 penalty units.

(3) Where, in the opinion of an inspector, a contravention of this section is being or has been committed, the chief executive may, instead of instituting or authorising the institution of proceedings for an offence against subsection (1) or (2), by written notice, direct the licensed dealer, licensee or person—

- (a) to do or cease doing anything that constitutes the contravention; or
- (b) not to again do or omit to do anything that constituted the contravention.

(4) A licensed dealer, licensee or person who fails to comply with a direction given under subsection (3) commits an offence against this Act.

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

**Advertisements related to gaming**

**229.(1)** This section applies to an advertisement about—

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

**(2)** A person who publishes, or authorises the publication of, an advertisement to which this section applies 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.

**Directions about advertising**

**230.(1)** If the chief executive reasonably believes an advertisement to which section 229 applies does not comply with that section, the chief executive may direct the person appearing to be responsible for authorising the advertisement to take appropriate steps—

- (a) to stop publication of the advertisement; or
- (b) to change the advertisement.

**(2)** The direction must—

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

**(3)** A person to whom a direction is given must comply with the direction, unless the person has a reasonable excuse.

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

**Installation, operation and modification of gaming related systems**

**231.(1)** A person (other than the chief executive) who is not a licensed monitoring operator must not—

- (a) install a gaming related system on licensed premises; or
- (b) modify an electronic monitoring system operating on licensed premises.

Maximum penalty—200 penalty units.

**(2)** A person who is not a licensee or licensed monitoring operator must not operate a gaming related system on licensed premises.

Maximum penalty—200 penalty units.

**(3)** A licensed monitoring operator must not, without the chief executive's written approval—

- (a) install a gaming related system on licensed premises; or
- (b) modify an electronic monitoring system operating on licensed premises.

Maximum penalty—200 penalty units.

**(4)** A licensee or licensed monitoring operator must not operate a gaming related system on licensed premises—

- (a) without the chief executive's written approval; and
- (b) unless the system was installed on the premises by the chief executive or a licensed monitoring operator.

Maximum penalty—200 penalty units.

**(5)** A person must not cause a gaming related system to be installed on licensed premises, or cause an electronic monitoring system on licensed premises to be modified—

- (a) without the chief executive's written approval; and
- (b) unless the installation or modification is carried out by the chief executive or a licensed monitoring operator.

Maximum penalty—200 penalty units.

**(6)** A person must not cause a gaming related system on licensed premises to be operated—

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- (a) without the chief executive's written approval; and
- (b) unless the operation is carried out by a licensee or licensed monitoring operator; and
- (c) unless the system was installed on the premises by the chief executive or a licensed monitoring operator.

Maximum penalty—200 penalty units.

(7) A licensee must permit such works and actions, by the chief executive or a licensed monitoring operator or any person acting on behalf of the chief executive or a licensed monitoring operator, on any place under the control of the licensee as are necessary to facilitate the installation, alteration, adjustment, maintenance, repair or continued effective operation of an electronic monitoring system installed on the licensee's licensed premises under this section.

Maximum penalty—200 penalty units.

(8) A licensee must, at the licensee's expense, provide—

- (a) locations, to the satisfaction of the chief executive or a licensed monitoring operator, for the installation of equipment connected with; and
- (b) any electricity or other operating requirements of;

an electronic monitoring system installed on the licensee's licensed premises under this section.

Maximum penalty—200 penalty units.

(9) A licensee must, at the licensee's expense, provide the chief executive or a licensed monitoring operator, continuous, free and unfettered access to—

- (a) any data held in or available from; and
- (b) the operation of;

an electronic monitoring system installed, or proposed to be installed, under this section.

Maximum penalty for subsection (9)—200 penalty units.

**Approvals for gaming related systems**

**232.(1)** This section applies to the chief executive for giving, or refusing to give, an approval for section 231 for a gaming related system.

**(2)** If, for deciding whether or not to give the approval, the chief executive considers it is necessary for the gaming related system to be evaluated, the chief executive may—

- (a) carry out the evaluation; or
- (b) direct the applicant—
  - (i) to arrange to have the system evaluated by an approved evaluator; and
  - (ii) to give the chief executive a written report of the evaluation.

**(3)** If the chief executive carries out an evaluation of the gaming related system—

- (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.

**(4)** The chief executive may refuse to give an approval 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 subsection (2)(b).

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

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

**(7)** In this section—

**“applicant”** means the person by whom an approval of the chief executive for section 231 is sought.

**Basic monitoring fees**

**233.** If a licensed monitoring operator supplies basic monitoring services to a licensee, the licensed monitoring operator must not charge the licensee more than the basic monitoring fee prescribed under a regulation for supplying basic monitoring services.

**Maintenance of facilities etc.**

**234.(1)** A licensee must—

- (a) ensure that the operation of gaming machines on the licensee's licensed premises is conducted in such way as, in the opinion of the chief executive, is proper and competent; and
- (b) ensure that anything forming part of a gaming machine that is visible without opening the machine is maintained in good order and is not defaced or altered in any way; and
- (c) maintain all facilities and amenities on the licensee's licensed premises that are related to gaming in such condition as will provide maximum safety and comfort for persons on the premises; and
- (d) ensure that all installations, equipment and procedures for security and safety purposes are used, operated and applied for the preservation and maintenance of those purposes.

Maximum penalty—200 penalty units.

**(2)** A licensee must not—

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

any barker or shill to entice any person to play gaming machines on the licensee's licensed premises.

Maximum penalty for subsection (2)—40 penalty units.

**Hours of gaming**

**235.(1)** A licensee must not conduct gaming, or allow gaming to be conducted, in any part of the licensee's licensed premises—



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- (a) outside the hours of gaming fixed for the licensed premises by the commission; or
- (b) when the licensee or an employee of the licensee is not in the part of the premises to supervise gaming; or
- (c) during a period prescribed for the purposes of this section.

Maximum penalty—200 penalty units.

(2) The hours of gaming fixed for licensed premises can not extend to any time when, under the liquor licence relating to the premises, liquor is not permitted to be consumed in the licensed premises.

**Rules ancillary to gaming**

**236.(1)** Activities ancillary to gaming are subject to rules known as rules ancillary to gaming.

(2) The rules ancillary to gaming for licensed premises are—

- (a) such rules ancillary to gaming as are prescribed; or
- (b) those rules as amended, added to, repealed or substituted under subsection (3).

(3) The chief executive may and a licensee, with the approval of the chief executive, in respect of the licensee's licensed premises, may—

- (a) amend, add to or repeal; or
- (b) substitute a rule or other rules for;

a rule or the rules prescribed under subsection (2) or such rules as amended or added to, or any rule or rules substituted for the rule or rules, under this subsection.

(4) If the chief executive takes action under subsection (3) (other than by way of approval), the chief executive by written notice, must advise the licensee accordingly.

(5) Any amendment, addition, repeal or substitution made under subsection (3) takes effect from the date specified for the purpose in the chief executive's written notice or approval.

(6) If the Governor in Council repeals all the rules ancillary to gaming

and substitutes fresh rules, any notice or approval given under subsection (3) that is in force is revoked.

### **Rules ancillary to gaming to be displayed and enforced**

**237.** A licensee, when gaming is being conducted on the licensee's licensed premises, must cause the rules ancillary to gaming that are, at that time, the rules for the licensed premises—

- (a) to be prominently displayed at each place on the licensed premises where the sale or redemption of gaming tokens or any centralised credit transaction is carried out; and
- (b) to be enforced.

Maximum penalty—40 penalty units.

### **Licensees or employees not to extend credit**

**238.(1)** A licensee must not make a loan or extend credit in any form, to any person to enable that person or any other person to play a gaming machine on the licensee's licensed premises.

Maximum penalty—200 penalty units.

**(2)** An employee of a licensee must not, in the course of the employee's employment, make a loan or extend credit in any form to any person, including the employee, to enable the person or another person to play a gaming machine on the licensee's licensed premises.

Maximum penalty—200 penalty units.

**(3)** If a cash advance is made to a person in circumstances where a licensee or an employee of a licensee knows, or ought reasonably to know, that the person intends to use the cash advance for gaming, the licensee or employee must not represent that the cash advance was made for some other purpose.

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

### **Gaming tokens**

**239.(1)** A licensee in conducting gaming on the licensee's licensed

premises must only use gaming tokens.

Maximum penalty—200 penalty units.

(2) A licensee must cause all transactions, in respect of the sale or redemption of gaming tokens on the licensee's licensed premises, to be carried out in such way as ensures the integrity of the transactions.

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

### **Gaming tokens that are not Australian currency**

**240.(1)** This section does not apply to a gaming token that—

- (a) has no value marked on the gaming token; and
- (b) forms part of a centralised credit system approved under section 231(1).

(2) Where a person is a licensee who conducts gaming by the use of gaming tokens that are not Australian currency, that person, at all reasonable times, must—

- (a) during the time the person is a licensee; and
- (b) for 1 year after the person ceases to be a licensee;

redeem the gaming token for the value that is marked on the gaming token.

Maximum penalty—200 penalty units.

(3) A licensee must not sell for the purpose of gaming any gaming token that is not Australian currency unless—

- (a) the gaming token is approved by the chief executive for use on the licensee's licensed premises; and
- (b) the value (in Australian currency) that the gaming token represents for the purpose of gaming on the licensee's licensed premises is approved by the chief executive; and
- (c) the gaming token is of the physical characteristics approved by the chief executive; and
- (d) there is marked on the gaming token, in such a way as is approved by the chief executive—
  - (i) the value approved under paragraph (b); and

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- (ii) the name of the licensee or a symbol, approved by the chief executive, that clearly identifies the licensee from all other licensees; and
  - (iii) the name of the licensed premises or a symbol, approved by the chief executive, that clearly identifies the licensed premises from all other licensed premises; and
- (e) the gaming token is in good condition.

Maximum penalty—200 penalty units.

(4) Before placing an order to purchase gaming tokens that are not Australian currency with a manufacturer of gaming tokens, a licensee must obtain from the chief executive approval for the purchase of the gaming tokens.

Maximum penalty—200 penalty units.

(5) A manufacturer of gaming tokens must not accept an order to manufacture, or manufacture, gaming tokens that are not Australian currency unless there is produced to the manufacturer an approval given under subsection (4) in respect of the gaming tokens.

Maximum penalty—200 penalty units.

(6) A licensee, except in the genuine redemption of gaming tokens, must not purchase gaming tokens that are not Australian currency from any person who is not a manufacturer of gaming tokens approved by the chief executive.

Maximum penalty—200 penalty units.

(7) A licensee must keep, and at all times accurately maintain, a written inventory of gaming tokens that are not Australian currency purchased from a manufacturer of gaming tokens.

Maximum penalty for subsection (7)—200 penalty units.

### **Entitlement of players to winnings**

**241.(1)** This section applies if a person (the “**player**”) playing a gaming machine installed on licensed premises becomes entitled to receive an amount or a non-monetary prize because of the playing of the gaming machine.

- (2) The responsible licensed person must ensure the player—
- (a) is paid the amount the player is entitled to receive, calculated in the way prescribed under a regulation; or
  - (b) receives the non-monetary prize the player is entitled to receive.

Maximum penalty—200 penalty units.

- (3) In this section—

**“responsible licensed person”**, for an amount or non-monetary prize mentioned in subsection (1), means—

- (a) if the gaming machine under which the entitlement to the amount or prize arises is not part of a multiple site linked jackpot arrangement for which a licensed monitoring operator has an approval for its operation under section 287<sup>93</sup>—the licensee of the licensed premises on which the gaming machine is installed; or
- (b) if the gaming machine under which the entitlement to the amount or prize arises is part of a multiple site linked jackpot arrangement for which a licensed monitoring operator has an approval for its operation under section 287—the licensed monitoring operator who has the approval for the operation of the arrangement.

### **Payments for gaming**

**242.(1)** This section applies to a licensee or licensed monitoring operator who is required to make a payment for—

- (a) an amount for winnings, or gaming machine credits, that is not made by a gaming machine; or
- (b) the redemption of gaming tokens.

(2) The licensee or licensed monitoring operator must make the payment—

- (a) if paragraph (b) does not apply—with Australian currency; or
- (b) if, under a regulation or the ancillary rules, the payment is required to be made in a way prescribed under the regulation or

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<sup>93</sup> Section 287 (Requirements for approvals for linked jackpot arrangements)

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stated in the rules—in the way prescribed or stated.

Maximum penalty—200 penalty units.

(3) Subsection (2) does not apply to a licensee or licensed monitoring operator for a payment that, apart from this subsection, would be required to be made with Australian currency if, at the request of the person entitled to receive the payment, the licensee or operator makes the payment by—

- (a) gaming tokens (other than Australian currency); or
- (b) a cheque; or
- (c) a combination of Australian currency, gaming tokens (other than Australian currency) and a cheque.

(4) Nothing in subsection (3) requires a licensee or licensed monitoring operator to make a payment in the way requested by a person.

(5) In this section—

“**ancillary rules**”, for a payment under this section, means the rules that, under section 237, are required to be displayed on the licensed premises on which the gaming machine to which the payment relates is installed.

### **Unclaimed payments**

**242A.(1)** If a person entitled to a non-monetary payment in relation to playing a gaming machine does not collect the payment within 3 months after the person becomes entitled to the payment, the relevant person may—

- (a) dispose of the payment by public auction or tender or in some other way approved by the chief executive; and
- (b) pay for the disposal from the proceeds of sale.

(2) Also, the relevant person must deal with any amount remaining from the proceeds of sale as required under subsection (4).

Maximum penalty—100 penalty units.

(3) If a person is entitled to a monetary payment in relation to playing a gaming machine and the amount is not paid within 3 months after the person becomes entitled to the payment, the relevant person must, within 14 days after the end of the 3 months, deal with the amount as required

under subsection (4).

Maximum penalty—100 penalty units.

(4) The relevant person must, for an amount mentioned in subsection (2) or (3)—

- (a) if the relevant person knows who is entitled to receive the amount and the person's whereabouts—pay the amount to the person; or
- (b) if the relevant person knows who is entitled to receive the amount, but the relevant person does not know the person's whereabouts—pay the amount into the designated departmental account; or
- (c) if the relevant person does not know who is entitled to receive the amount—pay the amount into the designated departmental account.

(5) In this section—

**“designated departmental account”** means a departmental financial institution account of the department designated under a regulation as the account to which payments are to be made under subsection (4)(b) or (c).

**“payment”** does not include promotions.

**“relevant person”** means—

- (a) for a multiple site linked jackpot arrangement—the licensed operator; or
- (b) otherwise—the licensee.

### **Gaming by employees of licensees**

**243.(1)** This section applies if—

- (a) an employee of a licensee who is not a gaming employee plays a gaming machine on the licensee's licensed premises for carrying out the employee's duties; and
- (b) a winning result is, or promotions are, obtained by the playing of

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the gaming machine.<sup>94</sup>

(2) No amount is payable to the employee for the winning result or promotions, and any winnings produced by obtaining the winning result or because of the promotions remain the property of—

- (a) if the gaming machine is part of a multiple site linked jackpot arrangement for which a licensed monitoring operator has an approval for its operation under section 287—the licensed monitoring operator who has the approval; or
- (b) otherwise—the licensee.

### **Gaming system malfunctions**

**244.(1)** This section applies if—

- (a) a credit of gaming tokens (a **“displayed win”**) is registered by a gaming machine by the playing of the gaming machine; or
- (b) a gaming system component produces a display (also a **“displayed win”**) to indicate, for a gaming machine—
  - (i) an amount (a **“prize amount”**) has been won by the playing of the gaming machine; or
  - (ii) a non-monetary prize (a **“prize item”**) has been won by the playing of the gaming machine.

(2) A gaming employee for the licensed premises on which the gaming machine is installed may—

- (a) refuse to make a payment, or to allow a payment to be made, to a person for the registered credit; or
- (b) refuse to pay the prize amount, or to allow the prize amount to be paid, to a person; or
- (c) refuse to award the prize item, or to allow the prize item to be awarded, to a person.

(3) However, the gaming employee may make a payout refusal decision

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<sup>94</sup> The issue of the playing of gaming machines by gaming employees is dealt with in section 338 (Certain persons not to play gaming machines).



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about a displayed win only if the gaming employee is satisfied the registering or production of the displayed win is caused by a gaming system malfunction.

(4) If a gaming employee makes a payout refusal decision about a displayed win, the gaming employee must ensure the gaming machine to which the displayed win relates is not played, except for testing purposes, until the gaming system malfunction is rectified.

Maximum penalty—200 penalty units.

(5) A gaming employee may make a payout refusal decision regardless of the reason for the gaming system malfunction.

(6) Subsection (1) applies to a displayed win whether the displayed win is attributable to the obtaining of a winning result, promotions or something else.

**Notices and reports about payout refusal decisions**

**245.(1)** This section applies if a gaming employee makes a payout refusal decision about a displayed win.

(2) As soon as practicable after making the decision, the gaming employee must—

- (a) give the person affected by the decision (the “**affected person**”) a written notice stating—
  - (i) that the person may ask for a review of the decision; and
  - (ii) how the request for the review may be made; and
- (b) give a report of the decision, in the approved form, to the licensee (the “**involved licensee**”) of the licensed premises at which the gaming employee is carrying out gaming duties.

Maximum penalty—40 penalty units.

(3) As soon as practicable after receiving a report under subsection (2), the involved licensee must give a copy of the report to the involved licensed monitoring operator.

Maximum penalty—40 penalty units.

(4) However, the involved licensee is not required to give a copy of the

report to the involved licensed monitoring operator if the involved licensee overrules the decision of the gaming employee.

### **Requests for review of payout refusal decisions**

**246.(1)** An affected person who is dissatisfied with a payout refusal decision may ask for a review of the decision.

**(2)** A request under subsection (1) must—

- (a) be in writing; and
- (b) be given to the involved licensee; and
- (c) be made within 10 days after the payout refusal decision is made; and
- (d) state the grounds for seeking a review of the decision.

**(3)** As soon as practicable after receiving a request for a review of a payout refusal decision, the involved licensee must give a copy of the request to the involved licensed monitoring operator.

### **Review of payout refusal decisions**

**247.(1)** This section applies to an involved licensed monitoring operator on receiving a copy of a request about a payout refusal decision under section 246.

**(2)** The involved licensed monitoring operator must—

- (a) review the payout refusal decision as soon as practicable after receiving the copy of the request; and
- (b) decide the review by either confirming or overruling the payout refusal decision; and
- (c) immediately after making a decision for the review, give written notice of the decision, as required under this section, to—
  - (i) the person by whom the request for the review was made (the “**claimant**”); and
  - (ii) the involved licensee.

**(3)** However, the involved licensed monitoring operator may confirm the

payout refusal decision only if the operator is satisfied the registering or production of the displayed win to which the decision relates was caused by a gaming system malfunction.

- (4) The notice mentioned in subsection (2)(c) must state—
- (a) the outcome of the review (the “**review decision**”); and
  - (b) the reasons for the review decision; and
  - (c) if the review decision is a decision confirming the payout refusal decision—
    - (i) that the claimant may ask the chief executive to review the review decision; and
    - (ii) how the request for the further review may be made.

### **Review of initial review decisions**

**248.(1)** This section applies if a claimant for a review of a payout refusal decision—

- (a) receives a notice under section 247(2) confirming the decision; or
- (b) does not receive a notice under section 247(2) within 1 month after asking for the review.

(2) If this section applies because of subsection (1)(a), the claimant may ask the chief executive to review the review decision.

(3) If this section applies because of subsection (1)(b), the claimant may ask the chief executive to review the payout refusal decision.

- (4) A request to the chief executive under this section must—
- (a) be made in the way, and within the time, prescribed under a regulation; and
  - (b) be dealt with by the chief executive in the way prescribed under a regulation.

### **Effect of reviews on payout refusal decisions**

**249.(1)** If, following the review of a review decision by the chief executive, the chief executive sets aside the review decision—

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- (a) the payout refusal decision to which the review decision relates ceases to have effect; and
- (b) this Act applies to the responsible licensed person in relation to the displayed win to which the payout refusal decision related as if the decision had not been made.

(2) If an involved licensed monitoring operator overrules a payout refusal decision—

- (a) the decision ceases to have effect; and
- (b) this Act applies to the responsible licensed person in relation to the displayed win to which the payout refusal decision related as if the decision had not been made.

(3) Nothing in section 246 to 248 affects or prejudices any other right or remedy of an affected person in relation to a displayed win to which a payout refusal decision relates.

(4) In this section—

**“responsible licensed person”** means—

- (a) if the relevant gaming machine is not part of a multiple site linked jackpot arrangement for which a licensed monitoring operator has an approval for its operation under section 287<sup>95</sup>—the licensee of the licensed premises on which the gaming machine is installed; or
- (b) if the relevant gaming machine is part of a multiple site linked jackpot arrangement for which a licensed monitoring operator has an approval for its operation under section 287—the licensed monitoring operator who has the approval for the operation of the arrangement.

### **Defective gaming system components not allowed**

**250.(1)** In this section—

**“licensee”** includes—

- (a) a gaming employee in respect of the licensed premises in

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<sup>95</sup> Section 287 (Requirements for approvals for linked jackpot arrangements)

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question; and

- (b) if the licensee is a body corporate—the secretary or any executive officer of the body corporate; and
- (c) any person employed by the licensee who may be required by the licensee to—
  - (i) supervise gaming; or
  - (ii) attend to gaming machines; or
  - (iii) sell or redeem gaming tokens; or
  - (iv) carry out centralised credit transactions;on the licensee's licensed premises in question.

(2) A licensee must not allow a gaming system component installed, or available for use, on the licensee's licensed premises to be played or used, except for testing purposes, if the component malfunctions when it is played or used.

Maximum penalty—200 penalty units.

(3) It is a defence to a prosecution for an offence against subsection (2) for the defendant to prove that the defendant—

- (a) had taken all reasonable precautions to ensure that the gaming system component did not malfunction when it was played or used; and
- (b) at the time of the alleged offence did not know, and ought not to have known, that the gaming system component was malfunctioning.

**Security of keys etc.**

**251.(1)** A licensee must ensure that all keys and other devices related to the security of gaming equipment on the licensee's licensed premises are kept, stored, secured, possessed and used in accordance with requirements prescribed in relation to the keys or other devices.

Maximum penalty—200 penalty units.

(2) A person must not possess or use any key or other device referred to in subsection (1) unless the possession or use is—

- (a) permitted by; and
- (b) in accordance with;

requirements prescribed in relation to the key or other device.

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

### **Certain persons only to have access etc. to gaming machines**

**252.** A person must not, in relation to a gaming machine on licensed premises—

- (a) open the gaming machine; or
- (b) check gaming tokens contained inside the gaming machine; or
- (c) remove gaming tokens from the cabinet or drop box of the gaming machine; or
- (d) place gaming tokens into the gaming machine (other than for the purpose of playing a game upon the gaming machine);

unless the person is—

- (e) the licensee of the licensed premises; or
- (f) where the licensee is a body corporate—the secretary or executive officer of the body corporate in the genuine execution of the duties of such secretary or executive officer; or
- (g) a gaming employee in respect of the licensed premises; or
- (h) an employee of the licensee who is employed wholly or in part to attend to gaming machines; or
- (i) an employee of the licensee who is assisting in carrying out money clearances; or
- (j) a licensed repairer in the performance of duties as a licensed repairer; or
- (k) an inspector in the performance of functions under this Act.

Maximum penalty—200 penalty units.

**Minors can not play gaming machines**

**253.(1)** A minor must not play a gaming machine on licensed premises.

Maximum penalty—25 penalty units.

**(2)** Subsection (1) does not apply to a minor if the minor—

- (a) is an employee of the licensee of the licensed premises; and
- (b) plays the gaming machine only to the extent that is necessary for carrying out the minor's duties as the licensee's employee.

*Example of circumstances in which minor may play gaming machine for subsection (2)(b)—*

If a gaming machine has malfunctioned and has been adjusted to correct the malfunction, a minor may play the gaming machine to test that it is operating properly.

**Minors can not be allowed to game**

**254.(1)** A person must not allow a minor to play a gaming machine on licensed premises.

Maximum penalty—

- (a) for a person who is the licensee of, or a gaming employee for, the licensed premises—250 penalty units; or
- (b) for another person—40 penalty units.

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

- (a) is an employee of the licensee of the licensed premises; and
- (b) plays the gaming machine only to the extent that is necessary for carrying out the minor's duties as the licensee's employee.

*Example of circumstances in which minor may play gaming machine for subsection (2)(b)—*

If a gaming machine has malfunctioned and has been adjusted to correct the malfunction, a minor may play the gaming machine to test it is operating properly.

**False representation of age**

**255.(1)** A person must not falsely represent himself or herself to have attained 18 years with the intent of playing a gaming machine.

Maximum penalty—25 penalty units.

(2) A person must not—

- (a) make a false document that could reasonably be taken to be genuine acceptable evidence of age for the purposes of this Act; or
- (b) give such a false document to another person;

knowing the document to be false and with intent that the document be used as acceptable evidence of age for the purposes of this Act.

Maximum penalty—

- (a) in the case of a minor—25 penalty units; and
- (b) in the case of an adult—40 penalty units.

**Wrongful dealing with genuine evidence of age**

**256.(1)** A person must not knowingly give a document that is evidence of age of the person mentioned in the document (the “**specified person**”) to someone else, if the person giving the document knows or has reasonable grounds to suspect that the document may be used—

- (a) as evidence of age for this Act of someone other than the specified person; or
- (b) to obtain a document that is acceptable evidence of age for this Act of someone other than the specified person.

Maximum penalty—40 penalty units.

(2) A person must not wilfully or negligently deface or interfere with a document that is, for the purposes of this Act, acceptable evidence of age of the person or another person.

Maximum penalty—40 penalty units.



**Seizure of document wrongly used as evidence of age**

**257.(1)** If a contravention of section 255 consists in production of—

- (a) a genuine document that is, for the purposes of this Act, acceptable evidence of age of the person specified in the document; or
- (b) a false document that could reasonably be taken, for the purposes of this Act, to be genuine acceptable evidence of age;

the person to whom the document is produced must seize and confiscate the document and give it to an inspector or a police officer.

Maximum penalty—25 penalty units.

**(2)** A person does not commit an offence by contravening subsection (1) if the person is not aware of the falsity of the representation as to age made by producing the document.

**Ascertainment of age**

**258.(1)** For the purposes of this Act, an authorised person may, on licensed premises, require another person whom the authorised person suspects on reasonable grounds to be a minor and to be contravening a provision of this Act—

- (a) to state all relevant particulars concerning the other person's age; and
- (b) to produce evidence of the other person's age.

**(2)** If a person required under subsection (1) refuses to state particulars, or to produce evidence, as to age the authorised person must prohibit the suspected minor from playing gaming machines on the licensed premises.

**(3)** In this section—

**“authorised person”**, for licensed premises means—

- (a) the licensee of the premises; or
- (b) a gaming employee for the premises; or
- (c) another employee of the licensee of the premises; or
- (d) an inspector.

**Seizure of material associated with representation of age**

**259.** If an inspector reasonably believes or suspects that a person—

- (a) has made, or caused to be made, a false document in contravention of section 255(2)(a); or
- (b) is in possession of a document given to the person in contravention of section 255(2)(b) or 256(1); or
- (c) is in possession of a document defaced or interfered with in contravention of section 256(2);

the inspector may seize and confiscate—

- (d) in the case specified in paragraph (a)—
  - (i) all documents made in contravention of section 255(2)(a) in the person's possession; and
  - (ii) all equipment and materials in the person's possession reasonably suspected by the inspector to have been used, or to be intended for use, in contravening section 255(2)(a); or
- (e) in the case specified in paragraph (b) or (c)—the document in respect of which section 255(2)(b) or 256(1) or (2) appears to have been contravened.

