



# Lotteries Act 1997

Reprinted as in force on 29 June 2007

Reprint No. 4B

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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. Also see list of legislation for any uncommenced amendments.

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

**Also see endnotes for information about—**

- **when provisions commenced**
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## Queensland

# Lotteries Act 1997

## Contents

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		Page
<b>Part 1</b>	<b>Preliminary</b>	
1	Short title . . . . .	13
2	Commencement . . . . .	13
2A	Object . . . . .	13
2B	Explanation of licensing scheme . . . . .	13
3	Definitions—the dictionary . . . . .	14
<b>Part 2</b>	<b>Authorised lotteries</b>	
<b>Division 1</b>	<b>Basic concepts</b>	
4	Meaning of gaming scheme . . . . .	14
5	Meaning of lottery . . . . .	14
<b>Division 2</b>	<b>Requirement for lottery to be authorised by lottery licence and lottery operator's licence</b>	
6	Requirement for primary licence . . . . .	14
7	Foreign gaming schemes . . . . .	15
8	Lawful activities . . . . .	16
<b>Part 2A</b>	<b>Primary licences</b>	
<b>Division 1</b>	<b>Preliminary</b>	
8A	Person may not hold both types of primary licence . . . . .	17
8B	What a licence authorises . . . . .	17
<b>Division 2</b>	<b>Issuing and amending primary licences</b>	
9	Application for primary licence . . . . .	17
10	Consideration of application . . . . .	18
11	Conditions for granting application . . . . .	18
12	Suitability of applicant to hold primary licence . . . . .	18
13	Suitability of business and executive associates . . . . .	19
14	Investigations of suitability of persons . . . . .	20
15	Decision on application . . . . .	20

---

16	Conditions of licence . . . . .	20
17	Form of primary licence . . . . .	21
17A	Voluntary omission of a lottery stated in a primary licence . . . . .	21
18	Changing conditions of primary licence . . . . .	21
18A	Other amendments of primary licence . . . . .	22
18B	When amendments take effect . . . . .	22
18C	Notice to other interested persons . . . . .	22
19	Return of licence for endorsement of amendments . . . . .	22
<b>Division 3</b>	<b>General provisions about primary licences</b>	
21	Primary licence not to be transferable . . . . .	23
22	Mortgage and assignment of primary licence . . . . .	23
23	Surrender of primary licence . . . . .	24
<b>Division 4</b>	<b>Obligations to act under primary licences</b>	
23A	Primary licensees must enter lottery operation agreements . . . . .	25
23B	Lottery operators must actively conduct lotteries . . . . .	25
23C	Minister may temporarily excuse non-activity . . . . .	25
<b>Division 5</b>	<b>Suspension or cancellation of primary licences and omission of lotteries from primary licences</b>	
24	Grounds for suspension or cancellation . . . . .	26
24A	Ground for omitting a lottery from a primary licence . . . . .	27
25	Show cause notice . . . . .	27
26	Copy of show cause notice to be given to interested persons . . . . .	28
27	Consideration of representations . . . . .	29
28	Immediate suspension . . . . .	29
29	Censuring primary licensee . . . . .	30
30	Directions to rectify . . . . .	30
31	Notice by the Minister . . . . .	31
32	Suspension, cancellation, amendment and appointment of administrator . . . . .	32
32A	Endorsement of amendment . . . . .	32
33	Terms of appointment, and role, of administrator . . . . .	33
34	Cancellation or reduction of period of suspension . . . . .	34
<b>Division 6</b>	<b>Investigations into suitability</b>	
35	Audit program . . . . .	34
36	Investigations . . . . .	34
37	Requirement to give information or document for investigation . . . . .	35
38	Reports about person's criminal history . . . . .	36