**Defence to charge if age material**

**260.(1)** If the age of a person is material to a charge of an offence against this Act, it is a defence to prove that, at the time of the offence, the defendant (if the defendant is the actual offender) or an agent or employee (if the defendant is charged merely because of being principal or employer of the actual offender)—

- (a) honestly and reasonably believed that the person whose age is material to the offence had attained 18 years; or
- (b) had sighted acceptable evidence of age of the person whose age is material to the offence that indicated the person had attained 18 years;

and the operation of the Criminal Code, section 24 is excluded.

**(2)** Evidence that the defendant (if the defendant is the actual offender) or

an agent or employee (if the defendant is charged merely because of being principal or employer of the actual offender) did not request the person whose age is material to the offence to produce acceptable evidence of age is evidence that any belief that the person had attained 18 years was not reasonable.

### **Licensees to prohibit certain persons from gaming**

**261.** Where there are reasonable grounds for a licensee to believe that the peace and happiness of a person's family are endangered due to excessive playing of gaming machines by the person, the licensee must prohibit the person from playing gaming machines on the licensee's licensed premises for 1 month from the date of prohibition.

### **Removal of certain persons**

**262.(1)** A licensee may cause a person to be removed from, or refuse to allow a person to enter, the licensee's licensed premises if the person—

- (a) breaches the rules for the licensed premises required to be displayed and enforced under section 237; or
- (b) damages or physically abuses a gaming machine; or
- (c) behaves in a way likely to cause offence to other persons; or
- (d) is suspected on reasonable grounds of being on the premises for the purpose of committing an offence or aiding another person to commit an offence against this Act.

**(2)** A licensee must cause to be removed from the licensee's licensed premises a person who is prohibited under section 258(2) or 261 from playing gaming machines on the premises if the person plays, or induces another person to play, a gaming machine on behalf of the first person.

Maximum penalty—250 penalty units.

**(3)** A licensee, or other person acting for a licensee, may use such force and assistance as are necessary and reasonable in removing a person from, or preventing a person from entering, the licensee's licensed premises under subsection (1) or (2).

**Obstruction to removal from licensed premises**

**263.** If a person is seeking under section 262(1) or (2) to remove a person from licensed premises, the person whose removal is sought must not—

- (a) refuse to leave the premises when required by the first person; or
- (b) resist the first person.

Maximum penalty—25 penalty units.

**Obstruction generally**

**264.** A person must not obstruct or hinder a licensee, gaming employee or any other employee of a licensee in the exercise of a power or performance of a function under this Act.

Maximum penalty—100 penalty units.

**PART 7—CONTROL OF GAMING MACHINES****Manufacture, sale, supply, obtaining or possession of gaming machines**

**265.(1)** A person must not manufacture, sell, supply, obtain or be in possession of—

- (a) a gaming machine; or
- (b) linked jackpot equipment; or
- (c) a device capable of being represented as being a gaming machine or linked jackpot equipment;

except under and in accordance with the authority of a licence or any other authorisation under this Act.

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

**(2)** A person must not, except with the chief executive's written approval—

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- (a) buy or otherwise acquire a gaming machine; or
- (b) sell or otherwise dispose of a gaming machine; or
- (c) be in possession of a gaming machine.

Maximum penalty—200 penalty units.

**(5)** To avoid doubt, it is declared that—

- (a) a licensed monitoring operator can sublease a gaming machine only to a licensee or a gaming trainer; and
- (b) an approved financier can sublease a gaming machine only to a licensed monitoring operator, licensee or gaming trainer; and
- (c) a licensee and a gaming trainer can not lease a gaming machine to another person.

**(6)** A licensed monitoring operator's right to sublease or further sublease a gaming machine to someone else is subject to the lease or sublease under which the operator leases the gaming machine.

**(7)** An approved financier's right to sublease a gaming machine to someone else is subject to the lease under which the financier leases the gaming machine.

**(8)** A person must not manufacture, sell, supply, obtain or be in possession of a restricted component except under and in accordance with the authority of a licence or any other authorisation under this Act.

Maximum penalty—400 penalty units or 2 years imprisonment.

**(9)** It is a defence to a prosecution for an offence against subsection (8), for the defendant to prove that—

- (a) the manufacturing, selling, supplying, obtaining or possession of a restricted component was not related to the manufacture, assembly, installation, alteration, operation, use, adjustment, maintenance or repair of gaming equipment; and
- (b) the restricted component was not intended to be used to interfere with the normal operation of gaming equipment.

**(10)** Despite any other Act or law, the possession of anything referred to in subsection (1) or (8) in accordance with the authority of a licence or any other authorisation under this Act is lawful.

(11) This Act does not apply so as to affect the lawful obtaining, possession or use of anything referred to in subsection (1) or (8) by a licensed casino operator in accordance with the *Casino Control Act 1982*.

(12) The authority of a licence or any other authorisation under this Act is—

- (a) subject to this Act; and
- (b) taken to extend to a person in the genuine employ of the holder of such licence or authorisation to such extent as is necessary for the employee to carry out the duties of the employee on behalf of the holder.

(13) In this section—

“lease” includes—

- (a) a hire-purchase agreement under the *Hire-purchase Act 1959*; or
- (b) any other contractual bailment.

### **Dealing with gaming equipment etc. by monitoring operators and approved financiers**

**265A.(1)** A licensed monitoring operator or an approved financier is authorised to—

- (a) obtain and be in possession of gaming machines, linked jackpot equipment and restricted components; and
- (b) sell or supply, on written order, gaming machines, linked jackpot equipment or restricted components to a person in another State or Territory or a country where possession of the gaming machines, linked jackpot equipment or restricted components by that person is lawful.

(2) A licensed monitoring operator is also authorised to manufacture linked jackpot equipment.

### **Possession of gaming equipment and other property by licensed monitoring operators**

**266.(1)** A licensed monitoring operator must not use premises for

storing or handling designated property, unless the premises are approved by the chief executive for the purpose.

Maximum penalty—200 penalty units.

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

(3) In this section—

“**designated property**” means—

- (a) gaming equipment; or
- (b) property of a licensed monitoring operator that is ancillary or related to the operator’s gaming equipment; or
- (c) restricted components.

### **Possession etc. of gaming machines and restricted components by licensed major dealers**

**267.(1)** A licensed major dealer is authorised to—

- (a) manufacture, obtain and be in possession of gaming machines, linked jackpot equipment and restricted components; and
- (b) sell or supply, on written order—
  - (i) gaming machines or linked jackpot equipment to a licensed major dealer; and
  - (ii) gaming machines, with the chief executive’s written approval, to a licensed monitoring operator, an approved financier, a licensee or a gaming trainer; and
  - (iii) linked jackpot equipment or restricted components to a licensed service contractor, licensed repairer or other person authorised under this Act to obtain and be in possession of the equipment or components; and
- (c) sell or supply, on written order, gaming machines, linked jackpot equipment or restricted components to a person in another State or a Territory or a country where possession of such gaming machines, linked jackpot equipment or restricted components by that person is lawful; and

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- (d) sell or supply gaming machines, linked jackpot equipment or restricted components under a lawful order from a holder of a casino licence under the *Casino Control Act 1982*.

(2) A licensed major dealer must not use any premises for the manufacture, assembly, storage or handling of designated equipment unless the premises are approved by the chief executive for the purpose.

Maximum penalty—200 penalty units.

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

(3) A licensed major dealer must not manufacture, obtain or be in possession of gaming machines or restricted components unless such manufacturing, obtaining or possession is for the purpose of—

- (a) the submission for evaluation by the chief executive of a particular device; or
- (b) an action authorised under subsection (1)(b), (c) or (d); or
- (c) conducting genuine testing or development work; or
- (d) conducting, at premises approved by the chief executive for the purpose, a genuine training course for licensed repairers or applicants for a repairer's licence on the installation, alteration, adjustment, maintenance or repair of gaming equipment.

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

(4) In this section—

**“designated equipment”** means—

- (a) gaming equipment; or
- (b) property of a licensed major dealer that is ancillary or related to the dealer's gaming equipment; or
- (c) restricted components.

**Possession etc. of restricted components by licensed secondary dealers**

**268.(1)** A licensed secondary dealer is authorised to—

- (a) manufacture, obtain and be in possession of restricted



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components; and

- (b) sell or supply, on written order, restricted components to a person authorised under this Act to obtain and be in possession of such restricted components; and
- (c) sell or supply, on written order, restricted components to a person in another State or a Territory or a country where possession of such restricted components by that person is lawful; and
- (d) sell or supply restricted components under a lawful order from a holder of a casino licence under the *Casino Control Act 1982*.

(2) A licensed secondary dealer must not manufacture, obtain or be in possession of a restricted component unless such manufacturing, obtaining or possession is for the purpose of—

- (a) the submission for evaluation by the chief executive of a particular device; or
- (b) an action authorised under subsection (1)(b), (c) or (d); or
- (c) conducting genuine testing or development work; or
- (d) conducting, at premises approved by the chief executive for the purpose, a genuine training course for licensed repairers or applicants for repairer's licences on the use of restricted components.

Maximum penalty for subsection (2)—400 penalty units or 2 years imprisonment.

### **Possession etc. of gaming machines and restricted components by licensed repairers**

**269.** A licensed repairer is authorised to—

- (a) obtain and be in possession of restricted components to such extent as is necessary to do so as a licensed repairer; and
- (b) supply restricted components to a licensed repairer employed by him or her as a licensed repairer; and
- (c) sell or supply, on written order, restricted components to another person authorised under this Act to obtain and be in possession of such restricted components; and

- (d) be in possession of a gaming machine or linked jackpot equipment to the extent necessary to install, repair, remove or reinstate the machine or equipment; and
- (e) be in possession of linked jackpot equipment, or with the chief executive's written approval, a gaming machine for the purpose of using the equipment or machine for spare parts.

**Possession etc. of restricted components by licensed service contractors**

**270.** A licensed service contractor is authorised to—

- (a) obtain and be in possession of restricted components to such extent as is necessary to do so as a licensed service contractor; and
- (b) supply restricted components to a licensed repairer employed by the licensed service contractor as a licensed repairer; and
- (c) sell or supply, on written order, restricted components to another person authorised under this Act to obtain and be in possession of such restricted components; and
- (d) be in possession of a gaming machine or linked jackpot equipment to the extent necessary to install, repair, remove or reinstate the machine or equipment; and
- (e) be in possession of linked jackpot equipment, or with the chief executive's written approval, a gaming machine, for the purpose of using the equipment or machine for spare parts.

**Possession etc. of gaming machines and restricted components by licensees**

**271.(1)** A licensee is authorised to—

- (a) be in possession of—
  - (i) the licensee's authorised gaming machines; and
  - (ii) linked jackpot equipment for a linked jackpot arrangement involving the licensee's authorised gaming machines; and
- (b) obtain and be in possession of restricted components, on the

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licensee's licensed premises, to such extent as is necessary for the efficient conduct of gaming on the licensed premises; and

- (c) supply restricted components to—
  - (i) another licensee; or
  - (ii) another person authorised under this Act to obtain and be in possession of the restricted components.

(2) A licensee must not, on the licensee's licensed premises, be in possession of, or allow a person to play, a gaming machine unless—

- (a) the gaming machine is an authorised gaming machine of the licensee; and
- (b) the game for the machine is an approved game, whether or not changed by an alteration of the gaming machine under this Act.

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

(3) If a licensee's gaming machine licence is suspended, the licensee may, during the suspension, be in possession of gaming machines and restricted components supplied to the licensee under this section.

(4) If a licensee's gaming machine licence is cancelled, the licensee may be in possession of gaming machines and restricted components supplied to the licensee under this section until—

- (a) the end of the period allowed for appealing against the decision to cancel the licence; or
- (b) if an appeal is made against the decision—the appeal is finally decided.

**Possession etc. of gaming machines etc. by other persons**

**272.(1)** A person who carries out any installation, alteration, adjustment, maintenance or repair that is prescribed for the purposes of section 187(3), is authorised to obtain and be in possession of restricted components to such extent as is necessary to carry out such installation, alteration, adjustment, maintenance or repair.

(2) A carrier who is hired, by a person authorised to manufacture, sell, supply, obtain or be in possession of gaming machines, linked jackpot equipment or restricted components, for the purpose of transporting the

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gaming machines, linked jackpot equipment or restricted components is authorised to have possession of the gaming machines, linked jackpot equipment or restricted components to such extent as is necessary for the purpose of that transportation.

(3) A gaming trainer is authorised to be in possession of gaming machines, linked jackpot equipment and restricted components subject to—

- (a) the gaming machines, linked jackpot equipment and restricted components being provided by—
  - (i) the chief executive, a licensee or an approved financier; or
  - (ii) a licensed monitoring operator, licensed major dealer, licensed service contractor or licensed repairer; or
  - (iii) another gaming trainer.
- (b) compliance with all conditions (including the payment of fees) as may be imposed by the chief executive.

(4) The chief executive, an inspector, a departmental officer and a police officer are authorised to obtain and be in possession of gaming machines, linked jackpot equipment, restricted components and devices capable of being represented as being gaming machines or linked jackpot equipment obtained by them in the course of their duties and to do such acts with those things as may be necessary for the performance of their functions under this Act.

(5) A person if so authorised by the chief executive may manufacture, obtain, be in possession of or use (other than for gaming or the conduct of gaming) a gaming machine, linked jackpot equipment, a restricted component or a device capable of being represented as being a gaming machine or linked jackpot equipment.

**Gaming equipment not to be encumbered**

**273.(1)** An encumbrance over gaming equipment is of no effect.

(2) Subsection (1) does not apply to an encumbrance given by—

- (a) a licensed monitoring operator to an approved financier; or
- (b) a licensee or gaming trainer to a licensed monitoring operator or approved financier.

**Repossession of gaming machines**

**274.(1)** A licensed monitoring operator or approved financier must not repossess a gaming machine without first obtaining the chief executive's written approval.

Maximum penalty—100 penalty units.

**(2)** For obtaining the chief executive's approval for subsection (1), an application must be made to the chief executive.

**(3)** The application must—

- (a) be in the approved form; and
- (b) be accompanied by the fee prescribed under a regulation for the application.

**Storage of gaming machines by operators and financiers**

**275.(1)** Each licensed monitoring operator and approved financier must keep all gaming machines in the possession of the operator or financier stored on premises, and in a way, approved by the chief executive.

**(2)** A licensed monitoring operator must not store a gaming machine for more than 1 year without the chief executive's written approval.

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

**(3)** An approved financier must not store a gaming machine for more than 2 months without the chief executive's written approval.

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

**(4)** The chief executive may, within the period mentioned in subsection (2) or (3), extend the period.

**Operators and approved financiers must keep registers of gaming machines**

**276.(1)** A licensed monitoring operator and an approved financier must each keep a register listing—

- (a) for a licensed monitoring operator—all gaming machines owned or monitored by the operator or leased or subleased by the

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operator from another person; and

- (b) for an approved financier—all gaming machines owned by the financier or leased by the financier from another approved financier.

Maximum penalty—100 penalty units.

(2) The register must be in the approved form.

(3) In this section—

“**leased**” includes supplied under a hire-purchase agreement under the *Hire-purchase Act 1959*.

### **Destruction of gaming machines**

**277.** A licensed monitoring operator, approved financier, licensee or gaming trainer must not, without the chief executive’s written approval, destroy a gaming machine.

Maximum penalty—100 penalty units.

### **Approval and rejection of gaming machines and games**

**281.(2)** The chief executive may accept gaming machine types and games from a person (the “**applicant**”) for evaluation.

(3) If the chief executive accepts a gaming machine type or game for evaluation, the chief executive must—

- (a) carry out the evaluation; or
- (b) direct the applicant—
- (i) to arrange to have the gaming machine type or game evaluated by an approved evaluator; and
- (ii) to give the chief executive a written report of the evaluation.

(4) If the chief executive decides to carry out the evaluation, the chief executive may require the applicant to give the chief executive further information or material for the evaluation.

(5) A requirement under subsection (4)—

- (a) must be made by written notice given to the applicant; and

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(b) may only relate to information or material that is necessary and reasonable for carrying out an appropriate evaluation.

(6) The notice mentioned in subsection (5)(a) must state the period within which the requirement is to be complied with.

(7) If the chief executive carries out an evaluation of a gaming machine type or game—

- (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.

(8) As soon as practicable as the circumstances allow, the chief executive may either approve or reject a gaming machine type or game accepted by the chief executive under this section.

(9) The chief executive may reject a gaming machine type or game 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—
  - (i) a direction of the chief executive under subsection (3)(b); or
  - (ii) a requirement of the chief executive under subsection (4).

(10) A rejection under subsection (9)(b) may be made without an evaluation having been carried out.

(11) If the chief executive approves a gaming machine type or game, the chief executive must immediately give the applicant written notice of the decision.

(12) If the chief executive rejects a gaming machine type or game, the chief executive must immediately give the applicant an information notice for the decision.

### **Replacing approved games**

**282.(1)** This section applies if—

- (a) a licensed monitoring operator or licensee replaces, or causes to be replaced, an approved game (the “**old game**”) with another

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approved game (the “**new game**”); and

- (b) the percentage return to players for the new game is different from the percentage return to players for the old game.

(2) The licensed monitoring operator or licensee must not replace, or cause to be replaced, the new game with another game having a different percentage return to players—

- (a) if paragraph (b) does not apply—within 1 month after the old game was replaced; or
- (b) if a shorter period is approved by the chief executive—within the shorter period.

Maximum penalty—200 penalty units.

### **Changes to percentage returns**

**283.(1)** A licensed monitoring operator or licensee may change, or cause to be changed, the percentage return to players for an approved game for a gaming machine on licensed premises.

(2) Unless the chief executive, by written notice given to the licensed monitoring operator or licensee, approves otherwise, the change must be applied to each gaming machine that—

- (a) is installed on the licensed premises; and
- (b) has the same game and betting unit as the gaming machine to which the change relates; and
- (c) is not part of a linked jackpot arrangement.

(2A) If—

- (a) a gaming machine (the “**new machine**”) is installed on licensed premises; and
- (b) the gaming machine has the same game and betting unit as another gaming machine (the “**old machine**”) previously installed on the licensed premises; and
- (c) the percentage return to players differs between the new machine and the old machine;

the licensee is taken to have changed the percentage return to players under



subsection (1) for the new machine.

(3) A person must not make, or cause to be made, a change mentioned in subsection (1) (a “**return change**”) in the period prescribed under a regulation (the “**restricted period**”).

Maximum penalty—200 penalty units.

- (4) A person does not commit an offence against subsection (3) if—
- (a) ownership of a gaming machine mentioned in subsection (2) changes in the restricted period; and
  - (b) a return change is made in the period but—
    - (i) only after the change of ownership; and
    - (ii) only once in the period.

### **Withdrawal of approval of gaming machine types and games**

**284.(1)** If the chief executive, under section 344(2) withdraws the approval of an approved gaming machine type or game, the chief executive must immediately give written notice of, and reasons for the withdrawal to—

- (a) the person who submitted the gaming machine type or game under section 281; and
- (b) licensees provided with any gaming machine of that gaming machine type or game.

(2) A licensee who permits gaming on a gaming machine of a gaming machine type or game specified in a notice given to the licensee under subsection (1) commits an offence against this Act.

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

### **Gaming machines supplied to be in accordance with approval**

**285.** A licensed major dealer must not, without the approval of the chief executive, supply a gaming machine that is in any material particular different from the gaming machine type or game approved by the chief

executive.

Maximum penalty—200 penalty units.

### **Inducing the acquisition of gaming equipment or ancillary or related equipment**

**286.(1)** A person (the “**offerer**”) must not offer another person (the “**negotiator**”), or give to the negotiator, an inducement for the negotiator to induce a third person, who is an acquirer, to acquire equipment or a service.

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

**(2)** A negotiator must not accept an inducement for the acquisition by an acquirer of equipment or a service.

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

**(3)** A person does not commit an offence against subsection (1) or (2) if the inducement consists of only reasonable food or refreshment offered or given by the offerer, or out-of-pocket expenses reasonably incurred by the negotiator, in the course of negotiating the acquisition of the equipment or service.

**(4)** In this section—

“**acquirer**” means an approved financier, gaming trainer, licensed monitoring operator, licensed repairer, licensed service contractor or licensee.

“**equipment**” means gaming equipment or ancillary or related equipment.

“**inducement**” means a direct or indirect payment, benefit or advantage.

*Example of what is an “inducement”—*

A pre-paid holiday trip.

“**service**” includes the provision of any of the following—

- finance
- adjustment, alteration, installation, maintenance or repair of gaming equipment
- linked jackpots
- management advice

- marketing
- training.

### **Requirements for approvals for linked jackpot arrangements**

**287.(1)** A person who is not a licensee or licensed monitoring operator must not—

- (a) install or operate or cause or allow to be installed or operated a single site linked jackpot arrangement; or
- (b) install or operate, or cause or allow to be installed or operated, or participate in the operation of, a multiple site linked jackpot arrangement.

Maximum penalty—200 penalty units.

**(2)** A licensee on the licensee's licensed premises, or licensed monitoring operator, must not, without the approval of the chief executive—

- (a) install or operate or cause or allow to be installed or operated a single site linked jackpot arrangement; or
- (b) install or operate or cause or allow to be installed or operated or participate in the operation of, a multiple site linked jackpot arrangement.

Maximum penalty—200 penalty units.

**(4)** A licensee or a licensed monitoring operator approved to operate, or participate in the operation of, an arrangement under subsection (2) must not stop operating, or participating in the operation of, the arrangement without the chief executive's approval.

Maximum penalty—200 penalty units.

**(5)** A licensee or licensed monitoring operator operating, or participating in the operation of, any arrangement approved under subsection (2) who fails to comply with—

- (a) any condition to which the approval is subject; or
- (b) any requirement prescribed in relation to the conduct or operation of any arrangement approved under subsection (2);

commits an offence against this Act.

Maximum penalty—200 penalty units.

(6) The licensed monitoring operator for a multiple site linked jackpot arrangement must not allow the arrangement to operate in licensed premises until the operator has established an approved trust account for the arrangement.

(7) In each assessment period for licensed premises, a licensed monitoring operator must—

- (a) pay into the approved trust account—
  - (i) all multiple site jackpot increments for the arrangement for the previous assessment period; and
  - (ii) interest earned on the account; and
- (b) pay out of the approved trust account amounts prescribed under a regulation.

(8) A licensed monitoring operator must not pay an amount out of an approved trust account unless the amount is prescribed under a regulation.

Maximum penalty—400 penalty units or 2 years imprisonment.

(9) If the arrangement stops operating and the approved trust account still contains an amount, the licensed monitoring operator must, after deducting amounts to be paid out under subsection (7)(b), send the amount to the chief executive, for payment into the consolidated fund, within 7 days after the day the account stops operating.

### **Decisions about approvals for linked jackpot arrangements**

**288.(1)** This section applies to the chief executive for giving, or refusing to give, an approval for section 287 for a linked jackpot arrangement.

(2) If, for deciding whether or not to give the approval, the chief executive considers it is necessary for the linked jackpot arrangement to be evaluated, the chief executive may—

- (a) carry out the evaluation; or
- (b) direct the applicant—
  - (i) to arrange to have the arrangement evaluated by an approved evaluator; and

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(ii) to give the chief executive a written report of the evaluation.

(3) If the chief executive carries out an evaluation of the linked jackpot arrangement—

- (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.

(4) The chief executive may refuse to give an approval 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 subsection (2)(b).

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

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

(7) In this section—

“**applicant**” means the person by whom an approval of the chief executive for section 287 is sought.

### **Gaming machines to be labelled with chief executive’s identification number**

**289.(1)** The chief executive must cause an identification number to be issued for each gaming machine.

(2) The chief executive may, at any time after the issue of an identification number for a gaming machine, cause the issue of a new identification number for that gaming machine.

(3) The chief executive must cause each gaming machine to have securely affixed to the machine, by an inspector or other person properly authorised by the chief executive in that behalf, a label showing—

- (a) the identification number issued under subsection (1) or (2); and
- (b) such other particulars as the chief executive considers appropriate;

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on 1 internal and 1 external surface of the cabinet of the gaming machine.

(4) A label affixed under this section is to be made of such material, and be affixed, as the chief executive considers appropriate.

(5) A licensee must not allow a gaming machine to be used for the conduct of gaming on the licensee's premises unless a label mentioned in subsection (3) is securely affixed to the machine.

Maximum penalty for subsection (5)—200 penalty units.

**Gaming prohibited on unprotected devices**

**290.(1)** A licensee must not without lawful excuse be in possession of or permit gaming on a gaming machine unless the computer cabinet of the gaming machine is securely sealed with a seal affixed by—

- (a) an inspector; or
- (b) a licensed repairer acting under this Act; or
- (c) a person properly authorised in that behalf under section 292(4).

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

(2) Subject to subsection (3), at any time when a seal on a computer cabinet has been removed, broken or damaged, the licensee must not permit gaming on the gaming machine until the gaming machine has been examined by an inspector or other person properly authorised by the chief executive in that behalf and the computer cabinet has been sealed.

Maximum penalty—1 000 penalty units or 5 years imprisonment.

(3) Subsection (2) does not apply to a gaming machine that is not available for gaming due to the gaming machine undergoing—

- (a) installation, alteration, adjustment, maintenance or repair by a licensed repairer acting under this Act; or
- (b) an alteration to effect a change of game directed by the chief executive under section 80(1).<sup>96</sup>

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<sup>96</sup> Section 80 (Directions to licensees about authorised gaming machines)

**Unlawful interference with gaming equipment**

**291.(1)** Subject to subsection (2), a person must not—

- (a) have possession of any device or computer software made or adapted, or intended by the person to be used, for interfering with the normal operation of gaming equipment on licensed premises; or
- (b) do any act or thing calculated, or likely, to interfere with the normal operation of gaming equipment on licensed premises; or
- (c) except as provided in section 287, do any act or thing calculated to interfere with gaming equipment under which the return to a player for a result obtained on a gaming machine on licensed premises is different to the return provided for that result by the approved game; or
- (d) do any act or thing calculated to render a gaming machine on licensed premises, either temporarily or otherwise, incapable of producing a winning combination; or
- (e) insert, or cause to be inserted, in a gaming machine on licensed premises anything other than a gaming token of the denomination or type displayed on the gaming machine as a gaming token to be used in order to operate or gain credit on the gaming machine.

Maximum penalty—1 000 penalty units or 5 years imprisonment.

**(2)** Subsection (1) does not apply to any act or thing done in good faith in connection with—

- (a) the installation, alteration, adjustment, maintenance or repair of gaming equipment by a licensed monitoring operator or licensed repairer; or
  - (b) the carrying out of any installation, alteration, adjustment, maintenance or repair prescribed for the purposes of section 187(3); or
  - (c) an alteration to a gaming machine to effect a change of game directed by the chief executive under section 80(1); or
  - (d) the performance by an inspector of functions under this Act.
- (3)** A person must not knowingly, because of fraudulent computer

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programming, gain for that person or another person any advantage in the operation of gaming equipment.

Maximum penalty—1 000 penalty units or 5 years imprisonment.

(4) A person who dishonestly, or because of gross negligence, during the design, manufacture or assembly of gaming equipment, makes provision to subsequently gain for that person or another person any advantage in the operation of the gaming equipment commits an offence against this Act.

Maximum penalty—1 000 penalty units or 5 years imprisonment.

**Protection of sensitive areas of gaming equipment**

**292.(1)** Subject to subsections (2), (4) and (5), a person who is not an inspector must not—

- (a) break a seal securing a computer cabinet or gain access to anything within the computer cabinet; or
- (b) affix a seal to a computer cabinet; or
- (c) break a seal protecting the integrity of the game program of a gaming machine; or
- (d) remove, replace or in any way affect or interfere with the operation of a computer cabinet or anything within the computer cabinet; or
- (e) remove or interfere with a security device of a gaming machine; or
- (f) interfere with the normal operation of the reel assemblies of a gaming machine; or
- (g) interfere with information stored or transmitted electronically by a gaming machine, linked jackpot equipment or an electronic monitoring system; or
- (h) affix a mark or seal to gaming equipment to preserve the integrity of operation of the gaming equipment; or
- (i) remove or interfere with a mark or seal affixed to gaming equipment to preserve the integrity of operation of the gaming equipment; or



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- (j) remove, alter or otherwise interfere with the manufacturer's identification plate or the manufacturer's serial number of a gaming machine; or
- (k) remove, alter or otherwise interfere with an identification label affixed to a gaming machine under section 289; or
- (l) affix anything capable of being taken as a label mentioned in section 289 to a gaming machine or a device capable of being taken as a gaming machine.

Maximum penalty—1 000 penalty units or 5 years imprisonment.

(2) A licensed repairer is authorised, to such extent as is necessary, in the performance of duties as a licensed repairer to do things mentioned in subsection (1) if the licensed repairer does not, without the approval of the licensed monitoring operator—

- (a) break a seal securing a computer cabinet; or
- (b) fix a seal to a computer cabinet; or
- (c) remove or interfere with a mark or seal fixed to gaming equipment to preserve the integrity of the equipment's operation; or
- (d) fix a mark or seal to gaming equipment to preserve the integrity of the equipment's operation.

(3) If the licensed repairer breaks a seal securing a computer cabinet, the licensed repairer must ensure that the gaming machine is not played (other than for testing purposes) until the computer cabinet is again secured with a seal provided by the chief executive for the purpose.

Maximum penalty—200 penalty units.

(4) The chief executive may authorise a person to do anything mentioned in subsection (1).

(5) Subsection (1)(a) to (j) does not apply to—

- (a) an electronic monitoring system not on licensed premises; or
- (b) another type of gaming equipment—
  - (i) not connected to an electronic monitoring system; and
  - (ii) not installed in a gaming machine area.

**Wilful damage of gaming equipment**

**293.** A person must not wilfully damage or deface gaming equipment on licensed premises.

Maximum penalty—200 penalty units.

**Use of unauthorised gaming machines**

**294.(1)** A person who is not a departmental officer or any person referred to in subsection (2) must not play or allow another person to play a gaming machine that is not a licensee's authorised gaming machine.

Maximum penalty—1 000 penalty units or 5 years imprisonment.

**(2)** A person who has possession of a gaming machine—

(a) for the purpose of conducting—

(i) a training course referred to in section 267(3)(d) or 272(3);  
or

(ii) genuine testing or development work referred to in  
section 267(3)(c); or

(b) under an authority under section 272(5), and such authority so  
permits;

may play or allow another person to play the gaming machine only for the  
purpose of simulating gaming.

**(3)** A person who—

(a) plays, or allows another person to play, a gaming machine  
referred to in subsection (2) by the use of a gaming token which  
is—

(i) Australian currency; or

(ii) approved under section 240(3); or

(iii) in any way negotiable; or

(b) allows any winnings to become payable because of playing a  
gaming machine referred to in subsection (2);

commits an offence against this Act.

Maximum penalty—1 000 penalty units or 5 years imprisonment.

## **PART 8—ACCOUNTING PROCEDURES**

### **Monthly money clearances**

**295.(1)** Subject to subsection (2), a licensee must carry out a money clearance complying with section 297 of all gaming machines and any centralised credit system installed on the licensee's licensed premises—

- (a) after the end of the operation of gaming machines that started on the last day of each month; and
- (b) before the start of the operation of gaming machines on the first day of the next month.

Maximum penalty—200 penalty units.

**(2)** The chief executive may, either verbally or by written notice, direct a licensee to carry out the money clearance mentioned in subsection (1) during such period as the chief executive determines.

**(3)** A licensee to whom a direction is given under subsection (2) must comply with the direction.

Maximum penalty—200 penalty units.

**(4)** A licensee must, in conjunction with a money clearance carried out under this section, carry out such functions as are prescribed to be carried out in conjunction with the money clearance.

Maximum penalty for subsection (4)—200 penalty units.

### **Weekly money clearances**

**296.(1)** A licensee, at least once in every 7 days, must carry out a money clearance complying with section 297 of each gaming machine and any centralised credit system installed on the licensee's licensed premises.

Maximum penalty—200 penalty units.

(2) A licensee, in conjunction with carrying out a money clearance under subsection (1), must carry out such functions as are prescribed to be carried out in conjunction with such a money clearance.

Maximum penalty for subsection (2)—200 penalty units.

### **Requirement for money clearance**

**297.(1)** This section applies for carrying out a money clearance under section 295 or 296.

(2) For a money clearance of a gaming machine, the gaming tokens to be removed from the gaming machine are all the tokens in the gaming machine, other than gaming tokens in the hopper.

(3) For a money clearance of a centralised credit system, the amount to be deducted is the amount calculated on the basis fixed under a regulation.

### **Accounts and analyses**

**298.(1)** A licensee must, for each of the licensee's licensed premises, keep and maintain such accounting records, in the way prescribed and in the approved form, as correctly record and explain the licensee's financial operations in respect of, or connected with, gaming and the conduct of gaming on the premises.

Maximum penalty—200 penalty units.

(2) A licensee must carry out such accounting analysis as is prescribed.

Maximum penalty for subsection (2)—200 penalty units.

### **Monthly gaming machine reconciliation reports**

**299.(1)** A licensee of category 1 or 2 licensed premises must, for each of the licensee's licensed premises—

- (a) by the day prescribed under a regulation for each month, prepare a monthly gaming machine reconciliation report complying with subsection (2) for the premises; and
- (b) keep a hard copy of the report on the premises.

Maximum penalty—200 penalty units.

- (2) Each monthly gaming machine reconciliation report must—
- (a) be made in the way prescribed and in the approved form; and
  - (b) give an accurate account of the matters contained in the report in relation to gaming and the conduct of gaming on the premises to which it relates—
    - (i) in the case of the first report after the issue of the licence—during the period from the issue of the licence to the end of the period covered by the report; or
    - (ii) in the case of any subsequent report—during the period from the end of the period covered by the last report lodged in respect of the licensed premises to the end of the period covered by the report in question.

### **Records not to be falsified etc.**

**300.** A person must not, with intent to defraud—

- (a) destroy, alter, mutilate or falsify any accounting record or report; or
- (b) make, or cause to be made, a false, erroneous or misleading entry in, or omit or alter, or cause to be omitted or altered, an entry in any accounting record or report;

required to be kept, maintained or lodged by a licensee under this part.

Maximum penalty—400 penalty units or 2 years imprisonment.

### **Licensees audit guidelines**

**301.(1)** The chief executive may prepare guidelines (“**licensees audit guidelines**”) for the carrying out of audits for the gaming operations of category 2 licensees.

(2) The chief executive must keep copies of the licensees audit guidelines available for inspection and permit a person—

- (a) to inspect the guidelines without fee; and
- (b) to take extracts from the guidelines without fee.

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(3) Also, the chief executive must keep copies of the licensees audit guidelines available for supply to persons and permit a person to obtain a copy of the guidelines, or a part of the guidelines, without fee.

(4) For subsection (2)—

(a) copies of the licensees audit guidelines—

- (i) must be kept at the head office and any regional office of the department; and
- (ii) may be kept at any other place the chief executive considers appropriate; and

(b) the copies of the guidelines kept at a place must be available for inspection during office hours on business days for the place.

**Audit of gaming operations**

**302.(1)** As soon as practicable after the end of a financial year, a category 2 licensee must, for each of the licensee's licensed premises, at the licensee's own expense, cause the licensee's accounts and accounting records for the licensee's gaming operations for the licensed premises for the financial year to be audited by an approved accountant.

Maximum penalty—200 penalty units.

(2) If a category 2 licensee ceases to be a category 2 licensee of premises, the person (the “**former licensee**”) must, within the required time, at the former licensee's own expense, cause the former licensee's accounts and accounting records for the former licensee's gaming operations for the premises for the operating period to be audited by an approved accountant.

Maximum penalty—200 penalty units.

(3) The required time for the former licensee to take action under subsection (2) is—

- (a) the period ending 1 month after the former licensee ceases to be a category 2 licensee; or
- (b) if the chief executive extends, or further extends, the period for the former licensee to take the action, by written notice given to the former licensee in the period or extended period—the period as extended.

(4) In this section—

“**operating period**”, for a former licensee, means—

- (a) if an audit for the former licensee’s gaming operations has been done for subsection (1)—the period—
  - (i) starting on the day immediately after the end of the period to which the audit, or last audit, related; and
  - (ii) ending on the day the former licensee ceased to be a category 2 licensee; and
- (b) if paragraph (a) does not apply—the period starting on the day the former licensee’s gaming operations started and ending on the day the former licensee ceased to be a category 2 licensee.

### **Carrying out of audit**

**303.(1)** An approved accountant carrying out an audit for section 302(1) or (2) must—

- (a) to the extent it is reasonably practicable, comply with any licensees audit guidelines; and
- (b) complete the audit within 3 months after the end of the financial year or other period to which the audit relates; and
- (c) immediately after completing the audit, give a copy of the audit report to the category 2 licensee or former licensee.

Maximum penalty—40 penalty units.

(2) Subsection (1)(b) does not apply to the approved accountant if—

- (a) in the circumstances, it would be unreasonable to require the accountant to comply with the paragraph; and
- (b) the accountant completes the audit as soon as practicable.

### **Dealing with audit report**

**304.** Within 14 days after a category 2 licensee or former licensee receives a copy of an audit report under section 303(1)(c), the category 2 licensee or former licensee must give a copy of the report to the chief

executive.

Maximum penalty—200 penalty units.

**Community benefit statement and other associated documents for audit report for category 2 licensee**

**305.(1)** A category 2 licensee, on receiving a copy of an audit report under section 303(1)(c) for a financial year, must, in addition to giving a copy of the report to the chief executive under section 304, give to the chief executive, as required by this section—

- (a) if the approved accountant who carried out the audit issued a management letter in relation to the audit—a copy of the management letter; and
- (b) a statement—
  - (i) stating the number of members in each class of membership of the licensee at the end of the financial year; and
  - (ii) identifying each class of membership of the licensee for which the members in the class have voting rights; and
- (c) a copy of a profit and loss statement containing details of all revenue received, and expenditure incurred, by the licensee in carrying on the licensee's general operations for the licensee's licensed premises to which the audit report relates for the financial year; and
- (d) a copy of any balance sheet, financial statement, auditor's report or other statement or report, relating to the licensee's annual general meeting for the financial year; and
- (e) if the licensee operates more than a number of gaming machines fixed for this paragraph under a regulation—a community benefit statement detailing all financial contributions made, and other support given, during the financial year to charitable, sporting, recreational and other community associations and initiatives.

Maximum penalty—200 penalty units.

**(1A)** The profit and loss statement to be given to the chief executive under subsection (1)(c)—



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- (a) must distinguish between revenue received from the sale of liquor for consumption on the licensed premises and the revenue received from the sale of liquor for consumption off the licensed premises; and
- (b) must comply with any other reasonable requirements notified in writing to the licensee by the chief executive.

(2) A document mentioned in subsection (1)(a) or (b) must be given to the chief executive with the copy of the audit report given to the chief executive.

(3) A document mentioned in subsection (1)(c) or (d) must be given to the chief executive—

- (a) if the category 2 licensee’s annual general meeting for the financial year was held before the licensee received the copy of the audit report—with the copy of the audit report given to the chief executive; or
- (b) if paragraph (a) does not apply—within 14 days after the licensee’s annual general meeting for the financial year is held.

(4) Subsection (1) applies to the category 2 licensee in relation to the profit and loss statement mentioned in paragraph (c) of the subsection only to the extent to which a document mentioned in paragraph (d) of the subsection does not contain the details mentioned in paragraph (c), specifically relating to the licensee’s licensed premises to which the audit report relates.

(5) Words and expressions used in a gaming Act and subsection (6), definition “**general operations**”, paragraph (b) have the same meanings in that paragraph as they have in the Gaming Act.

(6) In this section—

“**general operations**”, of a licensee, means operations conducted by the licensee—

- (a) under the licensee’s gaming machine licence; or
- (b) in relation to the conduct of—
  - (i) keno games under a keno licence; or
  - (ii) wagering under the *Wagering Act 1998*; or

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- (iii) general gaming operations under the *Charitable and Non-Profit Gaming Act 1999*; or
- (c) relating to the supply of—
  - (i) liquor and other beverages; and
  - (ii) food.

**Further information about audit report or associated documents**

**306.(1)** This section applies on the receipt by the chief executive of—

- (a) a copy of an audit report under section 304; or
- (b) a document under section 305.

**(2)** The chief executive may, by written notice given to the person from whom the copy of the audit report or other document is received, require the person to give the chief executive, within a reasonable time stated in the notice, the information stated in the notice.

**(3)** The chief executive may require a person to give the chief executive information about a matter under subsection (2) only if—

- (a) the matter relates to the person's general operations; and
- (b) the matter is mentioned in, or arises out of—
  - (i) the audit report a copy of which is received by the chief executive from the person; or
  - (ii) the other document received by the chief executive from the person.

**(4)** When making a requirement of a person under subsection (2), 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.

**(5)** A person to whom a notice is given under subsection (2) must comply with the requirement mentioned in the notice within the stated time, unless the person has a reasonable excuse.

Maximum penalty—200 penalty units.

**(6)** It is a reasonable excuse for the person not to comply with the requirement if complying with the requirement might tend to incriminate the

person.

(7) In this section—

“**general operations**” has the same meaning as in section 305.

### **Notices about keeping accounting records**

**307.(1)** The chief executive may, by written notice given to a licensee—

- (a) approve, as a place at which the licensee may keep the licensee’s accounting records for licensed premises of the licensee, a place, other than the licensed premises, nominated by the licensee; or
- (b) specify an accounting record of the licensee (an “**exempt accounting record**”) that may be kept at a place that is not an approved place for the keeping of the record; or
- (c) specify an accounting record of the licensee that may be kept temporarily at a place (a “**holding place**”) that is not an approved place for the keeping of the record, and the period for which, or the circumstances in which, the record may be kept at the holding place; or
- (d) approve the keeping of information contained in an accounting record of the licensee in a way different from the way the information was originally kept; or
- (e) approve the destruction of an accounting record of the licensee the chief executive considers need not be kept.

(2) The chief executive may specify an accounting record for subsection (1)(b) only if the chief executive considers there is sufficient reason for the record to be kept at a place that is not an approved place for the keeping of the record.

(3) An accounting record mentioned in subsection (1)(c) is also an “**exempt accounting record**”—

- (a) for the period stated in the notice; or
- (b) while the circumstances stated in the notice exist.

(4) The exercise of the chief executive’s power under subsection (1)(d) or (e) is subject to any other law about the retention or destruction of the accounting record.

**Places at which licensee's accounting records to be kept**

**308.(1)** A licensee must keep the licensee's accounting records for licensed premises of the licensee at a place that is an approved place for the keeping of the records.

Maximum penalty—40 penalty units.

(2) Subsection (1) does not apply to an exempt accounting record.

**Period for which licensee's accounting records to be kept**

**309.(1)** A licensee must keep an accounting record of the licensee for 5 years after the end of the transaction to which the record relates.

Maximum penalty—40 penalty units.

(2) Subsection (1) does not apply to an accounting record if—

- (a) the information previously contained in the record is kept in another way under an approval of the chief executive; or
- (b) the record has been destroyed under an approval of the chief executive.

(3) Subsection (1) has effect subject to any other law about the retention or destruction of the accounting record.

**PART 9—TAXES, LEVIES AND FEES****Monthly taxable metered win**

**310.(1)** Each month the chief executive must, for the preceding month, make an assessment of the monthly taxable metered win of each licensed premises and, subject to section 323, the assessment is taken to be the monthly taxable metered win for the premises for the preceding month.

(2) If an assessment is made under subsection (1) by way of an electronic monitoring system installed on the licensee's licensed premises, the period covered by the assessment—

- (a) for the month in which the system is installed—starts when the

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system first reports data from the premises to the chief executive and ends when the system first reports data from the premises to the chief executive in the next month; and

- (b) for each month after the month in which the system is installed—starts when the system first reports data from the premises to the chief executive for the month and ends when the system first reports data from the premises to the chief executive in the next month.

(3) If the electronic monitoring system malfunctions in a way that affects the assessment, the chief executive must ensure the assessment is made in another way decided by the chief executive.

**Gaming machine tax**

**312.(1)** A licensee must pay a gaming machine tax to the chief executive each month in respect of the licensee's licensed premises.

(2) The gaming machine tax must be paid on or before the day prescribed of the month next following the month in respect of which it is payable.

(3) If the licensee's licence relates to single premises only, the amount of gaming machine tax payable by the licensee is the amount represented by the percentage prescribed, for the category of licensed premises to which the licensee's licensed premises belong, of the monthly taxable metered win for the licensee's licensed premises for the month for which the tax is payable.

(4) If the licensee's licence relates to 2 or more premises, the amount of gaming machine tax payable by the licensee is the amount represented by the percentage prescribed, for category 2 licensed premises, of the sum of the monthly taxable metered wins for both or all of the licensee's licensed premises for the month for which the tax is payable.

**Sport and recreation benefit fund**

**313.(1)** The sport and recreation benefit fund is continued in existence subject to the *Financial Administration and Audit Act 1977*, part 8,

division 2.<sup>97</sup>

(2) Accounts for the fund must be kept as part of the departmental accounts of the department of government that deals with matters about sport (the “**department**”).

(3) Amounts received for the fund must be deposited in a departmental financial-institution account of the department but may be deposited in an account used for depositing other amounts received by the department other than amounts received for the fund.

### **Community investment fund**

**314.(1)** The community investment fund is established.

(2) Each month, the Minister must pay into the fund a percentage of all gaming machine tax for the previous month paid to the chief executive by all licensees.

(3) The amounts paid into the fund are administered receipts.

(4) The percentage mentioned in subsection (2) is the percentage prescribed under a regulation.

### **Gambling community benefit fund**

**315.(1)** The gambling community benefit fund is established.

(2) The amounts paid into the fund are administered receipts.

### **Gambling Community Benefit Committee**

**316.** The Minister responsible for the administration of the gambling community benefit fund—

- (a) must establish a committee called the Gambling Community Benefit Committee; and
- (b) may decide—

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<sup>97</sup> *Financial Administration and Audit Act 1977*, part 8 (Transitional provisions), division 2 (Transitional provisions for *Financial Administration Legislation Amendment Act 1999*)

- (i) the membership of the committee; and
- (ii) how it is to operate.

**Payment of taxes etc.**

**317.(1)** Subject to subsections (2) and (3), a licensee must ensure that the chief executive receives on or before the day prescribed for each month an amount not less than the total amount of—

- (a) the monthly gaming tax payable by the licensee; and
- (b) any penalty payable by the licensee under section 319 on or before that day; and
- (c) any gaming tax or penalty payable by the licensee and remaining unpaid at the end of the day, prescribed under a regulation, of the preceding month.

**(2)** The chief executive may, by written notice given to a licensee, direct the licensee to pay an amount mentioned in subsection (1) by instalments.

**(3)** The licensee must comply with the direction.

Maximum penalty—200 penalty units.

**(4)** For the payment of an amount to the chief executive for gaming machine tax or penalty under section 319, the licensee must ensure the payment—

- (a) is identifiable as being for the licensee's licensed premises only; and
- (b) is exclusive of any payment for any other licensee or purpose.

Maximum penalty—40 penalty units.

**(5)** Where a payment to the chief executive that does not comply with subsection (4) is made, the chief executive is to determine the licensed premises or purpose for which the payment was made and this Act applies to the payment as if the payment had been made and identified for the licensed premises or purpose so determined.

### **Adjustment of gaming machine tax**

**318.(1)** Subsection (2) applies to a licensee if the gaming machine tax payable by the licensee for a month (the “**reference month**”) is a negative amount (a “**tax credit**”).

(2) In working out the gaming machine tax payable for the month after the reference month (the “**first adjustment month**”), the tax credit for the reference month is, to the extent possible, to be set off against the gaming machine tax that, apart from this section, would be payable for the first adjustment month.

(3) Subsection (4) applies if—

- (a) without applying subsection (2), the gaming machine tax for the first adjustment month is a negative amount; or
- (b) after applying subsection (2), part of the tax credit (the “**tax credit balance**”) for the reference month has not been set off against gaming machine tax for the first adjustment month.

(4) In working out the gaming machine tax payable for the month after the first adjustment month (the “**second adjustment month**”), the tax credit, or tax credit balance, for the reference month, is, to the extent possible, to be set off against the gaming machine tax that, apart from this subsection, would be payable for the second adjustment month.

### **Penalty for late payment**

**319.(1)** If, by the end of the day prescribed of a month (or at the discretion of the chief executive by a time not more than 7 days later than the end of the day prescribed) the amount received by the chief executive under section 317(1) from a licensee is less than the total amount the licensee is, under that subsection, required to ensure is received by the chief executive for that month—

- (a) the chief executive must cause to be imposed on the licensee in question a penalty to be calculated by applying the percentage prescribed on the difference between those 2 amounts; and
- (b) the amount received is to be credited as prescribed.

(2) A penalty imposed under subsection (1)(a) is due and payable, by the licensee in question, on or before the day prescribed of the month following



the date on which it is imposed.

(3) The chief executive, for any reason that the chief executive considers is sufficient, may forgive or refund any penalty payable under this section.

### **Forgiven or overpaid money**

**320.** Where—

- (a) under conditions referred to in section 73(1)(a), the chief executive determines that part of any monthly fee payable is to be forgiven, the amount so forgiven, if paid before the determination; or
- (b) the amount received by the chief executive in any month under section 317(1) is greater than the total amount referred to in section 317(1), the difference; or
- (c) under section 319(3), the chief executive determines all or part of any penalty payable is to be forgiven, the amount so forgiven, if paid before the determination;

is to be either—

- (d) taken to be a payment forming part of the payment to be made for the following month under section 317(1) in respect of the licensed premises; or
- (e) at the discretion of the chief executive, forwarded to the licensee, upon written application by the licensee.

### **Financial statement of licensed monitoring operator**

**321.(1)** A licensed monitoring operator who supplies basic monitoring services for licensed premises of a licensee must, as required under subsection (2)—

- (a) give the licensee a financial statement for the premises; or
- (b) have a financial statement for the premises available in a form capable of being accessed by the licensee.

Maximum penalty—100 penalty units.

(2) The financial statement for the licensed premises must—

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- (a) be given to, or made available for access by, the licensee as soon as practicable after the end of the assessment period for the premises; and
- (b) contain the particulars stated by the chief executive in a written notice given to the licensed monitoring operator as the particulars the chief executive considers appropriate for the premises.

(3) The chief executive may, by written notice given to a licensed monitoring operator, require the licensed monitoring operator to give the chief executive a written explanation about any matter contained in the financial statement.

(4) The licensed monitoring operator must comply with a requirement under subsection (3), unless the operator has a reasonable excuse.

Maximum penalty—100 penalty units.

(5) The licensed monitoring operator must not give the chief executive an explanation the operator knows is false, misleading or incomplete in a material particular.

Maximum penalty—200 penalty units.

(6) Subsection (5) does not apply to a licensed monitoring operator if the operator, when giving the explanation, informs the chief executive in writing, to the best of the operator's ability, how the explanation is false, misleading or incomplete.

(7) It is enough for a complaint for an offence against subsection (5) to state that the explanation was false, misleading or incomplete to the defendant's knowledge.

**Disposition of fees etc.**

**322.(1)** All fees and charges payable under this Act, other than a payment referred to in subsection (2), received by the chief executive must be paid into the consolidated fund.

(2) A payment in respect of a gaming machine tax or penalty under section 319, must on its receipt be paid into one of the accounts of the departmental accounts of the department that is used only for the purpose of holding such payments until an assessment is made on the amounts of such payment under subsection (3).

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(3) A payment mentioned in subsection (2) must, as soon as practicable after the licensee receives a financial statement under section 321(1), be withdrawn from the account mentioned in subsection (2) and the part of the payment assessed by the chief executive as the gaming tax or a penalty under section 319, must be paid by the chief executive into the consolidated fund.

(4) The Minister who is charged with the administration of the Sport and Recreation Benefit Fund may cause amounts to be paid out of the fund for the benefit of sport and recreation.

(5) The Minister may cause amounts to be paid out of the community investment fund for—

- (a) gambling research and dealing with social issues arising from gambling (including research into the effectiveness of responsible gambling initiatives); and
- (b) the gambling community benefit fund; and
- (c) programs of State-wide significance, including job creation, community renewal and crime prevention.

(6) The Minister may, having regard to the recommendation of the Gambling Community Benefit Committee, cause amounts to be paid out of the gambling community benefit fund for the benefit of the community.

(7) Amounts may be paid under subsection (4), (5) or (6) without further appropriation.

**Adjustment of assessment in certain circumstances**

**323.** If the chief executive forms the opinion that an assessment of the monthly taxable metered win for licensed premises or a calculation of gaming machine tax or penalty under section 319 for a month is in error, the chief executive may—

- (a) cause to be made an amended assessment or an amended calculation and, if an amount previously calculated as being payable—
  - (i) is less than the amount of the chief executive's amended calculation the difference is to be added to; or

(ii) is more than the amount of the chief executive's amended calculation the difference is to be deducted from;

the applicable amount of gaming machine tax or penalty under section 319, which becomes due and payable by the day prescribed of the month next following the month in which the amended calculation is made; and

(b) advise the licensee accordingly.

### **Recovery of taxes and penalties**

**324.(1)** Any gaming machine tax or penalty payable under section 319 that remains unpaid may be recovered as a debt payable to the State—

(a) by the licensee; or

(b) if the licensee is a body corporate and the licensed premises to which licensee's licence relates are category 1 licensed premises—jointly and severally, by each person who is or was a director of the body corporate when the amount becomes or became payable.

**(2)** It is a defence in an action to recover an amount mentioned in subsection (1), that is a penalty payable under section 319, from a person mentioned in paragraph (b) of the subsection for the person to prove—

(a) if the person was in a position to influence the conduct of the body corporate in relation to the matter from which the liability to pay the amount arose—the person exercised reasonable diligence to ensure the body corporate did not become liable to pay the amount; or

(b) the person was not in a position to influence the conduct of the body corporate in relation to the matter.

**(3)** The chief executive, instead of proceeding with or continuing an action under subsection (1), may accept in full payment of any debt payable, an amount that is less than the amount payable or remaining unpaid where—

(a) the gaming machine licence in relation to which the debt is payable has been cancelled or surrendered; and

- (b) the person who held the licence is not the holder of any other gaming machine licence.

### **Offences relating to revenue**

**325.** A licensee must not wilfully evade the payment, in whole or part, of—

- (a) a monthly fee or gaming machine tax payable under this part; or  
(b) a penalty payable under section 319.

Maximum penalty—400 penalty units or 2 years imprisonment.

## **PART 10—DIRECTIONS, POWERS ETC.**

### **Interpretation**

**326.** In this part—

“**article**” means—

- (a) gaming equipment; or  
(b) a restricted component; or  
(c) a device capable of being represented as being a gaming machine or linked jackpot equipment; or  
(d) anything capable of forming gaming equipment; or  
(e) anything inserted, or capable of being inserted, into a gaming machine in order to operate or gain credit on the gaming machine (other than a gaming token of the denomination or type displayed on the gaming machine); or  
(f) any device intended for use, or capable of being used, to interfere with the normal operation of gaming equipment; or  
(g) anything that permits or facilitates cheating or stealing; or  
(h) a gaming token; or

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- (i) any lock or key; or
- (j) any counter of or apparatus for weighing gaming tokens; or
- (k) any other item related to—
  - (i) gaming or the conduct of gaming; or
  - (ii) the manufacture, assembly, sale, supply, installation, alteration, obtaining, possession, operation, use, adjustment, maintenance or repair of gaming equipment.

**“records”** means any books, accounts, records or documents, in any form, which are related to—

- (a) the conduct of gaming; or
- (b) the manufacture, assembly, sale, supply, installation, alteration, obtaining, possession, operation, use, adjustment, maintenance or repair of gaming equipment; or
- (c) the administration of licensed premises.

**Directions**

**327.(1)** The commission or the chief executive may, by written notice, give directions to—

- (a) a licensee about the conduct of gaming or the administration of the licensee’s licensed premises; or
- (b) a licensed monitoring operator about the conduct of gaming or supplying basic monitoring services to a licensee; or
- (c) a licensed major dealer or licensed secondary dealer about the manufacture, assembly, sale, supply, installation, alteration, obtaining, possession, operation, use, adjustment, maintenance or repair of gaming equipment; or
- (d) a licensed service contractor or licensed repairer about the installation, alteration, adjustment, maintenance or repair of gaming equipment; or
- (e) any other person who holds a licence or authority under this Act about the conduct of gaming.

**(2)** A person to whom a notice is given must comply with the directions

of the commission or the chief executive under subsection (1).

Maximum penalty—200 penalty units.

(3) If a person who has been convicted of an offence of failing to comply with directions given under subsection (1), continues to fail to so comply, the person commits an offence against this Act.

Maximum penalty for subsection (3)—20 penalty units for each day on which the failure continues.

### **Stop directions**

**328.(1)** This section applies if an inspector reasonably believes—

- (a) a thing used for gaming, or in the conduct of gaming, is unsatisfactory for the purpose for which it is used; and
- (b) the continued use of the thing may—
  - (i) jeopardise the integrity of gaming or the conduct of gaming; or
  - (ii) adversely affect 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 the thing, or allowing the thing to be used, for gaming or in the conduct of gaming.

(3) A direction under subsection (2) (a “**stop direction**”) may be given orally or by written notice (a “**stop notice**”).

(4) However, if the direction is given orally, it must be confirmed by written notice (also a “**stop notice**”) given to the person as soon as practicable.

(5) A stop direction may be given for a thing at or on licensed premises.

(6) A stop direction does not apply to a use of the thing carried out for repairing or testing the thing.

(7) 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.

(8) A person to whom a stop direction is given must comply with the direction.

Maximum penalty for subsection (8)—40 penalty units.

### **General powers of inspectors**

**329.(1)** An inspector, who believes, on reasonable grounds, that it is necessary in the performance of the inspector's functions under this Act may, subject to subsections (2) and (4) enter, be and remain on licensed premises or any other place in or at which the inspector believes on reasonable grounds any—

(a) article is manufactured, assembled, sold, supplied, stored, transported, handled, installed, altered, obtained, possessed, operated, used, adjusted, maintained, repaired or kept; or

(b) records are made, maintained, prepared, handled, stored or kept;

and may—

(c) make such investigations and inquiries as are necessary to ascertain whether this Act is being complied with; and

(d) make an inspection of the licensed premises or other place and of—

(i) any articles, records, fittings and fixtures; or

(ii) any other thing of any kind apparently used, or capable of being used, in connection with—

(A) gaming or the conduct of gaming; or

(B) the manufacture, assembly, sale, supply, installation, alteration, obtaining, possession, operation, use, adjustment, maintenance or repair of gaming equipment; and

(e) open, or order to be opened—

(i) any container or other receptacle of any kind; or

(ii) a door of any container or other receptacle of any kind;



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used for the storage or conveyance of any article or records or that the inspector believes on reasonable grounds contains any article or records; and

- (f) search for and seize any article, records or other thing that the inspector considers will afford evidence as to the commission of an offence against this Act or any other Act or law suspected by the inspector on reasonable grounds to have been committed; and
- (g) open or order to be opened any gaming equipment; and
- (h) inspect and test any gaming equipment or part of the gaming equipment and order the withdrawal from use of any gaming equipment or part considered by the inspector to be unsatisfactory for use; and
- (i) take such photographs, or films or audio or visual recordings that he or she considers may afford evidence as to the commission of an offence against this Act or any other Act or law suspected by the inspector on reasonable grounds to have been, or to be likely to be, committed; and
- (j) require a person to produce to the inspector any licence, registration, permit, approval, certificate or authorisation under this Act granted or issued to that person or alleged by that person to have been granted or issued to that person; and
- (k) when so required by the chief executive—
  - (i) provide gaming machines and linked jackpot equipment to a licensee; or
  - (ii) alter a gaming machine to effect a change in the game, gaming token denomination or betting unit; or
  - (iii) take possession of and remove any gaming equipment or ancillary or related property of the State, and do anything that is necessary and reasonable to effect the taking possession, or removal, of the equipment or property; and
- (l) in all other respects, exercise the inspector's powers and perform the inspector's functions under this Act.

(2) Where an act referred to in subsection (1)(a) or (b) is carried out during the night-time, an entry and inspection under subsection (1) may be

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made at all reasonable times during the daytime or night-time but otherwise such entry and inspection must be made at all reasonable times during the daytime.

(3) An inspector, who believes, on reasonable grounds, that it is necessary in the performance of the inspector's functions under this Act, may—

- (a) require any person who has in the person's possession or under the person's control any article or records to—
  - (i) produce for the inspector's inspection any such article or records; and
  - (ii) attend before the inspector at a time and place named and then and there to answer any questions or supply any information with respect to any article or records or any entry in any article or records; and
- (b) inspect any article or records referred to in paragraph (a) and take such notes or copies of or in relation to such records or take extracts from such records as the inspector considers are necessary; and
- (c) for the purpose of obtaining evidence for production in possible subsequent proceedings against any person for an offence committed against this Act or any other Act or law, seize any article or records inspected by the inspector under paragraph (b); and
- (d) require any person responsible for or connected with—
  - (i) the conduct of gaming; or
  - (ii) the manufacture, assembly, sale, supply, installation, alteration, obtaining, possession, operation, use, adjustment, maintenance or repair of gaming equipment; or
  - (iii) the administration of licensed premises;to attend before the inspector at a time and place named and then and there to answer any questions or supply any information with respect to the matters referred to in this paragraph; and
- (e) require a person to state the person's full name, the address of the person's usual place of residence and the person's date of birth or

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- any of those particulars; and
- (f) require a person referred to in paragraph (e) to produce evidence of the correctness of any particular stated in answer to a requirement made under that paragraph if the inspector suspects that the particular is false; and
  - (g) receive and investigate complaints from any person with respect to—
    - (i) gaming; or
    - (ii) the conduct of gaming; or
    - (iii) the manufacture, assembly, sale, supply, installation, alteration, obtaining, possession, operation, use, adjustment, maintenance or repair of gaming equipment; or
    - (iv) the administration of licensed premises;and advise the person of the results of the investigations; and
  - (h) stop and search any vehicle or vessel used or that the inspector believes on reasonable grounds has been, is being, or is likely to be, used for the conveyance of any article, records or other thing that the inspector considers will afford evidence as to the commission of an offence against this Act; and
  - (i) ask a person the inspector thinks can help the inspector in the exercise of the inspector's powers or the performance of the inspector's functions under this Act; and
  - (j) use such force as is reasonably necessary in the circumstances in the exercise of the inspector's powers or in the performance of the inspector's functions under this Act; and
  - (k) in order to identify or protect the integrity of any article, records or other thing, mark, fasten, secure or seal—
    - (i) the article, records or other thing; or
    - (ii) any door, gate or opening that the inspector believes on reasonable grounds affords access to the article, records or other thing; and
  - (l) exercise such other powers and authorities and perform such other functions as are prescribed.

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(4) Before an inspector enters any premises that are used or any part of premises that is used exclusively as a dwelling house, the inspector must, except where the inspector has the permission of the occupier of the premises or part of the premises to the entry, obtain from a justice a warrant to enter the premises or part.

(5) For the purposes of subsections (6) to (8), premises used as a dwelling house do not include the curtilage of those premises.

(6) A justice who is satisfied upon the complaint of an inspector that there is reasonable cause to suspect that any article, records or other thing relevant to the administration of this Act is or are on premises or a part of premises used exclusively as a dwelling house and that—

- (a) in respect of the article, records or thing an offence against this Act or any other Act or law has been, is being or is likely to be, committed; or
- (b) it is or they are likely to be or provide evidence for production in possible subsequent proceedings against any person for an offence committed against this Act or any other Act or law;

may issue a warrant, directed to the inspector, to enter the premises or part of premises specified in the warrant for the purpose of exercising the inspector's powers and performing the inspector's functions under this Act.

(7) For 1 month from the date of its issue, a warrant is sufficient authority for the inspector and any person acting in aid of the inspector—

- (a) to enter the premises or part of premises specified in the warrant; and
- (b) to exercise the inspector's powers and perform the inspector's functions under this Act.

(8) For the purpose of gaining entry to any place that the inspector is authorised under this Act to enter, an inspector and all persons acting in aid of the inspector may use such force as is reasonable in the circumstances.

(9) A person who is acting in aid of an inspector has and may exercise all or any of the powers of an inspector and perform the functions of an inspector.

(10) A requirement by an inspector under this section may be made verbally or given in writing directed to the person to or on whom it is made.

(11) A requirement made to a person by an inspector under this section to produce records is, where the records are not written, or are not written in the English language, a requirement to produce (at that person's expense)—

- (a) such records; and
- (b) a statement, written in the English language, setting forth such information in the records as is not written or is not written in the English language.

(12) A person is not required, in respect of any matter within the application of this Act, to answer any question or give any information tending to incriminate the person.

### **Offences relating to inspectors**

**330.** A person must not—

- (a) assault, obstruct, hinder, threaten, abuse, insult or intimidate any inspector or person acting in aid of an inspector who is exercising powers or performing functions under this Act or attempting to do so; or
- (b) when required under this Act to produce—
  - (i) for inspection any article or records; or
  - (ii) any licence, registration, permit, approval, certificate or authorisation under this Act granted or issued to the person;fail without lawful excuse to produce any such thing in accordance with such requirement; or
- (c) when required under this Act to attend before an inspector, fail without lawful excuse to so attend in accordance with such requirement; or
- (d) when required under section 329(3)(a) or (d) to answer any question or supply any information with respect to—
  - (i) any article, records or any entry in such records; or
  - (ii) the conduct of gaming; or
  - (iii) the manufacture, assembly, sale, supply, installation, alteration, obtaining, possession, operation, use, adjustment,

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maintenance or repair of gaming equipment; or

(iv) the administration of licensed premises;

or, knowing or being in a position to know the answer or information required, fail to answer that question or supply that information or supply information that is to the person's knowledge false, erroneous or misleading in a material particular; or

(e) when required under section 329(3)(e) to state the person's full name, the address of the person's usual place of residence and the person's date of birth or any of those particulars—

(i) fail to immediately state any such particular; or

(ii) state any false particular; or

(f) when required under section 329(3)(f) to produce evidence of the correctness of any particular—

(i) fail to produce that evidence; or

(ii) produce false evidence with respect to that particular; or

(g) retake any article, records or other thing seized and retained under this Act; or

(h) tamper with—

(i) any article, records or other thing; or

(ii) any door, gate or opening that the inspector believes on reasonable grounds affords access to any article, records or other thing;

marked, fastened, secured or sealed under this Act; or

(i) fail to open any container or other receptacle of any kind, a door of a container or other receptacle of any kind or any gaming equipment when ordered to do so by an inspector acting under this Act; or

(j) fail to withdraw from use any gaming equipment or part of the gaming equipment considered by an inspector to be unsatisfactory for use when ordered to do so by an inspector acting under this Act; or

- (k) prevent, directly or indirectly, a person from attending before an inspector, or producing to an inspector any article, or records or answering any question or supplying any information to an inspector when that person is required to do so under this Act.

Maximum penalty—400 penalty units or 2 years imprisonment.

### **Forfeiture of things that have been seized**

**331.(1)** An article, record or other thing seized under section 329(1)(f) or (3)(c) 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.<sup>98</sup>

**(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 makes a decision under subsection (1)(c), the inspector must immediately give the owner an information notice for 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)** Regard must be had to the nature, condition and value of an article or other thing (other than a record)—

- (a) in deciding—

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<sup>98</sup> Section 359 (Forfeiture on order of court) also deals with forfeiture.

- (i) whether it is reasonable to make inquiries or efforts for this section; 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 notice about the article or other thing.

### **Return of things that have been seized**

**332.(1)** If an article, record or other thing that has been seized is not forfeited, an 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 an article, record or other thing has been forfeited, the inspector must immediately return the article, record or other thing seized as evidence to its owner if the inspector stops being satisfied its continued retention as evidence is necessary.

### **Access to things that have been seized**

**333.(1)** Until an article, record or other thing that has been seized is forfeited or returned, an inspector must allow its owner—

- (a) to inspect it; and
- (b) for a record or another thing that is a document—to copy it.

**(2)** Also, until a record or another document that has been seized is forfeited or returned, an inspector must, at the request of the owner of the record or other document, give the owner a correct copy of the record or other document.

**(3)** A copy of a record or another document given to a person under subsection (2) certified by an inspector as being a correct copy is admissible as evidence in any court and has the same effect as if it were the original of the record or other document.



(4) Subsection (1) does not apply if it is impracticable or would be unreasonable to allow the inspection or copying.

### **Dealing with forfeited things**

**334.(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 or otherwise dispose of the thing.

(3) Despite subsection (1), the chief executive must not deal with the thing in a way that could prejudice the outcome of an appeal under this Act of which the chief executive is aware.

(4) The forfeiture of a thing, or the dealing with a thing under this section, does not confer a right to compensation on any person.

### **Minister may order inquiry**

**335.(1)** The Minister may, if the Minister thinks fit, nominate and appoint in writing the commission, a commissioner, the chief executive or any other person to hold an inquiry into any or all aspects of—

- (a) gaming; or
- (b) the conduct of gaming; or
- (c) the manufacture, assembly, sale, supply, installation, alteration, obtaining, possession, operation, use, adjustment, maintenance or repair of gaming equipment; or
- (d) the administration of licensed premises.

(2) In the holding of the inquiry the commission, commissioner, chief executive or other person has and may exercise all the powers, rights, privileges, protection and jurisdiction of a commission of inquiry under the *Commissions of Inquiry Act 1950* except such as are provided by sections 4, 4A, 5A, 5B, 10(3), 13, 14(1A), 19A, 19B, 19C and 26<sup>99</sup> to 32 of that Act.

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<sup>99</sup> Section 26 was omitted by 1995 No. 24 s 9.

(3) Nothing contained in this section affects any other powers that a commissioner or the chief executive has as an inspector under this Act or, where the other person is an inspector, that the other person has as an inspector under this Act.

### **Review and termination of agreements**

**336.(1)** A holder of a licence under this Act, if directed by the chief executive to do so, must furnish to the chief executive within the time stipulated in the direction such information or material as the chief executive thinks fit with respect to any lease, agreement or arrangement (“**the agreement**”) that the holder has with any other person relating to the conduct of the business of the holder.

Maximum penalty—200 penalty units.

(2) Without limiting subsection (1), matters concerning which the chief executive may direct the furnishing of information or material include—

- (a) names of persons entering into the agreement; and
- (b) description of any property, goods or other things or any services provided or to be provided; and
- (c) value, type or nature of consideration; and
- (d) period of the agreement.

(3) A holder of a licence under this Act, if directed by the chief executive to do so, must furnish to the chief executive within the time stipulated in the direction a copy of the agreement (if it is in writing).

Maximum penalty—200 penalty units.

(4) If the chief executive, after reviewing information or material furnished under this section, considers (having regard to the terms of the agreement and such other information or material as the chief executive considers is relevant) that the continuation of the agreement—

- (a) is not in the public interest; or
- (b) jeopardises the integrity of—
  - (i) gaming; or
  - (ii) the conduct of gaming; or

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- (iii) the manufacture, assembly, sale, supply, installation, alteration, obtaining, possession, operation, use, adjustment, maintenance or repair of gaming equipment;

the chief executive may issue to a holder of a licence under this Act who is the party to the agreement a written notice to show cause why the agreement should not be terminated.

(5) Notice under subsection (4) is to set out the grounds for its issue and is to stipulate a date, not less than 21 days after its issue, on or before which cause is to be shown.

(6) Copy of the notice under subsection (4) is to be given to the other party to the agreement.

(7) A holder of a licence under this Act to whom notice under subsection (4) is issued may give a written answer to the chief executive to show cause at any time not later than the date stipulated in the notice in that respect.

(8) The other party may make such written submissions to the chief executive as the party thinks fit at any time not later than that stipulated date.

(9) The chief executive is to consider any answers given in reply to the notice to show cause and any submissions made under subsection (8) and, if the chief executive considers that—

- (a) satisfactory answers are given or submissions made in reply to or in respect of the notice—the chief executive is not to take any action or any further action in relation to the notice; or
- (b) answers given or submissions made in reply to or in respect of the notice are not satisfactory or if no answers are given and no submissions are made—the chief executive may recommend to the commission that the agreement be terminated.

(10) If the chief executive makes a recommendation to the commission, the chief executive must submit the notice to show cause and answers, any submissions made and such other information or material in the chief executive's possession as the chief executive considers is relevant to the recommendation.

(11) The commission, having regard to the recommendation of the chief executive, other matters referred to in subsection (10) and to such other information or material as the commission considers is relevant, may—

- (a) take no action with respect to the agreement if the commission considers action is not warranted; or
- (b) direct the termination of the agreement.

(12) The commission's direction referred to in subsection (11)(b) is to be given in writing to the parties to the agreement and is to specify the reasons for the termination and a date on which the agreement is terminated under this Act if not sooner terminated.

(13) The agreement in question, if not sooner terminated by the parties to the agreement, is terminated by force of this Act on the date specified for the purpose in the direction.

(14) The termination of the agreement by force of this Act does not affect the rights and obligations of the parties to the agreement up to the time of such termination.

(15) No liability for breach of the agreement attaches to any party to the agreement because of its termination by force of this Act.

### **Financial institution may be required to furnish particulars**

**337.(1)** The manager or other principal officer of a financial institution in which a licensee keeps and maintains an account in relation to the operation of the licensee's licensed premises must, when so required in writing by an inspector, furnish to the inspector a statement of account and any other particulars required by the inspector to be so furnished, including copies of cheques or records relevant to the account.

Maximum penalty—200 penalty units.

(2) No liability is incurred by the financial institution or the manager or other principal officer of the financial institution in respect of any breach of trust or otherwise because of the furnishing of any statement or particulars or copies under this section.

(3) An inspector must not, without the approval of the chief executive, make a requirement under subsection (1).

## **PART 11—GENERAL**

### **Certain persons not to play gaming machines**

**338.(1)** A licensed repairer must not play gaming machines installed on licensed premises except to such extent as is necessary for the repairer to do so to alter, adjust, maintain, repair or test the gaming machines.

Maximum penalty—200 penalty units.

**(2)** A person who is a licensee or gaming employee must not play gaming machines installed on the licensed premises of which the person is the licensee, or for which the person is employed to carry out gaming duties as a gaming employee—

- (a)** during the period the person is the licensee of, or a gaming employee for, the licensed premises, except to the extent it is necessary for carrying out duties as the licensee or a gaming employee; and
- (b)** for 30 days after the person ceases to be the licensee of, or a gaming employee for, the licensed premises.

Maximum penalty—40 penalty units.

**(3)** A licensed key monitoring employee must not play gaming machines installed on licensed premises that are connected to an electronic monitoring system operated by the licensed monitoring operator for whom the employee is a licensed key monitoring employee.

Maximum penalty—40 penalty units.

**(4)** A former employee must not, for 30 days after becoming a former employee, play gaming machines installed on licensed premises that are connected to an electronic monitoring system operated by the licensed monitoring operator for whom the person was a licensed key monitoring employee when the person became a former employee.

Maximum penalty—40 penalty units.

**(5)** Where winnings become payable because of playing a machine as authorised by this section, those winnings remain the property of—

- (a)** if the gaming machine is part of a multiple site linked jackpot arrangement for which a licensed monitoring operator has an

approval for its operation under section 287—the licensed monitoring operator who has the approval; or

(b) otherwise—the licensee.

**(5A)** Subsection (5) applies to winnings whether the winnings are attributable to obtaining a winning result or promotions.

**(6)** In this section—

**“former employee”** means a person who was a licensed key monitoring employee.

### **Restricted officials prohibited from playing gaming machines**

**339.(1)** The chief executive may direct an inspector or departmental officer not to play authorised gaming machines of a licensee.

**(2)** A direction under subsection (1)—

- (a) must be given by written notice given to the inspector or departmental officer; and
- (b) may be given only if the chief executive considers it appropriate to give the direction in the public interest; and
- (c) may be given on conditions the chief executive considers appropriate.

**(3)** A restricted official must not, except to the extent that is necessary for carrying out the official’s functions as an inspector or departmental officer, play an authorised gaming machine of a licensee in contravention of a direction given to the official by the chief executive under this section.

Maximum penalty for subsection (3)—40 penalty units.

### **Prohibition on control of applications by category 2 licensees**

**340.** A person must not have or gain—

- (a) control over, or the ability to control, an application or the content of an application by a category 2 licensee under part 3, whether or not the licensee makes an application under the part; or
- (b) the ability to interpose between a category 2 licensee and the chief

executive in respect to an application made by the licensee under part 3;

unless the person is the secretary, an executive officer or a member of the licensee carrying out the duties or exercising the normal rights that person has as such secretary, executive officer or member.

Maximum penalty—200 penalty units.

### **Prohibition on control of gaming at category 2 licensed premises**

**341.(1)** A person who is not an approved person for category 2 licensed premises must not—

- (a) have, or gain, control over the conduct of gaming at the premises; or
- (b) have, or gain, the ability to control the conduct of gaming at the premises.

Maximum penalty—200 penalty units.

**(2)** For subsection (1), a person has or gains control over, or has or gains the ability to control, the conduct of gaming if the person—

- (a) has or gains the capacity to dominate, directly or indirectly, decision-making about policies for the conduct of the gaming; or
- (b) has or gains the capacity to enjoy the majority of the benefits, and to be exposed to the majority of the risks, associated with the conduct of the gaming.

**(3)** In this section—

**“approved person”**, for category 2 licensed premises, means the secretary, an executive officer, or a member, of the licensee of the premises performing functions or exercising powers or rights as the secretary, an executive officer or a member, of the licensee.

### **Restriction on certain agreements**

**342.(1)** A licensee or any other person must not enter into, or be a party to, any lease, agreement or arrangement for a person to lease, let, lend or otherwise provide any property or thing or to furnish any service to the

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licensee in return for any direct or indirect interest in or percentage or share of—

- (a) the amount bet for the purpose of gaming; or
- (b) moneys, revenues, profits or earnings from the conduct of gaming;

on the licensee's licensed premises.

Maximum penalty—200 penalty units.

(2) If a licensee or any other person, before the issue of the licensee's gaming machine licence has entered into or has in any way become a party to any lease, agreement or arrangement referred to in subsection (1), the lease, agreement or arrangement on and from the issue of the gaming machine licence, to the extent that it contravenes or is inconsistent with subsection (1), is void.

(3) No right of action arises against any person because of the operation of subsection (2).

(4) The commission, where the commission is of the opinion that it is in the public interest to do so, may exempt in writing any lease, agreement or arrangement referred to in subsection (1) and subject such exemption to such conditions as the commission considers appropriate.

(5) Any exemption under subsection (4) may, at any time, be revoked by the commission.

(6) This section does not apply to an agreement entered into between a licensee and a licensed monitoring operator for electronically monitoring the licensee's gaming machines in conjunction with the supply of services relating to the installation or operation of a linked jackpot arrangement on the licensee's licensed premises.

**Exemption of devices etc.**

**343.(1)** The chief executive may declare that anything is not a gaming machine or a device capable of being represented as being a gaming machine for the purposes of this Act.

(2) The chief executive may declare that anything is not a restricted component for the purposes of this Act.



(3) Any declaration under this section may, at any time, be revoked by the chief executive.

### **Approvals and authorities under this Act**

**344.(1)** Where this Act provides that any act or thing must not be done except with, or may be done with, the approval or authorisation of the Minister, commission or chief executive, that approval or authorisation may be granted by the Minister, commission, chief executive or director by instrument in writing.

(2) A person referred to in subsection (1) may in respect of any approval or authorisation by the person—

- (a) subject such approval or authorisation to conditions; and
- (b) at any time—
  - (i) subject the approval or authorisation to further conditions; and
  - (ii) vary the conditions or further conditions; and
  - (iii) withdraw such approval or authorisation;

if the person considers it necessary or appropriate in the public interest or for the proper conduct of gaming.

(3) Without derogating from section 287(5), a person must not fail to comply with any condition to which an approval or authorisation is subject.

Maximum penalty—200 penalty units.

(4) A person must not—

- (a) modify anything subject to an approval or authorisation from; or
- (b) fail to maintain anything subject to an approval or authorisation in;

the form, state or condition in which it was approved or authorised except in order to comply with conditions to which the approval or authorisation is subject.

Maximum penalty for subsection (4)—200 penalty units.

**Signatories to approvals and written requirements etc. of the commission**

**345.** An approval or authorisation or any written requirement, notification, direction, exemption or order by the commission is to be signed by the chairperson and 2 other commissioners.

**Bribery of gaming officials**

**346.(1)** Any gaming official who corruptly asks for, receives, or obtains or agrees to receive or obtain any money, property or benefit of any kind for the official or any other person—

- (a) so that the official will forego or neglect functions under this Act or in order to influence the official in the performance of functions under this Act; or
- (b) because of anything already done or omitted to be done or to be afterwards done or omitted to be done by the official in the performance of functions under this Act; or
- (c) for the official to use or take advantage of the official's position improperly to gain any benefit or advantage for or facilitate the commission of an offence against this Act by another person;

commits an offence against this Act.

Maximum penalty—400 penalty units or 2 years imprisonment.

**(2)** Any person who corruptly gives, confers or procures or promises or offers to give, confer or procure to, upon or for any gaming official or any other person any money, property or benefit of any kind—

- (a) so that the official will forego or neglect functions under this Act or in order to influence the official in the performance of functions under this Act; or
- (b) because of anything already done or omitted to be done or to be afterwards done or omitted to be done by the official in the performance of functions under this Act; or
- (c) for the official to use or take advantage of the official's position improperly to gain any benefit or advantage for or facilitate the commission of an offence against this Act by the first person or

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any other person;

commits an offence against this Act.

Maximum penalty—400 penalty units or 2 years imprisonment.

(3) In this section—

“**gaming official**” means—

- (a) a commissioner; or
- (b) a departmental officer; or
- (c) an inspector.

### **Financial connections and interests of restricted officials**

**347.(1)** A restricted official—

- (a) must not knowingly have, directly or indirectly—
  - (i) any business or financial connection with; or
  - (ii) any business or financial interest in any matter in conjunction with;  
a holder of a licence under this Act; or
- (b) must not—
  - (i) be; or
  - (ii) be an employee in any capacity of; or
  - (iii) hold the position of executive officer or secretary of a body corporate which is;  
a holder of a licence under this Act.

Maximum penalty—200 penalty units or 1 year’s imprisonment.

(2) A person who was a restricted official must not, for 1 year after ceasing to be a restricted official, without the chief executive’s approval—

- (a) accept or solicit employment from a holder of a licence under this Act; or
- (b) be an employee in any capacity of a holder of a licence under this Act; or

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- (c) knowingly have, directly or indirectly—
  - (i) a business or financial association with a holder of a licence under this Act; or
  - (ii) a business or financial interest in something together with a holder of a licence under this Act.

Maximum penalty—200 penalty units.

**(3)** A holder of a licence under this Act—

- (a) must not knowingly have, directly or indirectly—
  - (i) any business or financial connection with; or
  - (ii) any business or financial interest in any matter in conjunction with;  
a restricted official; or
- (b) must not employ in any capacity a restricted official; or
- (c) must not, without the approval of the chief executive, employ in any capacity or have a business or financial connection with a person who was a restricted official within a period of 1 year after that person ceases to be a restricted official.

Maximum penalty—200 penalty units or 1 year's imprisonment.

**(4)** A restricted official who has directly or indirectly—

- (a) any business or financial connection with; or
- (b) any business or financial interest in any matter in conjunction with;

a person who becomes a holder of a licence under this Act or an applicant for a licence under this Act must, immediately upon becoming aware that the person has so become licensed or an applicant—

- (c) notify the chief executive of such connection or interest; and
- (d) if directed by the chief executive, terminate the connection or relinquish the interest within a time specified by the chief executive.

Maximum penalty—200 penalty units or 1 year's imprisonment.

**(5)** This section does not apply so as to prohibit a restricted official—

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- (a) from being a financial member of a category 2 licensee, or having another financial connection with a category 2 licensee of a kind that members of the licensee generally have; or
- (b) from having any business or financial connection (being a connection that is not related to the manufacture, assembly, sale, supply, installation, alteration, obtaining, possession, adjustment, maintenance or repair of gaming equipment) with a holder of a licence under this Act such as is generally had by members of the public.

(6) A restricted official must, immediately after applying for membership of a category 2 licensee, or of a club that is an applicant for a gaming machine licence, notify the chief executive of the making of the application.

(7) In subsections (4), (5) and (6)—

“**restricted official**” includes a person who has ceased to be a restricted official if less than 1 year has elapsed since the person ceased to be a restricted official.

### **Reporting of accounting discrepancies and criminal activity**

**348.(1)** A licensee or gaming employee who becomes aware or suspects that a person by fraud, misrepresentation or theft has obtained a benefit for the person or another person in relation to gaming or the conduct of gaming must, within 3 days of so becoming aware or suspecting, advise the chief executive in writing of all facts known to the licensee or gaming employee in relation to the fraud, misrepresentation or theft.

(2) A person who—

- (a) terminates the employment or otherwise prejudices the career of; or
- (b) prejudices the safety of; or
- (c) intimidates or harasses;

any licensee, gaming employee or other person because the licensee or gaming employee has advised, or may advise, the chief executive under subsection (1) commits an offence against this Act.

Maximum penalty—200 penalty units or 1 year’s imprisonment.

**Cheating**

**349.(1)** A person must not dishonestly—

- (a) by a scheme or practice; or
- (b) by the use of gaming equipment; or
- (c) by the use of an instrument or article of a type used in connection with gaming, or appearing to be of a type used in connection with gaming, or of any other thing;

in relation to gaming or the conduct of gaming, induce a licensee, or a person acting on behalf of the licensee, to deliver, give or credit to the person or another person, any money, gaming tokens, gaming machine credits, benefit, advantage, valuable consideration or security.

**(2)** A licensee must not dishonestly—

- (a) by a scheme or practice; or
- (b) by the use of gaming equipment; or
- (c) by the use of an instrument or article of a type used in connection with gaming, or appearing to be of a type used in connection with gaming, or of any other thing;

in relation to gaming or the conduct of gaming, induce a person to deliver, give or credit to the licensee or another person, any money, gaming tokens, gaming machine credits, benefit, advantage, valuable consideration or security.

**(3)** In subsection (2)—

**“licensee”** includes—

- (a) a gaming employee or a person who supervises gaming or attends to gaming machines on behalf of a licensee; and
- (b) a person employed by a licensee to sell or redeem gaming tokens or carry out centralised credit transactions on behalf of the licensee.

**(4)** A person must not dishonestly cause gaming equipment to deliver, give or credit to the person or another person any gaming tokens, gaming machine credits, benefit, advantage, valuable consideration or security.

**(5)** A person must not, for the purpose of cheating or stealing in relation

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to gaming or the conduct of gaming, use, or be in possession of—

- (a) any gaming tokens that the person knows are bogus or counterfeit; or
- (b) anything that permits or facilitates cheating or stealing.

Maximum penalty—1 000 penalty units or 5 years imprisonment.

**Forgery and like offences**

**350.** A person who—

- (a) forges or counterfeits any gaming token, licence, identification card or other form of identification authorised to be issued under this Act; or
- (b) knowingly utters any such gaming token, licence, identification card or other form of identification so forged or counterfeited; or
- (c) personates any person named in any such licence, identification card or other form of identification; or
- (d) falsely represents that the person is an inspector or departmental officer; or
- (e) connives at any such forging, counterfeiting, uttering, personating or representing as referred to in this section; or
- (f) provides or submits information or material knowing it to be false, erroneous or misleading in a material particular in, or in relation to, any application, response to a requirement, submission, advice, notification, answer to a notice, statement or affidavit made under this Act;

commits an offence against this Act.

Maximum penalty—400 penalty units or 2 years imprisonment.

**Liability for offences by servants, agents or employees**

**351.(1)** Where a person commits an offence against this Act as servant, agent or employee, then, without derogating from the Criminal Code, section 7, the employer of that person is, subject to subsection (2), taken—

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- (a) to have committed the offence; and
- (b) to be criminally responsible for the act or omission that constitutes the offence;

and, despite the Criminal Code, section 23, or any other rule of law or practice, may be charged with the offence and punished accordingly.

(2) It is a defence to a prosecution for an offence against an employer referred to in subsection (1) to prove that the offence was committed without the employer's consent or connivance and that the employer exercised due diligence to prevent the commission of the offence.

(3) In proceedings for an offence against this Act alleged to have been committed by a defendant as servant, agent or employee, the court must not convict the defendant if the evidence establishes that—

- (a) the offence was committed while the business of the defendant's employer was being conducted under the personal supervision of the employer or any manager or any other representative of the employer; and
- (b) the reason that the defendant committed the offence was that the defendant had been compelled to do so by the employer, manager or representative.

(4) Except as provided by subsection (2), this section applies so as not to prejudice liability imposed by or under this Act on any person by whom an offence against this Act is actually committed.

**Liability for offence by body corporate**

**352.(1)** Where a body corporate commits an offence against this Act, then, without derogating from the Criminal Code, section 7—

- (a) the person who, at the time the offence is committed, is secretary or an executive officer of the body corporate; and
- (b) every person who, at the time the offence is committed, manages or acts or takes part in the management, administration or government of the business of the body corporate in Queensland;

is, subject to subsection (3), taken—

- (c) to have committed the offence; and



- (d) to be criminally responsible for the act or omission that constitutes the offence;

and, despite the Criminal Code, section 23, or any other rule of law or practice, may be charged with the offence and punished accordingly.

(2) This section applies so as not to limit or affect in any way the liability of a body corporate to be proceeded against and punished for an offence against this Act committed by it.

(3) It is a defence to a prosecution for an offence against this Act brought against a person specified in subsection (1)(a) or (b) to prove that the offence was committed without that person's consent or connivance and that the person exercised due diligence to prevent the commission of the offence.

### **Claims of privilege in proceedings for offences**

**353.(1)** In proceedings for an offence against this Act, a prosecutor or a witness for the prosecution must not be compelled to disclose information, or produce any document containing the information, where the information may be subject to a genuine claim of privilege under any Act or law.

(2) Except as provided in subsection (1), in proceedings for an offence against this Act a prosecutor or a witness for the prosecution, on application by or on behalf of the defendant, may be compelled to disclose to the court information relevant to the proceedings or produce any document containing information relevant to the proceedings.

(3) The court in the interests of justice, having regard to all the circumstances of the proceedings, must determine if the information is to be disclosed, or the document produced, to the defendant or the defendant's legal representative.

### **Protection of officers etc.**

**354.** No liability is incurred by the Crown, the Minister, the commission, a commissioner, the chief executive, the commissioner of the police service, any inspector, any departmental officer or any police officer or other person acting under this Act in aid of an inspector on account of anything done for the purposes of this Act.

**Attempt to commit offence**

**355.(1)** A person must not attempt to commit an offence against this Act.

(2) A person convicted of the offence of attempting to commit an offence against this Act is liable to the same penalty as an offender convicted of the offence itself unless the person proves that the person desisted of the person's own initiative from the further prosecution of the person's intention, without its fulfilment being prevented by circumstances independent of the person's will, in which case the person is liable to one-half of the penalty to which the person would otherwise be liable.

(3) A person may be convicted of attempting to commit an offence against this Act upon a complaint charging the person with that offence.

**Proceedings for offences**

**356.(1)** Subject to subsections (3) to (6), offences against this Act may be prosecuted in a summary way under the *Justices Act 1886*.

(2) A prosecution for an offence against this Act may be started within 1 year from the time when the matter of complaint arose or, if the proceedings are instituted by—

- (a) the chief executive, or a person authorised by the chief executive—within 6 months after the matter of complaint comes to the knowledge of the chief executive; or
- (b) a person authorised by the commission—within 6 months after the matter of complaint comes to the knowledge of the commission;

whichever is the period later to expire.

(3) A serious offence may be prosecuted in a summary way under the *Justices Act 1886* or upon indictment.

(4) Where proceedings for a serious offence are taken with a view to summary conviction of the defendant, the court, if it forms the opinion that the matter should not be determined summarily or if the defendant requires that the matter be dealt with upon indictment, must abstain from determining the matter summarily.

(5) Instead of dealing with the proceedings as proceedings with a view to

the committal of the defendant for trial or sentence the court may exercise in respect of the defendant for the purpose of such proceedings all the powers conferred on it by law as though the proceedings were proceedings with a view to committal in the first instance.

(6) Where the court abstains from determining a matter summarily under subsection (4), a plea of the defendant, if taken at the outset of the summary proceedings, is to be disregarded and, before committing the defendant for trial or for sentence, the court must address the defendant under the *Justices Act 1886*, section 104.

(7) A conviction upon indictment for a serious offence is, and has effect in law as, a conviction for an indictable offence.

(8) In this section—

“**serious offence**” means an offence against section 102, 227(1), 265(1) or (8), 267(3), 268(2), 271(2), 286(1) or (2), 287(8), 290(1) or (2), 291(1), (3) or (4), 292(1), 294(1) or (3), 325, 346, 349 or 350.

### **Starting proceedings**

**357.** Without limiting the way in which a proceeding for an offence against this Act may be started, a proceeding for an offence may be started by the chief executive or another person authorised by the commission or chief executive to start the proceeding in a particular case.

### **Warrant and arrest of person offending against Act**

**358.** Upon complaint on oath made before any justice by any person authorised in writing by the chief executive in that behalf that the person believes on reasonable grounds that an offence against this Act has been committed, the justice, if the justice believes on reasonable grounds that proceedings by summons would not be effective, may by warrant under the justice’s hand directed to any police officer order the person named in the warrant to be arrested and brought as soon as possible before a court to be dealt with according to law.

**Forfeiture on order of court**

**359.(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 the thing has been returned to its owner.

**(3)** If a person charged with an offence against this Act is not convicted of any offence, the court may order the forfeiture to the State of anything that—

- (a) was found in the possession or under the control of the person; and
- (b) was seized under section 329(1)(f) or (3)(c); and
- (c) was not returned to the person under section 332.

**(4)** The court may make any order to enforce a forfeiture under this section it considers appropriate.

**(5)** This section does not limit the court's powers under the *Penalties and Sentences Act 1992* or another law.

**Service of notices, documents etc.**

**360.(1)** Any written advice, direction, order, requirement, requisition, notice, authorisation, notification or any other document (“**document**”) under this Act is taken to have been given or issued to or served upon a person if—

- (a) it is served personally on the person to whom it is directed or on a person authorised by that person, either generally or in a particular case, to accept service of anything on that person's behalf; or
- (b) it is left at the place of residence or business of the person to whom it is directed last known to the person who gives, issues or serves it; or

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- (c) it is sent by post or facsimile transmission to the place of residence or business of the person to whom it is directed last known to the person who gives, issues or serves it; or
- (d) where a way of service is prescribed by any other Act or law in relation to a person or class of person—it is served in the way so prescribed.

(2) Where any document is given, issued or served, the person who gives, issues or serves it may attend before a justice and depose on oath and in writing endorsed on a copy of the document as to the way of giving, issue or service of the document showing the date of personal service, leaving, posting, transmission or service in other way specified in subsection (1) of such document.

(3) Every such deposition upon production in court is evidence of the matters contained in the deposition and in the absence of evidence to the contrary is conclusive evidence of the giving, issuing or serving of such document to or on the person to whom it is directed.

**Evidentiary provisions**

**361.** In proceedings under this Act—

- (a) it is not necessary to prove the appointment of the Minister, the chairperson, a commissioner, the chief executive, any police officer, any inspector or any departmental officer; and
- (b) a signature purporting to be that of any person in any capacity referred to in paragraph (a) is taken to be the signature it purports to be until the contrary is proved; and
- (c) a document or writing purporting to be a copy of any document referred to in section 360(1) or of any licence granted or issued under this Act is evidence of the document of which it purports to be a copy; and
- (d) a certificate purporting to be signed by the chief executive stating that at a stated time, or during a stated period, a licence, approval, authorisation or exemption was, or was not, in force under this Act is evidence of the matter stated.

**Disclosure of criminal history**

**362.** A person who—

- (a) is the subject of an inquiry under section 18(7) or an investigation under section 49; or
- (b) is an applicant for a licence under part 3 or 5; or
- (c) is the secretary or an executive officer of a body corporate that is an applicant for a licence under part 3, 4 or 5; or
- (d) is required to submit information or material, or additional information or material, under section 49(4), 57(2), 58(1), 93(2), 200(2), 201(2) or 213(1);

must, if so required for the purposes of this Act, disclose the person's criminal history.

Maximum penalty—200 penalty units.

**Refund of amounts in certain circumstances**

**363.** The chief executive may—

- (a) refund amounts paid to the chief executive in error; and
- (b) refund a fee paid relative to an application under this Act where—
  - (i) in the opinion of the chief executive no substantial expense has been incurred by the chief executive in regard to such application; and
  - (ii) the applicant, or other person acceptable to the chief executive, makes a written request for the application not to proceed.

**Approval of forms**

**364.** The chief executive may approve forms for use under this Act.

**Alternatives to forms**

**365.(1)** The chief executive may instead of requiring any report to be made in the approved form, approve the submission of information the

subject of the report by any other method or medium of storage considered appropriate by the chief executive.

(2) Where under subsection (1) the chief executive approves the submission of information by an alternative method or medium of storage, the submission of information by the alternative method or medium has the same effect as if it had been made in the approved form.

### **Regulation-making power**

**366.(1)** The Governor in Council may make regulations under this Act.

(2) A regulation may be made for or about—

- (a) arrangements and procedures for the taking of fingerprints of an individual who is an applicant for a gaming machine, service contractor's, repairer's, gaming nominee's, gaming employee's or key monitoring employee's licence; and
- (b) the activities of holders of licences under this Act; and
- (c) the control of the premises of licensed repairers or licensed service contractors; and
- (d) security procedures for the manufacture, assembly, storage, handling, transport, consignment and receipt of gaming equipment and restricted components; and
- (e) the form and way of applications for approval of premises used in connection with the manufacture, assembly, storage or handling of gaming machines or restricted components; and
- (f) the different categories of licensed premises; and
- (g) the restrictions or entitlements which apply to different categories of licensed premises; and
- (h) any matter or thing in relation to the administration of this Act in respect of which a fee is payable and prescribing the amount of such fee; and
- (i) prescribing, where not provided in this Act, when a fee may be payable for any service or act carried out or undertaken and the amount of such fee; and
- (j) matters to enable the proper conduct of gaming; and

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- (k) establishing a float for use in financial transactions relating to gaming and the conduct of gaming, and maintaining and using the float; and
- (l) provision of signs and notices in licensed premises; and
- (m) the control of advertising or promotions by any licensee, licensed major dealer or other person in relation to gaming machines, gaming and the conduct of gaming; and
- (n) applications and fees with respect to the approval of electronic monitoring and centralised credit systems; and
- (o) the keeping of accounts with financial institutions by licensees; and
- (p) supplying gaming equipment; and
- (q) identification of machine managers and employees of licensees; and
- (r) the conduct and proceedings of meetings of the commission; and
- (s) offences against the regulations and prescribing the amount of any penalty for an offence against any regulation, provided that any such penalty must not exceed 20 penalty units; and
- (t) all matters required or permitted by this Act to be prescribed where such matters are to be or may be prescribed or where the method of prescription is not otherwise provided; and
- (u) all matters that may be convenient for the administration of this Act or that may be necessary or expedient to achieve the objects and purposes of this Act.

**Certain directions of Minister subordinate legislation etc.**

**367.** Directions given by the Minister under sections 29(5) and 30(1)(e) are declared to be—

- (a) subordinate legislation; and
- (b) exempt instruments for the purposes of the *Legislative Standards Act 1992*.



## PART 12—TRANSITIONALS

### *Division 1—Provisions for Gaming Machine Amendment Act 1997*

#### **Chief executive to supply gaming machines etc. until there is a licensed operator**

**368.(1)** This section applies only until a person becomes the holder of an operator's licence.

(2) Subject to subsections (4) and (5) and section 86, the chief executive must supply to a licensee the number or increased number of gaming machines decided under section 57(12) or 81(5) as in force at the commencement of this section.

(3) The gaming machine type, game, gaming token denomination and betting unit of a gaming machine supplied under subsection (2) are to be as the chief executive decides.

(4) If at any time a sufficient number of gaming machines is not available to enable the chief executive to comply with subsection (2), the chief executive may supply to a licensee a number less than the number decided.

(5) The chief executive must supply the balance of the gaming machines as soon as possible after a sufficient number of gaming machines becomes available.

#### **Gaming machine tax for June 1997**

**369.** To remove any doubt, it is declared that any monthly rental fees, gaming machine tax and gaming machine community benefit levies that would have been payable for the month of June 1997 if the *Gaming Machine Amendment Act 1997* had not commenced together with any penalties payable in relation to the late payment of the fees, tax or levies are payable as if the *Gaming Machine Amendment Act 1997* had not commenced.

**Recovery of certain amounts outstanding at 30 June 1997**

**370.(1)** Section 324, as in force immediately before the *Gaming Machine Amendment Act 1997* commenced, applies to monthly rental fees, gaming machine tax and levies payable for a period before 1 July 1997 and remaining unpaid after 30 June 1997.

**(2)** Also, section 324, as in force immediately before the *Gaming Machine Amendment Act 1997* commenced, applies to a penalty payable in relation to a fee, tax or levy mentioned in subsection (1).

**Payment of certain amounts received after 30 June 1997**

**371.** Despite section 322—

- (a) any money received after 30 June 1997 for monthly rental fees, gaming machine tax or levies payable before 1 June 1997, together with any penalties payable in relation to the late payment of the fees, tax or levies, is to be taken to be gaming machine tax and must be paid into the consolidated fund; and
- (b) any money received after 31 July 1997 for monthly rental fees, gaming machine tax or levies payable for the month of June 1997, together with any penalties payable in relation to the late payment of the fees, tax or levies, is to be taken to be gaming machine tax and must be paid into the consolidated fund.

**Inspectors and officers of the division**

**372.** To remove any doubt, it is declared that a person who was an inspector or an officer of the division under this Act immediately before the commencement of the *Gaming Machine Amendment Act 1997*, is taken to be an inspector or officer of the division appointed under this Act after the commencement.

*Division 2—Provisions for Gaming Machine and Other Legislation  
Amendment Act 1999*

## **Definitions**

**373.** In this division—

**“application period”** means the period of 2 months starting on the commencement day.

**“commencement day”** means the day on which the provision in which the term is used commences.

**“existing control system”**, for an existing operator, means the system of internal controls and administrative and accounting procedures used, immediately before the commencement day, by the operator for the operator’s monitoring operations.

**“existing operator”** means a person who—

- (a) immediately before the commencement day was a licensed operator; and
- (b) on the commencement day is a licensed operator.

**“part 4 licence”** means any of the following licences—

- repairer’s licence
- service contractor’s licence
- gaming employee’s licence
- key monitoring employee’s licence.

**“submission period”** means the period of 1 month starting on the commencement day.

**“unresolved nominee’s application”**, for a licensee’s licensed premises, means an application for a gaming nominee’s licence that—

- (a) is made (whether under section 196 or 198) in the application period; and
- (b) is made by a person who, for the application, is nominated by the licensee to be the licensee’s nominee for the premises; and
- (c) is not decided before the end of the application period.

**Term of gaming machine licences**

**374.(1)** Section 72, as amended by the *Gaming Machine and Other Legislation Amendment Act 1999*, applies only to a gaming machine licence issued on or after the commencement day.

**(2)** Section 72, as in force immediately before the commencement day, continues to apply to a gaming machine licence issued before, and in force on, the commencement day.

**Approved control systems for existing operators**

**375.** An existing operator's existing control system is, with any necessary modifications, taken to be the operator's approved control system until—

- (a) if paragraph (b) does not apply—the end of the submission period; or
- (b) if, during the submission period, the existing operator makes a control system submission to the chief executive—the chief executive makes a decision under section 166<sup>100</sup> approving, or refusing to approve, the control system to which the submission relates.

**Nominees of licensees**

**376.** Section 195<sup>101</sup> does not apply to a licensee for licensed premises of the licensee—

- (a) until the end of the application period; or
- (b) if, at the end of the application period, there is an unresolved nominee's application for the premises—until the application is decided.

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<sup>100</sup> Section 166 (Dealing with submissions)

<sup>101</sup> Section 195 (Nominees of licensees)

**Application for gaming nominees' licences**

**377.(1)** This section applies if, in the application period, an application for a gaming nominee's licence is made by a licensed gaming employee under section 196.<sup>102</sup>

(2) The application is taken to be accompanied by the prescribed fee for the application if it is accompanied by a fee for an amount equal to the prescribed fee less the discount amount.

(3) In this section—

**“discount amount”** means the amount calculated using the formula—

$$\frac{M \times PF}{60}$$

where—

**“M”** means the number of whole months remaining in the unexpired period of the applicant's gaming employee's licence;

**“PF”** means the prescribed fee.

**Applications for machine managers' licences**

**378.(1)** This section applies if an application for a machine manager's licence was made, but not decided or withdrawn, before the commencement day.

(2) The application is taken to be an application for a gaming employee's licence.

**Machine managers' licences**

**379.** A machine manager's licence in force immediately before the commencement day is taken to be a gaming employee's licence until—

- (a) the term for which the licence was issued, or renewed or last renewed, expires; or
- (b) the licence otherwise ceases to be in force.

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<sup>102</sup> Section 196 (Application for gaming nominee's licence by licensed gaming employee)

**Licensed machine managers**

**380.** A person who, immediately before the commencement day, was a licensed machine manager is taken to be a licensed gaming employee until—

- (a) the term for which the person’s licence was issued, or renewed or last renewed, expires; or
- (b) the person’s licence otherwise ceases to be in force.

**Term of part 5 licences**

**381.(1)** Section 204, as amended by the *Gaming Machine and Other Legislation Amendment Act 1999*, applies only to a part 5 licence issued on or after the commencement day.

**(2)** Section 204, as in force immediately before the commencement day, continues to apply to a part 5 licence issued before, and in force on, the commencement day.

**Continuation of certain agreements for stated period**

**382.(1)** This section applies despite the amendment of section 342(6) by the *Gaming Machine and Other Legislation Amendment Act 1999*, section 113 (the “**amending provision**”).

**(2)** Section 342(6), as in force immediately before the commencement of the amending provision, continues to apply to an agreement of a kind mentioned in the subsection if—

- (a) the agreement was entered into before 20 November 1998; and
- (b) the person with whom the licensed operator entered into the agreement is, and, at the time the agreement was entered into, was, a licensee; and
- (c) the premises to which the agreement relates are, and, at the time the agreement was entered into, were, licensed premises of the licensee.

**(3)** However, subsection (2) applies only for—

- (a) if the agreement’s initial term is not longer than 5 years—the

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agreement's initial term; or

- (b) if the agreement's initial term is longer than 5 years—the period of 5 years starting on the day the agreement's initial term started.

(4) Also, subsection (2) applies to the agreement only for the licensed premises to which the agreement related at the time the agreement was entered into.

***Division 3—Provisions for Gaming Machine and Other Legislation  
Amendment Act (No. 2) 1999***

**Definitions**

**383.** In this division—

**“commencement day”** means the day on which the provision in which the term is used commences.

**“listed manufacturer”** means a person who, immediately before the commencement day, was listed on the roll of recognised manufacturers and suppliers of gaming machines maintained under section 130<sup>103</sup> as in force immediately before the commencement day.

**“listed supplier”** means a person who, immediately before the commencement day, was listed on the roll of recognised suppliers of restricted components maintained under section 130 as in force immediately before the commencement day.

**Continuation of appeals by former listed persons**

**384.(1)** This section applies if—

- (a) before the commencement day, an appeal was made to the Minister by a person against a decision of the commission under section 134(1); and
- (b) the appeal was not finally decided before the commencement day.

(2) This section also applies if, immediately before the commencement

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<sup>103</sup> Previous section 130 was omitted by 1999 No. 77 s 96.

day, a right of appeal existed for a decision of the commission made under section 134(1).

(3) This section applies despite the amendment of this Act by the *Gaming Machine and Other Legislation Amendment Act (No. 2) 1999*.

(4) If this section applies because of subsection (1), the appeal may be continued and decided under this Act as in force immediately before the commencement day.

(5) If this section applies because of subsection (2), the right of appeal may be exercised, within the time allowed under section 29 for starting appeals, and an appeal resulting from the exercise of the right may be dealt with and decided, under this Act as in force immediately before the commencement day.

### **Existing inspectors**

**385.** A person who, immediately before the commencement day, was an inspector continues as an inspector on and from the commencement day.

### **Existing additional employees**

**386.(1)** This section applies to a person who, immediately before the commencement day, was a person to whom section 40 applied.

(2) From the commencement day—

- (a) the person continues to be employed under this Act; and
- (b) the terms that apply to the person for the person's employment are the same terms that applied to the person immediately before the commencement day.

### **Certain listed manufacturers taken to be licensed major dealers**

**387.(1)** This section applies to a listed manufacturer if—

- (a) before the commencement day, the chief executive approved a gaming machine type or game under section 281 submitted to the chief executive for evaluation by the listed manufacturer; and
- (b) the approval was in force immediately before the commencement



day.

(2) On the commencement day, the listed manufacturer is taken to be a licensed major dealer.

(3) On, or as soon as practicable after the commencement day, the chief executive must issue a major dealer's licence to the listed manufacturer.

### **Listed suppliers taken to be licensed secondary dealers**

**388.(1)** On the commencement day, a listed supplier is taken to be a licensed secondary dealer.

(2) On, or as soon as practicable after the commencement day, the chief executive must issue a secondary dealer's licence to a listed supplier.

### **Appeal decisions resulting in persons taken to be licensed dealers**

**389.(1)** This section applies if, on an appeal to which section 384 applies, the Minister directs that the decision appealed against (the "**original decision**") be set aside.

(2) If the original decision was a decision relating to the removal of the name of a person from the roll of recognised manufacturers and suppliers of gaming machines—

- (a) on the direction being given, the person is taken to be a licensed major dealer; and
- (b) as soon as practicable after the direction is given, the chief executive must issue a major dealer's licence to the person.

(3) If the original decision was a decision relating to the removal of the name of a person from the roll of recognised suppliers of restricted components—

- (a) on the direction being given, the person is taken to be a licensed secondary dealer; and
- (b) as soon as practicable after the direction is given, the chief executive must issue a secondary dealer's licence to the person.

**Continuation of directions prohibiting the playing of gaming machines**

**390.** A direction given to a person under section 339 before the commencement of this section and in force immediately before the commencement continues to have effect in relation to the person, after the commencement, as if the direction were given to the person under section 339 as in force immediately after the commencement.

**Consideration of social and community issues for existing applications**

**391.** Applications for gaming machine licences for which section 55(2) has effect include applications made before the commencement of the subsection that, at the commencement, are still to be decided by the commission.

***Division 4—Provisions for Gambling Legislation Amendment Act 2000*****Certain gaming machine licences to lapse**

**392.(1)** This section applies to a gaming machine licence granted before 13 December 1999.

(2) If the licensee under a gaming machine licence to which this section applies has not started to conduct gaming on the licensed premises by the relevant date, the gaming machine licence lapses.

(3) If the licensee under a gaming machine licence to which this section applies has started to conduct gaming on the licensed premises by the relevant date but the full number of gaming machines approved for the licensed premises have not been installed, the number of gaming machines approved for the licensed premises is (subject to an increase or decrease on application under this Act) taken to be the number installed on that date.

(4) The commission may fix a date falling after 13 December 2000 as the relevant date for particular licensed premises if—

(a) the licensee—

(i) applies in writing to the commission before 13 December 2000 for deferment of the relevant date; and

*Gaming Machine Act 1991*

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- (ii) provides the commission with information and materials for which it reasonably asks to help it decide the application; and
- (b) the commission is, after considering the application and any supporting information and materials, satisfied there is good reason to allow a deferment of the date for the licensed premises.

*Example of good reasons to allow a deferment—*

The commission might consider the fact that licensed premises are under construction and the construction work is substantially complete or has been delayed for reasons outside the licensee's control are good reasons for deferment of the relevant date.

(5) The commission may grant a deferment of the relevant date on conditions the commission considers appropriate and, if a condition is not complied with, the deferment does not operate beyond the date of the noncompliance.

(6) In this section—

“**relevant date**” means—

- (a) 13 December 2000; or
- (b) for premises for which the commission has fixed a later date under subsection (4)—the date fixed by the commission or an earlier date on which the deferment ceases to operate under subsection (5).

### **Certain approvals to lapse**

**393.(1)** This section applies to an approval given by the commission before 28 July 1999 for an increase in the number of gaming machines installed on licensed premises.

(2) If, by the relevant date, no additional gaming machines have been installed under an approval to which this section applies, the approval lapses.

(3) If, by the relevant date, some but not all the additional gaming machines approved under an approval to which this section applies have been installed, the approval is taken to be an approval for an increase in the number of gaming machines to the number installed by that date and to authorise the installation of no further gaming machines.

*Gaming Machine Act 1991*

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(4) The commission may fix a date falling after 13 December 2000 as the relevant date for particular licensed premises if—

- (a) the licensee—
  - (i) applies in writing to the commission before 13 December 2000 for deferment of the relevant date; and
  - (ii) provides the commission with information and materials for which it reasonably asks to help it decide the application; and
- (b) the commission is, after considering the application and any supporting information and materials, satisfied there is good reason to allow a deferment of the date for the licensed premises.

*Example of good reasons to allow a deferment—*

The commission might consider the fact that licensed premises are subject to major renovations or a major extension and the work is substantially complete or has been delayed for reasons outside the licensee's control are good reasons for deferment of the relevant date.

(5) The commission may grant a deferment of the relevant date on conditions the commission considers appropriate and, if a condition is not complied with, the deferment does not operate beyond the date of the noncompliance.

(6) In this section—

**“relevant date”** means—

- (a) 13 December 2000; or
- (b) for premises for which the commission has fixed a later date under subsection (4)—the date fixed by the commission or an earlier date on which the deferment ceases to operate under subsection (5).

### **Hours of gaming for existing licences**

**394.(1)** This section applies to a gaming machine licence granted before 1 December 2000.

(2) It is to be presumed that, on 1 December 2000, hours of gaming were fixed for the licensed premises to which the licence relates that are the same

as the hours during which liquor is permitted, under the liquor licence relating to the premises, to be consumed in the licensed premises.

### **Closure of charities and rehabilitation benefit fund**

**395.(1)** On the commencement, the charities and rehabilitation benefit fund is closed.

(2) On the closure of the fund, it ceases to exist and all public moneys standing to the credit of the fund immediately before the commencement are controlled receipts of the families department.

(3) Despite the closure of the fund, entries may be made in the accounts for the fund for transactions completed before the commencement.

(4) In this section—

**“commencement”** means the commencement of this section.

**“controlled receipt”** see *Financial Administration and Audit Act 1977*, section 4(2).

**“families department”** means the department within which the fund was administered immediately before the commencement.

**“public moneys”** see *Financial Administration and Audit Act 1977*, schedule 3.

### **Saving of appointments of members of Gaming Machine Community Benefit Committee**

**396.(1)** This section applies to the gaming machine community benefit committee established immediately before the commencement of this section (the **“previous committee”**).

(2) The previous committee continues in existence as the gambling community benefit committee (the **“new committee”**) and each member of the previous committee is taken to properly hold office as a member of the new committee.

(3) Subject to the Act, the term of the person’s appointment is the balance of the term for which the person held office immediately before the commencement.

### **Applications of significant community impact**

**397.(1)** Subject to this section, sections 55B to 55E do not apply to a relevant application.

(2) However, the chief executive may, by written notice given to the applicant, require the applicant to give the chief executive a community impact statement and a statement of responsible gambling initiatives within the reasonable time, not less than 30 days, stated in the notice.

(3) If the applicant is required to give a community impact statement and a statement of responsible gambling initiatives, section 55B(2) to (5) applies to the statements and the preparation of the statements.

(4) If the applicant does not comply with the notice, the applicant is taken to have withdrawn the relevant application.

(5) Subsection (6) applies if a member of the public, individually or as a member of a group, has commented or comments on the relevant application, by writing, given to the chief executive before the commission decides the application.

(6) The comments are taken to be relevant community comments on the application.

(7) However, the commission may disregard comments on subjects that lie beyond a scope indicated in a relevant guideline issued by the commission under section 17.

(8) In this section—

**“member of the public”** see section 55D(4).

**“relevant application”** means an application of a type mentioned in section 55A(1) that was made, but not decided, before the commencement of this section.

### **Application of guidelines to existing applications**

**398.(1)** This section applies to any of the following applications made, but not decided, before the commencement of this section—

- (a) an application for a gaming machine licence;
- (b) an application for additional licensed premises;

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- (c) an application to have the approved number of gaming machines for licensed premises increased.

(2) To remove doubt, it is declared that a guideline issued by the commission under section 17 applies to an application mentioned in subsection (1) in the same way it would if the application were made after the commencement.

**ENDNOTES****1 Index to endnotes**

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**2 Date to which amendments incorporated**

This is the reprint date mentioned in the Reprints Act 1992, section 5(c). Accordingly, this reprint includes all amendments that commenced operation on or before 15 December 2000. Future amendments of the Gaming Machine Act 1991 may be made in accordance with this reprint under the Reprints Act 1992, section 49.



### 3 Key

#### Key to abbreviations in list of legislation and annotations

AIA	=	Acts Interpretation Act 1954	(prev)	=	previously
amd	=	amended	proc	=	proclamation
amdt	=	amendment	prov	=	provision
ch	=	chapter	pt	=	part
def	=	definition	pubd	=	published
div	=	division	R[X]	=	Reprint No.[X]
exp	=	expires/expired	RA	=	Reprints Act 1992
gaz	=	gazette	reloc	=	relocated
hdg	=	heading	renum	=	renumbered
ins	=	inserted	rep	=	repealed
lap	=	lapsed	s	=	section
notfd	=	notified	sch	=	schedule
o in c	=	order in council	sdiv	=	subdivision
om	=	omitted	SIA	=	Statutory Instruments Act 1992
orig	=	original	SIR	=	Statutory Instruments Regulation 1992
p	=	page	SL	=	subordinate legislation
para	=	paragraph	sub	=	substituted
prec	=	preceding	unnum	=	unnumbered
pres	=	present			
prev	=	previous			

### 4 Table of earlier reprints

#### TABLE OF EARLIER REPRINTS

[If a reprint number includes a roman letter, the reprint was released in unauthorised, electronic form only.]

Reprint No.	Amendments included	Reprint date
1	to Act No. 68 of 1992	1 February 1993
2	to Act No. 63 of 1993	24 December 1993
3	to Act No. 58 of 1995	3 April 1996
3A	to Act No. 47 of 1996	3 December 1996
3B	to Act No. 34 of 1997	2 October 1997
4	to Act No. 81 of 1997	5 December 1997
4A	to Act No. 14 of 1998	8 July 1998
4B	to Act No. 14 of 1998	2 October 1998
4C	to Act No. 8 of 1999	6 April 1999
4D	to Act No. 19 of 1999	28 May 1999
5	to Act No. 16 of 2000	7 July 2000

## 5 Tables in earlier reprints

### TABLES IN EARLIER REPRINTS

Name of table	Reprint No.
Changed names and titles	3
Corrected minor errors	3, 5
Obsolete and redundant provisions	3
Renumbered provisions	1, 2, 5

## 6 List of legislation

### **Gaming Machine Act 1991 No. 7**

date of assent 27 March 1991

ss 1–2 commenced on date of assent

remaining provisions commenced 18 May 1991 (proc pubd gaz 18 May 1991 p 258)

as amended by—

### **Gaming Machine Amendment Act 1992 No. 35**

date of assent 2 July 1992

ss 1–2 commenced on date of assent

remaining provisions commenced 2 July 1992 (1992 SL No. 213)

### **Statute Law (Miscellaneous Provisions) Act (No. 2) 1992 No. 68 ss 1–3 sch 2**

date of assent 7 December 1992

commenced on date of assent

### **Gaming Machine Amendment Act 1993 No. 63**

date of assent 23 November 1993

ss 1–3 commenced on date of assent

remaining provisions commenced 1 December 1993 (1993 SL No. 417)

### **Statute Law (Miscellaneous Provisions) Act 1994 No. 15 ss 1–3 sch 2**

date of assent 10 May 1994

commenced on date of assent

### **Liquor Amendment Act (No. 2) 1994 No. 59 ss 1–2, 89 sch 3**

date of assent 4 November 1994

ss 1–2 commenced on date of assent

remaining provisions commenced 2 December 1994 (1994 SL No. 409)

### **Statute Law (Miscellaneous Provisions) Act (No. 2) 1994 No. 87 ss 1–3 sch 1**

date of assent 1 December 1994

commenced on date of assent

### **Statute Law Revision Act (No. 2) 1995 No. 58 ss 1–2, 4 sch 1**

date of assent 28 November 1995

commenced on date of assent

**Public Service Act 1996 No. 37 ss 1–2, 147 sch 2**

date of assent 22 October 1996

ss 1–2 commenced on date of assent

remaining provisions commenced 1 December 1996 (1996 SL No. 361)

**Keno Act 1996 No. 47 ss 1, 244 sch 3**

date of assent 15 November 1996

commenced on date of assent

**Gaming Machine Amendment Act 1997 No. 24**

date of assent 22 May 1997

ss 1–2 commenced on date of assent

remaining provisions commenced 1 July 1997 (1997 SL No. 162)

**Lotteries Act 1997 No. 34 ss 1–2, 233**

date of assent 18 July 1997

ss 1–2 commenced on date of assent

remaining provisions commenced 1 August 1997 (1997 SL No. 230)

**Statute Law (Miscellaneous Provisions) Act 1997 No. 81 ss 1–3 sch**

date of assent 5 December 1997

commenced on date of assent

**Gaming Machine Amendment Act 1998 No. 11**

date of assent 23 March 1998

ss 1–2 commenced on date of assent

remaining provisions commenced 1 July 1998 (1998 SL No. 82)

**Interactive Gambling (Player Protection) Act 1998 No. 14 ss 1–2, 266**

date of assent 26 March 1998

ss 1–2 commenced on date of assent

remaining provisions commenced 1 October 1998 (1998 SL No. 257)

**Gaming Machine and Other Legislation Amendment Act 1999 No. 8 pts 1–2 (as amd 1999 No. 38 pt 7 div 2 (as from 31 August 1999) (as amd 2000 No. 5 ss 1–2, 461 (prev s 373) sch 3 (ss 1–2, 461 as from 23 March 2000, sch 3 as from 1 July 2000 (2000 SL No. 174) as ins 2000 No. 22 ss 1, 28 (as from 23 June 2000))**

date of assent 30 March 1999

ss 1–2 commenced on date of assent

ss 3, 4(1) (other than to the extent it omits the definitions “information notice”, “licensed machine manager” and “machine manager”), 4(2) (to the extent it inserts a definition that is relevant to the operation of the Gaming Machine Act 1991 after 1 July 1999), 4(3)–(4), 5–7, 9 (to the extent it omits s 52 and inserts new ss 50 and 52), 11, 12(1)–(2), (4)–(7), (9), 14, 15, 21 (to the extent it omits ss 79 and 86(5) and inserts new ss 79, 80 and 90), 24, 25 (to the extent it omits s 96 and inserts new s 96(1)–(2), (4) and (5)), 26(1)–(3), (7)–(15), 27, 29–31, 32 (to the extent it inserts new s 104), 33–47, 48 (to the extent it inserts new s 156), 49–52, 54–55, 60, 67, 69(1)–(2), (4)–(6), 69(3) (to the extent it omits s 217(2)–(7) and inserts new s 217(2)–(3), (5)–(6)), 70–73, 74 (to the extent it inserts new s 222), 76–79, 84, 88–89, 91–96, 98–99, 100(2) (to the extent it inserts new s 310(3)), 102, 104–108, 110–112, 116, 119–121, 122 (to the extent it inserts new pt 12 div 2 hdg, it

inserts new s 373 (but only to the extent new s 373 relates to the definitions “existing control system”, “existing operator” and “submission period”) and it inserts new s 375), pts 3–5 (other than s 132), pts 6–7 commenced 1 July 1999 (1999 SL No. 124)

s 85 commenced 2 July 2000 (2000 SL No. 134)

s 97 commenced 1 November 1999 (1999 SL No. 240)

s 113 commenced 20 November 1998 (see s 2(1))

s 122 (to the extent that it inserts new s 382) commenced 1 November 1999 (1999 SL No. 240)

remaining provisions commenced 1 July 2000 (2000 SL No. 134)

(proposed commencement 31 March 2001 (automatic commencement under AIA s 15DA(2)) (2000 SL No. 43 s 2(1)))

**Statute Law (Miscellaneous Provisions) Act 1999 No. 19 ss 1–3 sch**

date of assent 30 April 1999

commenced on date of assent

**Charitable and Non-Profit Gaming Act 1999 No. 26 ss 1–2, 196 sch 1**

date of assent 16 June 1999

ss 1–2 commenced on date of assent

remaining provisions commenced 1 December 1999 (1999 SL No. 282)

**Financial Sector Reform (Queensland) Act 1999 No. 27 ss 1–2(1), (4), 76 sch 1 pt 3**

date of assent 16 June 1999

ss 1–2, 76 commenced on date of assent

remaining provisions commenced 1 July 1999 (see 2(1) and proc pubd Cwlth of Australia gaz 29 June 1999, No. S283)

**Financial Administration Legislation Amendment Act 1999 No. 29 ss 1–2, 50 sch**

date of assent 16 June 1999

ss 1–2, 50 commenced on date of assent

remaining provisions commenced 1 July 1999 (1999 SL No. 122 and see 1999 SL No. 119, 1999 SL No. 70 s 2(3))

**TAB Queensland Limited Privatisation Act 1999 No. 38 s 1 pt 7 div 1**

date of assent 31 August 1999

commenced on date of assent

**Gaming Machine and Other Legislation Amendment Act (No. 2) 1999 No. 77 pts 1–2, s 3 sch 1**

date of assent 14 December 1999

ss 1–2, 21, 154 (to the extent it inserts new pt 12, div 3 heading, new s 391) commenced on date of assent (see s 2(1))

remaining provisions commenced 1 July 2000 (2000 SL No. 135)

**Police Powers and Responsibilities Act 2000 No. 5 ss 1–2, 373 sch 2, 461 (prev s 373) sch 3**

date of assent 23 March 2000

ss 1–2, 373 sch 2 commenced on date of assent (see s 2(2))

remaining provisions commenced 1 July 2000 (see s 2(1), (3) and 2000 SL No. 174)

**Mental Health Act 2000 No. 16 ss 1–2, 590 sch 1 pt 2**

date of assent 8 June 2000

ss 1–2, 590 commenced on date of assent (see s 2(1))

remaining provisions not yet proclaimed into force**Gambling Legislation Amendment Act 2000 No. 51 pts 1, 4, s 20 sch**

date of assent 17 November 2000

ss 1–2 commenced on date of assent

remaining provisions commenced 1 December 2000 (see s 2)

## 7 List of annotations

**This reprint has been renumbered—see tables of renumbered provisions in endnote 8.**

**Object****s 1A** ins 2000 No. 51 s 21**Definitions****prov hdg** sub 1997 No. 24 s 4(1); 1997 No. 81 s 3 sch**s 2** prev s 2 om R3 (see RA s 37)

pres s 2 amd 1992 No. 35 s 4(3), sch

def “**accepted representations**” ins 1997 No. 24 s 4(3)def “**accounting record**” ins 1999 No. 77 s 4(2)def “**additional premises**” ins 1999 No. 8 s 4(2)def “**additional premises application**” ins 1999 No. 8 s 4(2)  
amd 1999 No. 77 s 4(3)–(4)def “**administered receipt**” ins 2000 No. 51 s 22(2)def “**affected person**” ins 1999 No. 77 s 4(2)def “**appeal authority**” ins 1999 No. 77 s 4(2)def “**application of significant community impact**” ins 2000 No. 51  
s 22(2)def “**appropriately qualified**” ins 1999 No. 8 s 4(2)def “**approved accountant**” ins 1999 No. 77 s 4(2)def “**approved authority**” ins 1999 No. 8 s 4(2)def “**approved control system**” ins 1999 No. 8 s 4(2)def “**approved evaluator**” ins 1999 No. 77 s 4(2)def “**approved financier**” ins 1997 No. 24 s 4(3)def “**approved form**” ins 1995 No. 58 s 4 sch 1def “**approved game**” ins 1999 No. 77 s 4(2)

sub 2000 No. 51 s 22(1)–(2)

def “**approved number**” ins 1999 No. 8 s 4(2)def “**approved place**” ins 1999 No. 8 s 4(2)

om 1999 No. 77 s 4(1)

def “**approved place**”, for the keeping of a licensee’s accounting  
records, ins 1999 No. 77 s 4(2)def “**approved place**”, for the keeping of monitoring records of a  
licensed monitoring operator, ins 1999 No. 77 s 4(2)

om 2000 No. 51 s 22(1)

- 
- def **“approved place”**, for the keeping of monitoring records of a licensed supplier, ins 2000 No. 51 s 22(2)
- def **“approved trust account”** ins 1998 No. 11 s 4(2)
- def **“arrangement”** ins 1993 No. 63 s 4(2)
- def **“assessment period”** ins 1997 No. 24 s 4(3)
- def **“associate”** ins 1993 No. 63 s 2 sch
- def **“associates (nominees) audit program”** ins 1999 No. 8 s 4(2)
- def **“associates (operators) audit program”** ins 1999 No. 8 s 4(2)  
om 1999 No. 77 s 4(1)
- def **“associates (suppliers) audit program”** ins 1999 No. 77 s 4(2)
- def **“audit guidelines”** ins 1999 No. 8 s 4(2)  
om 1999 No. 77 s 4(1)
- def **“authorised gaming machine”** ins 1999 No. 8 s 4(2)  
sub 2000 No. 51 s 22(1)–(2)
- def **“basic monitoring services”** ins 1997 No. 24 s 4(3)  
amd 1999 No. 77 s 3 sch 1
- def **“betting unit”** ins 1993 No. 63 s 4(2)
- def **“category 1 licensed premises”** ins 1999 No. 8 s 4(2)
- def **“category 2 licensed premises”** ins 1999 No. 8 s 4(2)
- def **“category 2 licensee”** ins 1999 No. 77 s 4(2)
- def **“chief executive”** ins 1992 No. 35 s 4(2)  
om 1997 No. 24 s 61 sch
- def **“claimant”** ins 1999 No. 77 s 4(2)
- def **“club”** om 1992 No. 35 s 4(1)  
ins 1992 No. 35 s 4(2)
- def **“club liquor licence”** ins 1992 No. 35 s 4(2)  
sub 1993 No. 63 s 4  
amd 1999 No. 77 s 4(5)
- def **“commission”** sub 1998 No. 14 s 266(2)
- def **“community comments”** ins 2000 No. 51 s 22(2)
- def **“conduct of gaming”** ins 1993 No. 63 s 2 sch
- def **“control action”** ins 1999 No. 8 s 4(2)
- def **“control system”** ins 1999 No. 8 s 4(2)  
amd 1999 No. 77 s 3 sch 1
- def **“control system (change) submission”** ins 1999 No. 8 s 4(2)
- def **“control system submission”** ins 1999 No. 8 s 4(2)
- def **“conviction”** ins 1993 No. 63 s 4(2)
- def **“criminal history”** ins 1999 No. 8 s 4(2)
- def **“decision maker”** ins 1999 No. 77 s 4(2)
- def **“decrease”** ins 2000 No. 51 s 22(2)
- def **“decrease proposal”** ins 1999 No. 8 s 4(2)  
sub 2000 No. 51 s 22(1)–(2)
- def **“decrease proposal (gaming machines)”** ins 2000 No. 51 s 22(2)
- def **“decrease proposal (hours of gaming)”** ins 2000 No. 51 s 22(2)
- def **“departmental accounts”** ins 1999 No. 29 s 50 sch
- def **“departmental financial-institution account”** ins 1999 No. 29 s 50 sch
- def **“departmental gaming officer”** ins 1999 No. 77 s 4(2)
- def **“departmental officer”** ins 1999 No. 77 s 4(2)

- def **“deputy director”** amd 1992 No. 35 sch  
om 1997 No. 24 s 61 sch
- def **“directly interested person”** ins 1999 No. 8 s 4(2)  
amd 1999 No. 77 s 3 sch 1
- def **“director”** amd 1992 No. 35 sch  
om 1997 No. 24 s 61 sch
- def **“disclosed associate”** ins 1997 No. 24 s 4(3)  
amd 1999 No. 8 s 4(3)
- def **“disclosure affidavit”** ins 1997 No. 24 s 4(3)  
sub 1999 No. 8 s 4(1)–(2)
- def **“displayed win”** ins 1999 No. 77 s 4(2)
- def **“division”** amd 1992 No. 35 sch  
om 1999 No. 77 s 4(1)
- def **“electronic monitoring system”** sub 2000 No. 51 s 22(1)–(2)
- def **“excluded interested person”** ins 1999 No. 8 s 4(2)  
amd 1999 No. 77 s 3 sch 1
- def **“executive officer”** amd 1992 No. 35 sch
- def **“exempt accounting record”** ins 1999 No. 77 s 4(2)
- def **“exempt monitoring record”** ins 1999 No. 8 s 4(2)
- def **“existing licence”** ins 1999 No. 8 s 4(2)
- def **“existing premises”** ins 1999 No. 8 s 4(2)
- def **“financial institution”** amd 1992 No. 35 sch; 1999 No. 27 s 76 sch 1;  
1999 No. 77 s 4(6)
- def **“financial year”** amd 1993 No. 63 s 2 sch; 1997 No. 24 s 61 sch
- def **“former licensee”** ins 1999 No. 77 s 4(2)
- def **“former operator”** ins 1999 No. 77 s 4(2)
- def **“game”** sub 1999 No. 8 s 4(1)–(2)
- def **“gaming Act”** ins 1996 No. 47 s 244 sch 3  
sub 1997 No. 34 s 233(2); 1998 No. 14 s 266(3); 1999 No. 26 s 196  
sch 1
- def **“gaming duties”** ins 1999 No. 8 s 4(2)
- def **“gaming employee”** ins 1999 No. 8 s 4(2)
- def **“gaming machine type”** om 1992 No. 35 s 4(1)  
ins 1992 No. 35 s 4(2)
- def **“gaming operations”** ins 1999 No. 77 s 4(2)
- def **“gaming related system”** ins 1999 No. 77 s 4(2)
- def **“gaming system component”** ins 1999 No. 77 s 4(2)
- def **“gaming system malfunction”** ins 1999 No. 77 s 4(2)
- def **“gaming trainer”** ins 1997 No. 24 s 4(3)  
amd 1999 No. 77 s 4(7)
- def **“general associate”** ins 1997 No. 24 s 4(3)
- def **“general liquor licence”** ins 1992 No. 35 s 4(2)
- def **“gross monthly turnover”** om 1997 No. 24 s 4(2)
- def **“increase”** ins 2000 No. 51 s 22(2)
- def **“increase application”** ins 1999 No. 8 s 4(2)  
sub 2000 No. 51 s 22(1)–(2)
- def **“increase application (gaming machines)”** ins 2000 No. 51 s 22(2)
- def **“increase application (hours of gaming)”** ins 2000 No. 51 s 22(2)

- def “**indirectly interested person**” ins 1999 No. 8 s 4(2)  
amd 1999 No. 77 s 3 sch 1
- def “**information notice**” ins 1997 No. 24 s 4(2)  
sub 1999 No. 8 s 4(1)–(2); 1999 No. 77 s 4(1)–(2)
- def “**inspector**” sub 1999 No. 8 s 4(1)–(2)
- def “**inspectors audit program**” ins 1999 No. 77 s 4(2)
- def “**interested person**” ins 1997 No. 24 s 4(3)  
om 2000 No. 51 s 22(1)
- def “**interested person**” ins 1999 No. 8 s 4(2)  
amd 1999 No. 77 s 3 sch 1
- def “**involved licensed monitoring operator**” ins 1999 No. 77 s 4(2)
- def “**involved licensee**” ins 1999 No. 77 s 4(2)
- def “**jackpot**” om 1998 No. 11 s 4(1)
- def “**jackpot payout**” ins 1998 No. 11 s 4(2)
- def “**key monitoring employee**” ins 1997 No. 24 s 4(3)  
sub 1999 No. 8 s 4(1)–(2)
- def “**key officer**” ins 1997 No. 24 s 4(3)  
sub 1999 No. 8 s 4(1)–(2)
- def “**licensed dealer**” ins 1999 No. 77 s 4(2)
- def “**licensed gaming employee**” ins 1999 No. 8 s 4(2)
- def “**licensed gaming nominee**” ins 1999 No. 8 s 4(2)
- def “**licensed key monitoring employee**” ins 1997 No. 24 s 4(3)
- def “**licensed machine manager**” om 1999 No. 8 s 4(1)
- def “**licensed major dealer**” ins 1999 No. 77 s 4(2)
- def “**licensed monitoring operator**” ins 1999 No. 77 s 4(2)
- def “**licensed operator**” ins 1997 No. 24 s 4(3)  
om 1999 No. 77 s 4(1)
- def “**licensed person**” ins 1999 No. 8 s 4(2)
- def “**licensed secondary dealer**” ins 1999 No. 77 s 4(2)
- def “**licensed supplier**” ins 1999 No. 77 s 4(2)
- def “**licensees audit guidelines**” ins 1999 No. 77 s 4(2)
- def “**Licensing Commission**” om 1992 No. 35 s 4(1)
- def “**linked jackpot arrangement**” amd 1992 No. 35 sch  
sub 1998 No. 11 s 4(1)–(2)
- def “**linked jackpot equipment**” amd 1998 No. 11 s 4(3)
- def “**liquor**” om 1992 No. 35 s 4(1)  
ins 1992 No. 35 s 4(2)
- def “**liquor licence**” ins 1992 No. 35 s 4(2)  
sub 1993 No. 63 s 4  
amd 1999 No. 77 s 4(8)
- def “**liquor licensing authority**” ins 1992 No. 35 s 4(2)
- def “**listed person**” om 1999 No. 77 s 4(1)
- def “**machine manager**” amd 1993 No. 63 s 2 sch  
om 1999 No. 8 s 4(1)
- def “**Magistrates Court**” om 1992 No. 35 s 4(1)
- def “**main office**” ins 1999 No. 77 s 4(2)  
sub 2000 No. 51 s 22(1)–(2)
- def “**malfunction**” ins 1999 No. 77 s 4(2)
- def “**management letter**” ins 1999 No. 77 s 4(2)



- def **“metered amount”** ins 1998 No. 11 s 4(2)
- def **“metered bets”** ins 1997 No. 24 s 4(3)  
om 2000 No. 51 s 22(1)
- def **“metered payouts”** ins 1997 No. 24 s 4(3)  
sub 1998 No. 11 s 4(1)–(2)
- def **“metered turnover”** ins 2000 No. 51 s 22(2)
- def **“metered win”** ins 1997 No. 24 s 4(3)  
sub 2000 No. 51 s 22(1)–(2)
- def **“Minister”** om 1992 No. 35 s 4(1)
- def **“money clearance”** sub 1999 No. 8 s 4(1)–(2)  
sub 1999 No. 77 s 4(1)–(2)
- def **“monitoring operations”** ins 1999 No. 8 s 4(2)  
amd 1999 No. 77 s 3 sch 1
- def **“monitoring record”** ins 1999 No. 8 s 4(2)  
amd 1999 No. 77 s 3 sch 1
- def **“monthly taxable metered win”** ins 1997 No. 24 s 4(3)  
amd 1998 No. 11 s 4(4); 1999 No. 77 s 3 sch 1; 2000 No. 51 s 22(2A)
- def **“multiple site jackpot increments”** ins 1997 No. 24 s 4(3)
- def **“nominee”** ins 1999 No. 8 s 4(2)
- def **“nominees audit program”** ins 1999 No. 8 s 4(2)
- def **“non-proprietary club”** om 1992 No. 35 s 4(1)  
ins 1992 No. 35 s 4(2)  
amd 1999 No. 77 s 4(9)–(10)
- def **“officer of the division”** om 1999 No. 77 s 4(1)
- def **“operators audit guidelines”** ins 1999 No. 77 s 4(2)
- def **“operators audit program”** ins 1999 No. 8 s 4(2)  
om 1999 No. 77 s 4(1)
- def **“other amounts”** ins 2000 No. 51 s 22(2)
- def **“ownership”** ins 1999 No. 8 s 4(2)  
om 1999 No. 77 s 4(1)
- def **“parent entity”** ins 1999 No. 8 s 4(2)  
amd 1999 No. 77 s 3 sch 1
- def **“payout refusal decision”** ins 1999 No. 77 s 4(2)
- def **“percentage return to player”** ins 1998 No. 11 s 4(2)
- def **“play a gaming machine”** ins 1993 No. 63 s 2 sch
- def **“police officer”** om 1992 No. 35 s 4(1)
- def **“power”** ins 1999 No. 8 s 4(2)
- def **“prescribed”** om 1992 No. 35 s 4(1)
- def **“prescribed liquor licence”** ins 1992 No. 35 s 4(2)  
sub 1993 No. 63 s 4
- def **“privately acquired gaming machine”** ins 1999 No. 8 s 4(2)  
amd 1999 No. 77 s 4(11)  
om 2000 No. 51 s 22(1)
- def **“progressive jackpot prize meter”** ins 1998 No. 11 s 4(2)  
sub 2000 No. 51 s 22(1)–(2)
- def **“promotions”** ins 1998 No. 11 s 4(2)  
sub 1999 No. 8 s 4(1)–(2)  
amd 1999 No. 77 s 3 sch 1
- def **“public interest”** om 2000 No. 51 s 22(1)

- def “**reasonably suspects**” ins 1997 No. 24 s 4(3)
- def “**recognised manufacturer or supplier of gaming machines**” om 1999 No. 77 s 4(1)
- def “**recognised supplier of restricted components**” om 1999 No. 77 s 4(1)
- def “**registered company auditor**” ins 1997 No. 24 s 4(3)
- def “**registrar**” ins 1999 No. 77 s 4(2)
- def “**relevant chief executive**” ins 1999 No. 77 s 4(2)
- def “**rented gaming machine**” ins 1999 No. 8 s 4(2)  
amd 1999 No. 77 s 3 sch 1  
om 2000 No. 51 s 22(1)
- def “**restricted official**” ins 1999 No. 77 s 4(2)
- def “**review decision**” ins 1999 No. 77 s 4(2)
- def “**schedule of gaming machines**” om 1998 No. 11 s 4(1)
- def “**service contract**” amd 1999 No. 8 s 4(4)
- def “**show cause notice**” ins 1997 No. 24 s 4(3)
- def “**show cause period**” ins 1997 No. 24 s 4(3)
- def “**special facility liquor licence**” ins 1999 No. 77 s 4(2)
- def “**special facility premises**” ins 1999 No. 77 s 4(2)
- def “**subsidiary operator**” ins 1999 No. 77 s 4(2)
- def “**suppliers audit program**” ins 1999 No. 77 s 4(2)
- def “**supplier’s licence**” ins 1999 No. 77 s 4(2)  
amd 2000 No. 51 s 22(3)
- def “**supply operations**” ins 1999 No. 77 s 4(2)
- def “**supporting material**”, for an additional premises application, ins 1999 No. 8 s 4(2)
- def “**supporting material**”, for an application for a gaming machine licence, ins 1999 No. 8 s 4(2)
- def “**supporting material**”, for an application for a licence under part 5, ins 1999 No. 8 s 4(2)  
amd 2000 No. 51 s 22(4)–(5)
- def “**supporting material**”, for an increase application, ins 1999 No. 8 s 4(2)
- def “**total approved number**” ins 1999 No. 8 s 4(2)
- def “**total wins meter**” ins 1998 No. 11 s 4(2)  
sub 2000 No. 51 s 22(1)–(2)
- def “**Under Treasurer**” om 1992 No. 35 s 4(1)

**Meaning of “conduct of gaming”**

- prov hdg** ins 1993 No. 63 s 2 sch  
**s 3** (prev s 3(2)) renum 1993 No. 63 s 2 sch

**Approval of terminating date for financial year**

- prov hdg** ins 1993 No. 63 s 2 sch  
**s 4** (prev s 3(3)) renum 1993 No. 63 s 2 sch  
amd 1997 No. 24 s 61 sch

**Meaning of “associate”**

- prov hdg** ins 1993 No. 63 s 2 sch  
**s 5** (prev s 3(4)) renum 1993 No. 63 s 2 sch  
amd 1997 No. 24 s 5; 1999 No. 8 s 5

**Gaming machine entry log**

**s 5.18**      amd 1992 No. 35 sch  
                  om 1993 No. 63 s 2 sch

**Meaning of “control action” under the Corporations Law**

**s 6**            ins 1999 No. 8 s 6

**Meaning of “due date for payment”**

**s 7**            ins 1999 No. 77 s 5

**Meaning of “information notice”**

**s 8**            ins 1999 No. 77 s 5

**Meaning of “jackpot payout”**

**s 9**            ins 1998 No. 11 s 5  
                  sub 2000 No. 51 s 22A

**Meaning of “metered payouts”**

**s 10**          ins 1998 No. 11 s 5  
                  amd 2000 No. 51 s 22B

**General penalty**

**s 10.20**      om 1992 No. 35 sch

**Numbering and renumbering of Act**

**s 10.33**      ins 1993 No. 63 s 2 sch  
                  om R2 (see RA s 37)

**Meaning of “percentage return to player”**

**s 11**          ins 1998 No. 11 s 5

**Meaning of “play a gaming machine”**

**prov hdg**    ins 1993 No. 63 s 2 sch  
**s 12**          (prev s 3(5)) renum 1993 No. 63 s 2 sch

**Acceptable evidence of age**

**s 14**          ins 1992 No. 35 s 5

**Establishment of commission**

**s 15**          amd 1998 No. 14 s 266(4)

**Functions of commission**

**s 16**          amd 1998 No. 14 s 266(5)

**Powers of commission**

**s 17**          amd 1998 No. 14 s 266(6); 1999 No. 8 s 7; 2000 No. 51 s 23

**Commissioners**

**s 18**          amd 1998 No. 14 s 266(7); 2000 No. 51 s 23A

**Termination of appointment of commissioners**

**s 22**          amd 1992 No. 35 sch; 1998 No. 14 s 266(8); 2000 No. 16 s 590 sch 1

**Acting appointments**

**s 24**          amd 1992 No. 35 sch

**Meetings**

**s 25** amd 1992 No. 35 sch; 2000 No. 51 s 23B

**Resources**

**s 26** amd 1997 No. 24 s 61 sch

**Annual report**

**s 27** amd 1998 No. 14 s 266(9)

**Decisions or determinations of commission**

**s 28** amd 1995 No. 58 s 4 sch 1

**Appeals to Minister**

**prov hdg** sub 1997 No. 24 s 6(1)

**s 29** amd 1994 No. 87 s 3 sch 1; 1995 No. 58 s 4 sch 1; 1997 No. 24 s 6(2)–(4), 61 sch; 1999 No. 8 s 8; 1999 No. 77 s 6; 2000 No. 51 s 24

**Minister's determination of appeals**

**prov hdg** sub 1997 No. 24 s 7(1)

**s 30** prev s 30 amd R1 (see RA s 37)  
om 1999 No. 77 s 16  
pres s 30 amd 1992 No. 35 sch; 1997 No. 24 ss 7(2), 61 sch; 2000 No. 51 s 25

**Appeals to Magistrates Court**

**s 31** ins 1997 No. 24 s 8  
amd 1999 No. 77 s 3 sch 1; 2000 No. 51 s 20 sch

**Appeals to commission**

**s 32** prev s 32 om 1997 No. 24 s 61 sch  
pres s 32 ins 1999 No. 77 s 7

**Starting appeal**

**s 33** prev s 33 sub 1992 No. 35 sch  
om 1997 No. 24 s 61 sch  
pres s 33 ins 1997 No. 24 s 8  
amd 1999 No. 77 s 8

**Stay of operations of decisions**

**s 34** ins 1997 No. 24 s 8  
amd 1999 No. 77 s 9

**Hearing procedures**

**s 35** ins 1997 No. 24 s 8  
amd 1999 No. 77 s 10

**Power of commission to gather evidence**

**s 36** prev s 36 amd 1992 No. 35 sch; 1995 No. 58 s 4 sch 1; 1997 No. 24 s 61 sch  
om 1999 No. 77 s 20  
pres s 36 ins 1999 No. 77 s 11

**Powers of appeal authority**

- prov hdg** sub 1999 No. 77 s 12(1)  
**s 37** prev s 37 om 1997 No. 24 s 61 sch  
pres s 37 amd 1999 No. 77 s 12(2)–(5)

**Appeal to District Court**

- s 38** ins 1997 No. 24 s 8  
amd 1999 No. 19 s 3 sch; 1999 No. 77 s 13

**Inspectors**

- s 39** amd 1992 No. 35 sch; 1996 No. 37 s 147 sch 2  
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**Qualifications for appointment as inspector**

- s 40** amd 1992 No. 35 sch; 1996 No. 37 s 147 sch 2  
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**Approving audit program for inspectors**

- prov hdg** amd 1992 No. 35 sch  
**s 41** amd 1992 No. 35 sch  
sub 1999 No. 77 s 14

**Investigating inspectors**

- s 42** ins 1999 No. 77 s 14

**Powers of inspectors**

- s 43** ins 1999 No. 77 s 14

**Appointment conditions for inspectors**

- s 44** ins 1999 No. 77 s 14

**Identity cards for inspectors**

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**Return of identity cards**

- s 46** ins 1999 No. 77 s 14

**Production or display of identity cards**

- s 47** ins 1999 No. 77 s 14

**Approved evaluators**

- s 48** ins 1999 No. 77 s 14

**Departmental gaming officers to be of good repute**

- prov hdg** amd 1999 No. 77 s 15(1)  
**s 49** amd 1999 No. 77 s 15(2)–(4)

**Delegation by Minister**

- s 50** ins 1999 No. 8 s 9  
amd 1999 No. 77 s 17

**Delegation by commission**

- s 51** ins 1999 No. 8 s 9  
amd 2000 No. 51 s 20 sch

**Delegation by chief executive**

**s 52** amd 1992 No. 35 sch  
sub 1997 No. 24 s 61 sch; 1999 No. 8 s 9

**Criminal history reports for investigations**

**s 53** amd 1992 No. 35 sch; 1993 No. 63 s 5; 1995 No. 58 s 4 sch 1; 1997 No. 24 s 61 sch  
sub 1999 No. 8 s 10  
amd 1999 No. 77 s 18; 2000 No. 5 s 373 sch 2; 2000 No. 51 s 20 sch

**Secrecy**

**s 54** prev s 54 amd 1993 No. 63 s 2 sch  
om 1997 No. 24 s 11  
pres s 54 amd 1992 No. 35 sch; 1994 No. 87 s 3 sch 1; 1995 No. 58 s 4 sch 1; 1996 No. 47 s 244 sch 3; 1997 No. 24 ss 9, 61 sch; 1998 No. 14 s 266(10)–(11); 1999 No. 77 s 19; 2000 No. 51 s 20 sch

**PART 3—GAMING MACHINE LICENCES****Division 1—Authorisation of gaming machine gambling**

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**Gaming lawful and does not constitute nuisance**

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**Recommendation by chief executive about application for gaming machine licence**

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**Decision on application for gaming machine licence**

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**Number of gaming machines and hours of gaming to be fixed on grant of gaming licence**

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**Basis on which number of gaming machines to be installed in premises and hours of gaming are to be decided**

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**div hdg** ins 2000 No. 51 s 31

**Application for additional licensed premises**

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**Recommendation by chief executive about additional premises application**

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**Decision on additional premises application**

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**Fixing number of gaming machines and hours of gaming for additional premises**

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**Conditions of gaming machine licences****s 73** amd 1992 No. 35 sch; 1999 No. 77 s 155



**Imposition or variation of conditions**

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**Payment and recovery of amounts**

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**Renewal and continuance of gaming machine licences**

**s 76** amd 1992 No. 35 sch; 1993 No. 63 s 2 sch; 1995 No. 58 s 4 sch 1;  
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**Gaming machine licences can not be transferred**

**s 77** ins 1992 No. 35 s 7

**Certain applications under Liquor Act 1992 subject to chief executive's certificate**

**prov hdg** amd 1997 No. 24 s 61 sch

**s 78** sub 1992 No. 35 s 7; 1993 No. 63 s 2 sch; 1997 No. 24 s 61 sch

**Removal of rented gaming machines**

**prov hdg** amd 1997 No. 24 s 61 sch; 1997 No. 81 s 3 sch

**s 79** amd 1992 No. 35 sch; 1993 No. 63 s 2 sch; 1995 No. 58 s 4 sch 1;  
1997 No. 24 s 61 sch; 1998 No. 11 s 9  
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**Directions to licensees about authorised gaming machines**

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amd 1999 No. 77 s 29

**Division 7—Increase of approved number of gaming machines**

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**Application to increase approved number of gaming machines**

**s 81** amd 1992 No. 35 sch; 1993 No. 63 s 2 sch; 1994 No. 87 s 3 sch 1;  
1995 No. 58 s 4 sch 1; 1997 No. 24 ss 12, 61 sch  
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**Recommendation by chief executive about increase application**

**s 82** ins 1999 No. 8 s 21

**Decision on increase application**

**s 83** ins 1999 No. 8 s 21  
amd 2000 No. 51 s 40

**Matters to be taken into account for increase application**

**s 84** ins 1999 No. 8 s 21  
amd 2000 No. 51 s 41

**Fixing increase number of gaming machines**

**s 85** ins 1999 No. 8 s 21

**Division 8—Increase of approved hours of gaming**

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**Application to increase approved hours of gaming**

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s 85B ins 2000 No. 51 s 42

**Decision on increase application**

s 85C ins 2000 No. 51 s 42

**Matters to be taken into account for increase application**

s 85D ins 2000 No. 51 s 42

**Division 9—Decrease of approved number of gaming machines**

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**Proposals to decrease approved number of gaming machines**s 86 amd 1992 No. 35 sch; 1993 No. 63 s 2 sch; 1994 No. 87 s 3 sch 1;  
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s 87 ins 1999 No. 8 s 21

**Decision on decrease proposal**s 88 ins 1999 No. 8 s 21  
amd 1999 No. 77 s 3 sch 1; 2000 No. 51 s 43**Matters to be taken into account for decrease proposal**s 89 ins 1999 No. 8 s 21  
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div hdg ins 2000 No. 51 s 45

**Proposals to decrease approved hours of gaming**

s 90A ins 2000 No. 51 s 45

**Recommendation by chief executive about decrease proposal (hours of gaming)**

s 90B ins 2000 No. 51 s 45

**Decision on decrease proposal (hours of gaming)**

s 90C ins 2000 No. 51 s 45

**Matters to be taken into account for decrease proposal (hours of gaming)**

s 90D ins 2000 No. 51 s 45

**Division 11—Relocation of gaming machine areas**

div hdg ins 2000 No. 51 s 45

**Relocation of gaming machine areas**

prov hdg sub 1998 No. 11 s 10(1)

s 91 amd 1992 No. 35 s 8, sch; 1993 No. 63 s 2 sch; 1997 No. 24 s 61 sch; 1998  
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**Disclosure of influential or benefiting parties**

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**Investigation of licensees and associates**

**s 93** amd 1992 No. 35 sch; 1997 No. 24 s 61 sch; 1999 No. 77 s 155

**Cessation or commencement of executive officer or secretary**

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**div hdg** ins 2000 No. 51 s 47

**Surrender of gaming machine licences**

**s 95** amd 1992 No. 35 sch; 1993 No. 63 s 2 sch; 1995 No. 58 s 4 sch 1;  
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**Action affecting gaming machine licences based on action affecting liquor licences**

**s 96** sub 1992 No. 35 s 9  
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**Immediate suspension of gaming machine licence**

**prov hdg** sub 1999 No. 8 s 27(1)  
**s 98** amd 1993 No. 63 s 2 sch; 1997 No. 24 s 61 sch; 1999 No. 8 s 27(2)–(3)

**Suspension of gaming machine licence for non-payment of monthly fees, gaming tax or penalty**

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**Effect of suspension of licence**

**s 100** amd 1997 No. 24 s 61 sch; 1999 No. 8 s 29

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**s 101** ins 1999 No. 8 s 30

**Gaming machines not to be played**

**s 102** amd 1992 No. 35 sch

**Amounts payable under gaming machine licence that ceases to have effect**

**prov hdg** sub 1999 No. 8 s 31(1)  
**s 103** amd 1992 No. 35 sch; 1997 No. 81 s 3 sch; 1999 No. 8 s 31(2)

**Recovery or disposal of gaming machines and other property on cancellation or non-renewal of gaming machine licence**

**s 104** ins 1999 No. 8 s 32  
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**PART 4—LICENSING OF MONITORING OPERATORS AND DEALERS**

**pt hdg** ins 1997 No. 24 s 13  
amd 1999 No. 77 s 36

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**References to particular licensed suppliers**

**s 110** ins 1997 No. 24 s 13  
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**References to particular suppliers' licences**

**s 111** ins 1997 No. 24 s 13  
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**Division 2—Suitability of persons**

**div hdg** ins 1997 No. 24 s 13

**Suitability of applicants for, and holders of, suppliers' licences**

**prov hdg** amd 1999 No. 77 s 38(1)  
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**Suitability of associates**

**s 113** ins 1997 No. 24 s 13  
amd 1999 No. 77 s 39

**Other issues about suitability**

**s 114** ins 1997 No. 24 s 13

**Division 3—Applications for, and issue of, suppliers' licences**

**div hdg** ins 1997 No. 24 s 13  
amd 1999 No. 77 s 3 sch 1

**Application for licence**

**s 115** prev s 115 amd 1992 No. 35 sch; 1997 No. 24 s 27  
om 1999 No. 8 s 84  
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**Further information to support application**

- s 116** prev s 116 amd 1992 No. 35 sch; 1993 No. 63 s 2 sch; 1995 No. 58 s 4 sch 1; 1997 No. 24 s 61 sch  
om 1999 No. 8 s 84  
pres s 116 ins 1997 No. 24 s 13  
amd 1999 No. 77 s 3 sch 1

**Change in circumstances of applicant**

- s 117** prev s 117 sub 1992 No. 35 s 12  
om 1999 No. 77 s 93  
pres s 117 ins 1997 No. 24 s 13  
amd 1999 No. 77 ss 156, 3 sch 1

**Fresh disclosure affidavit by applicant**

- s 118** ins 1997 No. 24 s 13  
amd 1999 No. 77 ss 156, 3 sch 1

**Consideration of application**

- s 119** ins 1997 No. 24 s 13  
amd 1999 No. 77 s 3 sch 1

**Investigations about application**

- s 120** ins 1997 No. 24 s 13  
amd 1999 No. 77 s 40

**Recommendation about application**

- s 121** ins 1997 No. 24 s 13  
amd 1999 No. 8 s 36; 1999 No. 77 s 41

**Decision about application**

- s 122** ins 1997 No. 24 s 13  
amd 1999 No. 77 s 3 sch 1

**Conditions of licences**

- s 123** ins 1997 No. 24 s 13  
amd 1999 No. 77 s 42

**Form of licence**

- s 124** ins 1997 No. 24 s 13  
amd 1999 No. 77 s 3 sch 1

**Duration of licence**

- s 125** ins 1997 No. 24 s 13  
amd 1999 No. 77 s 43

**Provisional licences**

- s 126** ins 1999 No. 77 s 44

**Division 4—Dealings affecting suppliers' licences**

- div hdg** ins 1997 No. 24 s 13  
amd 1999 No. 77 s 3 sch 1

**Changing conditions of licence**

- s 127** ins 1997 No. 24 s 13  
amd 1999 No. 77 s 45

**Recording change of conditions**

**s 128** ins 1997 No. 24 s 13  
amd 1999 No. 77 s 3 sch 1

**Extension of licence**

**s 129** ins 1997 No. 24 s 13  
amd 1999 No. 77 s 3 sch 1

**Renewal of licence—application**

**s 130** prev s 130 amd 1994 No. 87 s 3 sch 1; 1997 No. 24 s 61 sch; 1998 No. 11  
s 12  
om 1999 No. 77 s 96  
pres s 130 ins 1997 No. 24 s 13  
amd 1999 No. 77 s 46

**Renewal of licence—decision**

**s 131** prev s 131 amd 1992 No. 35 sch; 1997 No. 24 s 61 sch  
om 1999 No. 77 s 96  
pres s 131 ins 1997 No. 24 s 13  
amd 1999 No. 77 s 47

**Replacement of licence**

**s 132** prev s 132 amd 1997 No. 24 s 61 sch  
om 1999 No. 77 s 96  
pres s 132 ins 1997 No. 24 s 13  
sub 1999 No. 77 s 48

**Licence not transferable**

**s 133** prev s 133 amd 1992 No. 35 sch; 1997 No. 24 s 61 sch  
om 1999 No. 77 s 96  
pres s 133 ins 1997 No. 24 s 13  
sub 1999 No. 77 s 48

**Surrender of licence**

**s 134** prev s 134 amd 1992 No. 35 sch; 1993 No. 63 s 2 sch; 1997 No. 24 s 61  
sch  
om 1999 No. 77 s 96  
pres s 134 ins 1997 No. 24 s 13  
amd 1999 No. 8 s 37; 1999 No. 77 s 49

**Division 5—Investigation of licensed suppliers and associates**

**div hdg** ins 1997 No. 24 s 13  
amd 1999 No. 77 s 3 sch 1

**Approving audit programs**

**s 135** ins 1997 No. 24 s 13  
sub 1999 No. 8 s 38  
amd 1999 No. 77 s 3 sch 1

**Conducting investigations**

**s 136** ins 1997 No. 24 s 13  
sub 1999 No. 8 s 38; 1999 No. 77 s 50

**Requirement to give information or material for investigation**

**s 137** ins 1997 No. 24 s 13

**Failure to give information or material for investigation**

**s 138** ins 1997 No. 24 s 13  
amd 1999 No. 77 s 155

**Division 6—Suspension and cancellation of suppliers' licences**

**div hdg** ins 1997 No. 24 s 13  
amd 1999 No. 77 s 3 sch 1

**Grounds for suspension or cancellation**

**s 139** ins 1997 No. 24 s 13  
amd 1999 No. 8 s 39; 1999 No. 77 s 51; 2000 No. 51 s 52

**Show cause notice**

**s 140** ins 1997 No. 24 s 13  
amd 1999 No. 8 s 40; 1999 No. 77 s 52

**Involvement of interested persons of licensed monitoring operators in show cause process**

**prov hdg** amd 1999 No. 77 s 53(1)  
**s 141** ins 1997 No. 24 s 13  
sub 1999 No. 8 s 41  
amd 1999 No. 77 s 53(2)–(6)

**Consideration of representations**

**s 142** prev s 142 sub 1992 No. 35 s 18  
amd 1995 No. 58 s 4 sch 1; 1997 No. 24 ss 35, 61 sch  
om 1999 No. 77 s 107  
pres s 142 ins 1997 No. 24 s 13  
amd 1999 No. 8 s 42; 1999 No. 77 s 54

**Ending show cause process without further action**

**s 143** ins 1997 No. 24 s 13  
amd 1999 No. 8 s 43; 1999 No. 77 s 3 sch 1

**Censuring licensed supplier**

**prov hdg** amd 1999 No. 77 s 3 sch 1  
**s 144** ins 1997 No. 24 s 13  
amd 1999 No. 77 s 3 sch 1

**Direction to rectify**

**s 145** ins 1997 No. 24 s 13  
amd 1999 No. 77 s 3 sch 1

**Recommendation to suspend or cancel**

**s 146** ins 1997 No. 24 s 13  
amd 1999 No. 77 s 3 sch 1

**Decision of commission**

**s 147** ins 1997 No. 24 s 13  
amd 1999 No. 8 s 44; 1999 No. 77 s 55

**Suspension, cancellation and appointment of administrator**

- prov hdg** sub 1999 No. 8 s 45(1)  
**s 148** ins 1997 No. 24 s 13  
 amd 1999 No. 8 s 45(2); 1999 No. 77 ss 56, 157

**Immediate suspension**

- s 149** ins 1997 No. 24 s 13  
 amd 1999 No. 77 s 3 sch 1

**Effect of suspension**

- s 150** ins 1997 No. 24 s 13  
 amd 1999 No. 77 s 3 sch 1

**Terms of appointment, and role, of administrator**

- s 151** ins 1999 No. 8 s 46  
 amd 1999 No. 77 s 3 sch 1

**Notices to interested persons**

- s 152** ins 1997 No. 24 s 13  
 sub 1999 No. 8 s 47  
 amd 1999 No. 77 s 57; 2000 No. 51 s 20 sch

**Division 7—Obligations of licensed suppliers**

- div hdg** ins 1997 No. 24 s 13  
 sub 1999 No. 77 s 58

**Subdivision 1—Obligations for all licensed suppliers**

- sdiv hdg** ins 1999 No. 77 s 58

**Change in circumstances of licensed supplier**

- prov hdg** amd 1999 No. 77 s 3 sch 1  
**s 153** ins 1997 No. 24 s 13  
 amd 1999 No. 77 ss 156, 3 sch 1

**Fresh disclosure affidavit by licensed supplier**

- prov hdg** amd 1999 No. 77 s 3 sch 1  
**s 154** ins 1997 No. 24 s 13  
 amd 1999 No. 77 ss 156, 3 sch 1

**Change of officers of licensed supplier**

- prov hdg** amd 1999 No. 77 s 3 sch 1  
**s 155** ins 1997 No. 24 s 13  
 amd 1999 No. 77 ss 157, 3 sch 1

**Returns about employees**

- s 156** ins 1999 No. 8 s 48  
 sub 1999 No. 77 s 59

**Notice about failure of licensee to pay amount**

- s 157** ins 1999 No. 8 s 48  
 sub 1999 No. 77 s 59

**Subdivision 2—Additional obligations for licensed monitoring operators**

- sdiv hdg** ins 1999 No. 77 s 59



**Returns about licensed key monitoring employees**

- s 158** ins 1997 No. 24 s 13  
amd 1997 No. 81 s 3 sch  
sub 1999 No. 8 s 49; 1999 No. 77 s 59

**Change of licensed key monitoring employees**

- s 159** ins 1997 No. 24 s 13  
amd 1999 No. 77 s 3 sch 1

**Ending person's employment**

- s 160** ins 1997 No. 24 s 13  
amd 1999 No. 77 ss 155, 3 sch 1

**Requirement to end key officer's role**

- s 161** ins 1999 No. 8 s 50  
amd 1999 No. 77 s 3 sch 1

**Notice about failure of licensee to pay basic monitoring fee**

- s 162** ins 1999 No. 77 s 60

**Division 8—Compliance requirements**

- div hdg** ins 1999 No. 8 s 51

**Subdivision 1—Control systems**

- sdiv hdg** ins 1999 No. 8 s 51

**Approved control system for monitoring operations**

- prov hdg** amd 1999 No. 77 s 3 sch 1  
**s 163** ins 1999 No. 8 s 51  
amd 1999 No. 77 s 3 sch 1

**Control system submission**

- s 164** ins 1999 No. 8 s 51  
amd 1999 No. 77 s 61

**Control system (change) submission**

- s 165** ins 1999 No. 8 s 51  
amd 1999 No. 77 s 62

**Dealing with submissions**

- s 166** ins 1999 No. 8 s 51  
amd 1999 No. 77 s 3 sch 1

**Direction to change approved control system**

- s 167** ins 1999 No. 8 s 51  
amd 1999 No. 77 s 3 sch 1

**Subdivision 2—Monitoring records**

- sdiv hdg** ins 1999 No. 8 s 51

**Notices about keeping monitoring records**

- s 168** ins 1999 No. 8 s 51  
amd 1999 No. 77 s 63; 2000 No. 51 s 53

**Places at which monitoring records to be kept**

- s 169** ins 1999 No. 8 s 51  
sub 1999 No. 77 s 64; 2000 No. 51 s 54

**Period for which monitoring records to be kept**

- prov hdg** sub 1999 No. 77 s 3 sch 1  
**s 170** ins 1999 No. 8 s 51  
amd 1999 No. 77 ss 65, 3 sch 1; 2000 No. 51 s 55

**Subdivision 3—Financial accounts, statements and reports**

- sdiv hdg** ins 1999 No. 8 s 51

**Keeping of accounts**

- s 171** ins 1999 No. 8 s 51  
amd 1999 No. 77 s 3 sch 1

**Preparation of financial statements and accounts**

- s 172** ins 1999 No. 8 s 51  
amd 1999 No. 77 s 3 sch 1

**Submission of reports**

- s 173** ins 1999 No. 8 s 51  
amd 1999 No. 77 s 3 sch 1

**Subdivision 4—Financial institution accounts**

- sdiv hdg** ins 1999 No. 8 s 51

**Keeping of accounts**

- s 174** ins 1999 No. 8 s 51  
amd 1999 No. 77 s 3 sch 1

**Use of accounts**

- s 175** ins 1999 No. 8 s 51  
amd 1999 No. 77 s 3 sch 1

**Subdivision 5—Audit**

- sdiv hdg** ins 1999 No. 8 s 51

**Operators audit guidelines**

- prov hdg** sub 1999 No. 77 s 66(1)  
**s 176** ins 1999 No. 8 s 51  
amd 1999 No. 77 s 66(2)–(3)

**Audit of monitoring operations**

- s 177** ins 1999 No. 8 s 51  
amd 1999 No. 77 s 67

**Carrying out of audit**

- s 178** prev s 178 amd 1992 No. 35 sch  
om 1999 No. 8 s 108  
pres s 178 ins 1999 No. 8 s 51  
amd 1999 No. 77 s 68

**Dealing with audit report**

- s 179** ins 1999 No. 77 s 69

**Associated documents for audit report for licensed monitoring operator**

**prov hdg** sub 1999 No. 77 s 70(1)  
**s 180** ins 1999 No. 8 s 51  
 amd 1999 No. 77 s 70(2)–(3)

**Further information about audit report or associated documents**

**s 181** ins 1999 No. 77 s 71

**Division 9—Other matters**

**div hdg** ins 1997 No. 24 s 13

**Disclosure affidavits about persons having influence or receiving benefits**

**s 182** (prev s 72ZZ) ins 1997 No. 24 s 13  
 renum 1999 No. 8 s 52  
 amd 1999 No. 77 s 3 sch 1

**Requirements for returns about employees**

**s 183** ins 1999 No. 77 s 72

**Requirements for notices about unpaid amounts**

**s 184** ins 1999 No. 77 s 72

**PART 5—LICENSING OF REPAIRERS, SERVICE CONTRACTORS,  
 GAMING NOMINEES, GAMING EMPLOYEES AND KEY  
 MONITORING EMPLOYEES**

**pt hdg** amd 1997 No. 24 s 14; 1999 No. 8 s 53

**Meaning of key monitoring employee**

**s 185** ins 1999 No. 8 s 54  
 amd 1999 No. 77 s 3 sch 1

**Meaning of key officer**

**s 186** ins 1999 No. 8 s 54  
 amd 1999 No. 77 s 3 sch 1

**Unlicensed persons not to install etc. gaming equipment**

**s 187** amd 1992 No. 35 sch; 1999 No. 77 s 155

**Entering into service contracts**

**s 188** amd 1992 No. 35 sch; 1997 No. 24 s 61 sch; 1999 No. 8 s 55  
 sub 1999 No. 77 s 73

**Licensing requirements for carrying out gaming duties on licensed premises**

**s 189** amd 1992 No. 35 sch; 1993 No. 63 s 2 sch; 1997 No. 24 s 61 sch  
 sub 1999 No. 8 s 56  
 amd 1999 No. 77 s 74

**Unlicensed persons not to be key monitoring employees**

**s 190** ins 1997 No. 24 s 15  
 amd 1999 No. 77 ss 155, 3 sch 1

**Certain persons must apply for gaming employee's licence**

**prov hdg** amd 1999 No. 8 s 57(1)  
**s 191** amd 1992 No. 35 sch; 1997 No. 24 s 61 sch; 1999 No. 8 s 57(2)–(3); 1999  
 No. 77 s 155

**Certain persons must apply for key monitoring employee's licence**

**s 192** ins 1997 No. 24 s 16  
amd 1999 No. 77 ss 155, 3 sch 1

**Meaning of nominee**

**s 193** ins 1999 No. 8 s 58  
sub 1999 No. 77 s 75

**Identity cards for certain nominees**

**s 194** ins 1999 No. 8 s 58

**Nominees of licensees**

**s 195** ins 1999 No. 8 s 58  
amd 1999 No. 77 s 76; 2000 No. 51 s 56

**Application for gaming nominee's licence by licensed gaming employee**

**s 196** ins 1999 No. 8 s 58

**Application for gaming employee's licence by licensed gaming nominee**

**s 197** ins 1999 No. 8 s 58

**Applications for licences under this part**

**s 198** prev s 198 amd 1992 No. 35 sch  
om 2000 No. 5 s 461 sch 3  
pres s 198 amd 1995 No. 58 s 4 sch 1; 1997 No. 24 ss 17, 61 sch  
sub 1999 No. 8 s 59  
amd 1999 No. 38 s 61; 1999 No. 77 ss 77, 3 sch 1

**Changes in circumstances of applicants for and holders of licences**

**s 199** amd 1992 No. 35 sch  
sub 1993 No. 63 s 10  
amd 1997 No. 24 s 61 sch; 1999 No. 8 s 60; 1999 No. 77 s 156

**Recommendation by chief executive about applications**

**prov hdg** sub 1999 No. 8 s 61(1) (as om 1999 No. 38 s 64)  
**s 200** amd 1992 No. 35 sch; 1993 No. 63 s 2 sch; 1995 No. 58 s 4 sch 1;  
1997 No. 24 ss 18, 61 sch; 1999 No. 8 s 61(2)–(8) (as om 1999 No. 38  
s 64); 1999 No. 38 s 62  
sub 1999 No. 77 s 78  
amd 2000 No. 51 s 57

**Decision on applications**

**s 201** prev s 201 amd 1992 No. 35 sch  
om 2000 No. 5 s 461 sch 3  
pres s 201 amd 1993 No. 63 s 2 sch; 1997 No. 24 s 61 sch  
sub 1999 No. 8 s 62  
amd 2000 No. 51 s 20 sch

**Issue of licences**

**s 202** prev s 202 amd 1992 No. 35 sch  
om 2000 No. 5 s 373 sch 2  
pres s 202 amd 1995 No. 58 s 4 sch 1; 1997 No. 24 ss 19, 61 sch; 1999  
No. 8 s 63

**Issue of copy or replacement licence****prov hdg** amd 1999 No. 77 s 79(1)**s 203** amd 1997 No. 24 s 61 sch; 1999 No. 77 s 79(2)**Term of licences****s 204** amd 1999 No. 8 s 64**Conditions of licences****s 205** amd 1992 No. 35 sch**Variation of conditions imposed on a licence****s 206** amd 1992 No. 35 sch; 1993 No. 63 s 2 sch; 1997 No. 24 s 61 sch**Renewal and continuance of licences****s 207** amd 1992 No. 35 sch; 1993 No. 63 s 2 sch; 1995 No. 58 s 4 sch 1;  
1997 No. 24 ss 20, 61 sch; 1999 No. 8 s 65**Display of certain licences, identity cards and particulars****prov hdg** sub 1997 No. 24 s 21(1)

amd 1999 No. 8 s 66(1)

**s 209** amd 1992 No. 35 sch; 1997 No. 24 ss 21(2), 61 sch; 1999  
No. 8 s 66(2)–(3)**Disclosure of influential or benefiting parties****s 210** amd 1992 No. 35 sch; 1995 No. 58 s 4 sch 1; 1997 No. 24 s 61 sch;  
1999 No. 8 s 67; 1999 No. 77 s 156**Approving audit programs for licensed gaming nominees and associates****s 211** amd 1992 No. 35 sch; 1997 No. 24 s 61 sch

sub 1999 No. 8 s 68

**Conducting investigations of licensed persons and associates****s 212** ins 1999 No. 8 s 68**Requirement to give information or document for investigation****s 213** ins 1999 No. 8 s 68**Failure to give information or document for investigation****s 214** ins 1999 No. 8 s 68**Cessation or commencement of executive officer or secretary****s 215** amd 1992 No. 35 sch; 1995 No. 58 s 4 sch 1; 1997 No. 24 s 61 sch; 1999  
No. 77 s 157**Employment of licensed repairers****s 216** amd 1999 No. 77 s 80**Returns about employees and agreements****prov hdg** amd 1993 No. 63 s 2 sch

sub 1999 No. 8 s 69(1)

**s 217** orig s 217 ins 1995 No. 58 s 4 sch 1

exp 28 May 1996 (see s 217(3))

prev s 217 ins 1997 No. 24 s 60

om 1999 No. 8 s 119

pres s 217 amd 1992 No. 35 sch; 1993 No. 63 s 2 sch; 1995 No. 58 s 4

sch 1; 1997 No. 24 s 61 sch; 1999 No. 8 s 69(2)–(8); 1999 No. 77 ss 81, 3 sch 1

**Numbering and renumbering of Act**

**s 217A** ins 1999 No. 77 s 152  
om R5 (see RA s 37)

**Surrender of licences**

**s 218** amd 1995 No. 58 s 4 sch 1; 1997 No. 24 s 61 sch; 1999 No. 8 s 70

**Cancellation or suspension of licences under this part**

**s 219** amd 1992 No. 35 sch; 1993 No. 63 s 2 sch; 1994 No. 87 s 3 sch 1; 1997 No. 24 s 61 sch; 1999 No. 8 s 71; 1999 No. 77 s 157

**Immediate suspension of licences**

**prov hdg** sub 1999 No. 8 s 72(1)

**s 220** amd 1993 No. 63 s 2 sch; 1997 No. 24 s 61 sch; 1999 No. 8 s 72(2)–(3)

**Effect of suspension of licence**

**s 221** amd 1997 No. 24 s 61 sch; 1999 No. 8 s 73

**Notices to interested persons**

**s 222** ins 1999 No. 8 s 74

**Destruction of fingerprints**

**s 223** ins 1999 No. 8 s 74

**Provisional licences**

**s 224** amd 1992 No. 35 sch; 1995 No. 58 s 4 sch 1; 1997 No. 24 ss 22, 61 sch; 1999 No. 8 s 75

**Installation and storage of gaming machines by licensees**

**prov hdg** amd 1997 No. 24 s 23(1)

**s 225** amd 1992 No. 35 sch; 1997 No. 24 ss 23(2)–(3), 61 sch; 1999 No. 8 s 76; 1999 No. 77 s 82

**Licensee's register of gaming machines**

**s 226** ins 1997 No. 24 s 24  
amd 1998 No. 11 s 11; 1999 No. 8 s 77; 1999 No. 77 s 156

**Gaming machines not to be played if not installed in gaming machine area**

**s 227** amd 1992 No. 35 sch; 1997 No. 24 s 61 sch; 1999 No. 8 s 78; 2000 No. 51 s 57A

**Gaming equipment not to be an annoyance etc.**

**s 228** amd 1992 No. 35 sch; 1997 No. 24 s 61 sch; 1999 No. 77 s 83

**Advertisements related to gaming**

**s 229** ins 1999 No. 77 s 84  
sub 2000 No. 51 s 58

**Directions about advertising**

**s 230** ins 1999 No. 77 s 84  
amd 2000 No. 51 s 59

**Installation, operation and modification of gaming related systems****prov hdg** sub 1999 No. 77 s 85(1)**s 231** amd 1992 No. 35 sch; 1997 No. 24 s 25; 1999 No. 77 s 85(2)–(7); 2000 No. 51 s 20 sch**Approvals for gaming related systems****s 232** ins 1999 No. 77 s 86**Basic monitoring fees****s 233** ins 1997 No. 24 s 26

amd 1999 No. 77 s 3 sch 1

**Maintenance of facilities etc.****s 234** amd 1992 No. 35 sch; 1997 No. 24 s 61 sch; 1999 No. 77 s 87**Hours of gaming****s 235** sub 1992 No. 35 s 11

amd 1993 No. 63 s 2 sch; 1999 No. 77 s 155; 2000 No. 51 s 60

**Rules ancillary to gaming****s 236** amd 1992 No. 35 sch; 1997 No. 24 s 61 sch**Rules ancillary to gaming to be displayed and enforced****s 237** amd 1992 No. 35 sch**Licensees or employees not to extend credit****prov hdg** amd 1999 No. 8 s 79(1)**s 238** amd 1992 No. 35 sch; 1999 No. 8 s 79(2); 1999 No. 77 s 155; 2000 No. 51 s 61**Gaming tokens****s 239** amd 1992 No. 35 sch; 1999 No. 77 s 88**Gaming tokens that are not Australian currency****s 240** amd 1992 No. 35 sch; 1997 No. 24 s 61 sch; 1999 No. 77 s 89**Entitlement of players to winnings****s 241** amd 1992 No. 35 sch

sub 1999 No. 77 s 90

**Payments for gaming****s 242** amd 1992 No. 35 sch

sub 1999 No. 77 s 90

**Unclaimed payments****s 242A** ins 2000 No. 51 s 62**Gaming by employees of licensees****s 243** ins 1999 No. 8 s 80

sub 1999 No. 77 s 90

amd 2000 No. 51 s 62A

**Gaming system malfunctions****s 244** amd 1992 No. 35 sch; 1995 No. 58 s 4 sch 1; 1997 No. 24 s 61 sch; 1999 No. 8 s 81

sub 1999 No. 77 s 90

**Notices and reports about payout refusal decisions**

s 245 ins 1999 No. 77 s 90  
amd 2000 No. 51 s 63

**Requests for review of payout refusal decisions**

s 246 ins 1999 No. 77 s 90

**Review of payout refusal decisions**

s 247 ins 1999 No. 77 s 90

**Review of initial review decisions**

s 248 ins 1999 No. 77 s 90

**Effect of reviews on payout refusal decisions**

s 249 ins 1999 No. 77 s 90  
amd 2000 No. 51 s 64

**Defective gaming system components not allowed**

prov hdg sub 1999 No. 77 s 91(1)

s 250 amd 1992 No. 35 sch; 1999 No. 8 s 82; 1999 No. 77 s 91(2)–(4)

**Security of keys etc.**

s 251 amd 1992 No. 35 sch; 1999 No. 77 s 92

**Certain persons only to have access etc. to gaming machines**

s 252 amd 1992 No. 35 sch; 1999 No. 8 s 83; 1999 No. 77 s 155

**Minors can not play gaming machines**

s 253 sub 1992 No. 35 s 12  
amd 1999 No. 77 s 94

**Minors can not be allowed to game**

s 254 sub 1992 No. 35 s 12  
amd 1999 No. 77 s 95

**False representation of age**

s 255 ins 1992 No. 35 s 12  
amd 1992 No. 35 sch

**Wrongful dealing with genuine evidence of age**

s 256 ins 1992 No. 35 s 12  
amd 1994 No. 59 s 89 sch 3

**Seizure of document wrongly used as evidence of age**

s 257 ins 1992 No. 35 s 12

**Ascertainment of age**

s 258 ins 1992 No. 35 s 12  
amd 1999 No. 8 s 85 (as amd 2000 No. 5 s 461 sch 3 (as ins 2000 No. 22  
s 28(7))); 2000 No. 5 s 461 sch 3

**Seizure of material associated with representation of age**

s 259 ins 1992 No. 35 s 12  
amd 2000 No. 5 s 461 sch 3; 2000 No. 51 s 20 sch



**Defence to charge if age material**

s 260 ins 1992 No. 35 s 12

**Licensees to prohibit certain persons from gaming**

s 261 prev s 5.30 (orig s 5.24) renum 1992 No. 35 s 13

**Removal of certain persons**

s 262 prev s 5.31 (orig s 5.25) renum 1992 No. 35 s 14(3)  
amd 1992 No. 35 s 14(1)–(2)

**Obstruction to removal from licensed premises**

s 263 ins 1992 No. 35 s 15

**Obstruction generally**

s 264 ins 1992 No. 35 s 16  
amd 1999 No. 8 s 86

**Manufacture, sale, supply, obtaining or possession of gaming machines**

s 265 amd 1992 No. 35 sch; 1997 No. 24 s 28; 1998 No. 11 s 13; 1999 No. 77  
s 97; 2000 No. 51 s 65

**Dealing with gaming equipment etc. by monitoring operators and approved financiers**

s 265A ins 2000 No. 51 s 66

**Possession of gaming equipment and other property by licensed monitoring operators**

s 266 ins 1999 No. 77 s 98

**Possession etc. of gaming machines and restricted components by licensed major dealers**

prov hdg amd 1999 No. 77 s 99(1); 2000 No. 51 s 67(1)  
s 267 amd 1992 No. 35 sch; 1997 No. 24 ss 29, 61 sch; 1999 No. 77 s 99(2)–(8);  
2000 No. 51 s 67(2)–(4)

**Possession etc. of restricted components by licensed secondary dealers**

prov hdg sub 1999 No. 77 s 100(1)  
s 268 amd 1992 No. 35 sch; 1997 No. 24 s 61 sch; 1999 No. 77 s 100(2)

**Possession etc. of gaming machines and restricted components by licensed repairers**

s 269 amd 1997 No. 24 s 30; 1999 No. 77 s 101

**Possession etc. of restricted components by licensed service contractors**

s 270 amd 1997 No. 24 s 31; 1999 No. 77 s 102

**Possession etc. of gaming machines and restricted components by licensees**

s 271 amd 1992 No. 35 s 17; 1993 No. 63 s 2 sch; 1997 No. 24 s 32;  
1999 No. 8 s 87; 1999 No. 77 s 103; 2000 No. 51 s 68

**Possession etc. of gaming machines etc. by other persons**

s 272 amd 1997 No. 24 ss 33, 61 sch; 1999 No. 8 s 88; 1999 No. 77 s 104

**Gaming equipment not to be encumbered**

s 273 ins 1997 No. 24 s 34  
amd 1999 No. 77 s 3 sch 1

**Repossession of gaming machines**

**s 274** ins 1997 No. 24 s 34  
amd 1999 No. 77 s 105

**Storage of gaming machines by operators and financiers**

**s 275** ins 1997 No. 24 s 34  
amd 1999 No. 77 ss 106, 3 sch 1

**Operators and approved financiers must keep registers of gaming machines**

**prov hdg** amd 1999 No. 77 s 3 sch 1  
**s 276** ins 1997 No. 24 s 34  
sub 1998 No. 11 s 14  
amd 1999 No. 77 ss 156, 3 sch 1

**Destruction of gaming machines**

**s 277** ins 1997 No. 24 s 36  
amd 1999 No. 77 ss 108, 3 sch 1

**Purchase of gaming machines etc.**

**s 278** amd 1992 No. 35 s 19 sch; 1992 No. 68 s 3 sch 2; 1993 No. 63 s 2 sch;  
1997 No. 24 s 61 sch; 1999 No. 77 s 109  
om 2000 No. 51 s 69

**Submission of tenders for supply of gaming machines**

**s 279** amd 1992 No. 35 sch; 1997 No. 24 s 61 sch  
om 2000 No. 51 s 69

**Procedure for determination of tenders**

**s 280** amd 1992 No. 35 sch; 1997 No. 24 s 61 sch; 1999 No. 8 s 89  
om 2000 No. 51 s 69

**Approval and rejection of gaming machines and games**

**prov hdg** amd 1997 No. 24 s 61 sch  
**s 281** amd 1992 No. 35 sch; 1997 No. 24 s 61 sch  
sub 1999 No. 77 s 110  
amd 2000 No. 51 s 70

**Replacing approved games**

**s 282** ins 1998 No. 11 s 15  
sub 1999 No. 8 s 90  
amd 1999 No. 77 s 111

**Changes to percentage returns**

**s 283** ins 1999 No. 8 s 90  
amd 1999 No. 77 s 112; 2000 No. 51 s 71

**Withdrawal of approval of gaming machine types and games**

**s 284** amd 1992 No. 35 sch; 1993 No. 63 s 2 sch; 1997 No. 24 s 61 sch; 1999  
No. 77 s 155; 2000 No. 51 s 72

**Gaming machines supplied to be in accordance with approval**

**s 285** amd 1992 No. 35 sch  
sub 1997 No. 24 s 37  
amd 1999 No. 77 s 113

**Inducing the acquisition of gaming equipment or ancillary or related equipment**

**s 286** ins 1999 No. 8 s 91  
amd 1999 No. 77 s 3 sch 1

**Requirements for approvals for linked jackpot arrangements**

**prov hdg** sub 1998 No. 11 s 16(1); 1999 No. 77 s 114(1)  
**s 287** amd 1992 No. 35 sch; 1993 No. 63 s 2 sch; 1995 No. 58 s 4 sch 1;  
1997 No. 24 ss 38, 61 sch; 1998 No. 11 s 16(2)–(12); 1999 No. 77  
s 114(2)–(9); 2000 No. 51 s 72A

**Decisions about approvals for linked jackpot arrangements**

**s 288** ins 1999 No. 77 s 115

**Gaming machines to be labelled with chief executive's identification number**

**prov hdg** amd 1997 No. 24 s 61 sch  
**s 289** amd 1992 No. 35 sch; 1997 No. 24 ss 39, 61 sch; 1999 No. 77 s 155

**Gaming prohibited on unprotected devices**

**s 290** amd 1992 No. 35 sch; 1993 No. 63 s 2 sch; 1997 No. 24 s 61 sch;  
1999 No. 8 s 92

**Unlawful interference with gaming equipment**

**s 291** amd 1992 No. 35 sch; 1993 No. 63 s 2 sch; 1997 No. 24 s 61 sch;  
1999 No. 8 s 93; 1999 No. 77 s 116

**Protection of sensitive areas of gaming equipment**

**s 292** sub 1992 No. 35 s 20  
amd 1993 No. 63 s 2 sch; 1995 No. 58 s 4 sch 1; 1997 No. 24 s 61 sch;  
1998 No. 11 s 17; 1999 No. 8 s 94; 1999 No. 77 s 117

**Wilful damage of gaming equipment**

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1.3C(a)(x)	6(a)(xi)
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## **9 Provisions that have not commenced and are not incorporated into reprint**

The following provisions are not incorporated in this reprint because they had not commenced before the reprint date (see Reprints Act 1992, s 5(c)).

**Mental Health Act 2000 No. 16 s 590 sch 1 pt 2 reads as follows—**

### **GAMING MACHINE ACT 1991**

#### **1. Section 17(1)(c)—**

*omit.*

#### **2. Section 17(2)(a)(ii), from ‘bankruptcy; and’—**

*omit, insert—*

‘bankruptcy; or

(iii) becomes mentally or physically incapable of satisfactorily performing the commissioner’s duties; and’.