39	Decisions about primary licence not to be justiciable. . . . .	36
<b>Part 2B</b>	<b>Lottery operation agreements</b>	
39A	What is a lottery operation agreement . . . . .	37
39B	Amendments must also be approved. . . . .	38
39C	Approval process . . . . .	38
39D	Minister to be notified if agreement ends . . . . .	38
39E	Being a party to more than 1 lottery operation agreement. . . . .	38
<b>Part 3</b>	<b>Key employees and operators</b>	
<b>Division 1</b>	<b>Requirement for key employees to be licensed</b>	
40	Meaning of key employee. . . . .	39
41	Obligation to hold licence . . . . .	39
42	Prohibition of employment of unlicensed persons as key employees . . . . .	39
<b>Division 2</b>	<b>Key operators</b>	
43	Meaning of key operator. . . . .	40
44	Requirement that key operator apply for licence or end role . . . . .	40
45	Requirement that key operator end role . . . . .	41
46	Requirement to end key operator's role . . . . .	41
<b>Division 3</b>	<b>Applications for, and issue of, key person licences</b>	
47	Application for key person licence . . . . .	42
48	Consideration of application . . . . .	42
49	Conditions for granting application . . . . .	42
50	Investigation of suitability of applicant . . . . .	43
51	Decision on application . . . . .	43
52	Form of key person licence . . . . .	43
53	Term of key person licence. . . . .	44
54	Lapsing of key person licence . . . . .	44
55	Conditions . . . . .	44
56	Changing conditions of key person licence . . . . .	45
57	Replacement of key person licence . . . . .	46
58	Surrender of key person licence. . . . .	46
<b>Division 4</b>	<b>Suspension and cancellation of key person licences, and other action by chief executive</b>	
<b>Subdivision 1</b>	<b>Suspension and cancellation</b>	
59	Grounds . . . . .	47
60	Show cause notice . . . . .	48
61	Consideration of representations . . . . .	49

---

62	Immediate suspension . . . . .	49
63	Suspension and cancellation of licence after show cause process . . . . .	50
<b>Subdivision 2</b>	<b>Other action by chief executive</b>	
64	Ending show cause process without further action . . . . .	51
65	Censuring key person licensee . . . . .	51
65A	Direction to rectify matter after show cause process . . . . .	52
65B	Cancellation or reduction of period of suspension . . . . .	53
<b>Division 5</b>	<b>Investigation of key person licensees</b>	
66	Audit program . . . . .	53
67	Investigations into suitability of key person licensees. . . . .	54
68	Requirement to give information or document for investigation . . . . .	54
69	Reports about criminal history . . . . .	55
<b>Division 6</b>	<b>Requirements about employment</b>	
70	Notice of start of licensed employee's employment . . . . .	55
71	Returns about employees. . . . .	55
72	Notice of end of licensed employee's employment. . . . .	56
73	Requirement to end licensed employee's employment . . . . .	56
<b>Division 7</b>	<b>Requirements about association with key operators</b>	
74	Notice to end key operator's role . . . . .	57
75	Requirement to end key operator's role . . . . .	57
<b>Division 8</b>	<b>General</b>	
76	False statements by applicants . . . . .	58
77	Destruction of fingerprints . . . . .	58
<b>Part 4</b>	<b>Lottery agents</b>	
<b>Division 1</b>	<b>Agency agreements</b>	
78	Meaning of agency agreements . . . . .	58
79	Conditions for entering into agency agreement . . . . .	59
82	Returns about agents. . . . .	61
<b>Division 2</b>	<b>Terminating agency agreements</b>	
83	Grounds for termination . . . . .	61
84	Show cause notice . . . . .	62
85	Suspending lottery agent's operations . . . . .	63
86	Censuring lottery agent . . . . .	64
87	Direction to rectify. . . . .	64
88	Directions to terminate affecting lottery agents . . . . .	65
89	Termination of agreement. . . . .	66

---

90	Notice of termination of agreement . . . . .	66
<b>Division 3</b>	<b>Investigations into suitability</b>	
91	Investigations . . . . .	67
92	Requirement to give information or material for investigation. . . . .	67
93	Reports about person's criminal history . . . . .	68
<b>Part 5</b>	<b>Lottery tax and licence fee</b>	
94	Liability to tax . . . . .	68
95	Liability to licence fees . . . . .	68
96	Returns for calculation of lottery tax. . . . .	68
97	Penalty for late payment. . . . .	69
97A	Liability of lottery operator's holding companies for unpaid tax, fee or penalty . . . . .	69
98	Recovery of amounts . . . . .	70
99	Revenue offences. . . . .	70
99A	Application of lottery tax. . . . .	70
<b>Part 6</b>	<b>Compliance requirements</b>	
<b>Division 1</b>	<b>Control systems</b>	
100	Lottery to be conducted under an approved control system . . . . .	71
101	Control system submission . . . . .	71
102	Control system (change) submission . . . . .	73
103	Dealing with submissions . . . . .	73
104	Direction to change approved control system . . . . .	74
<b>Division 2</b>	<b>Lottery records</b>	
104A	Application of div 2 to former primary licensees. . . . .	75
105	Notices about keeping lottery records . . . . .	75
106	Lottery records to be kept at certain place. . . . .	76
107	Lottery records to be kept for required period . . . . .	76
<b>Division 3</b>	<b>Financial accounts, statements and reports</b>	
108	Keeping of accounts. . . . .	77
109	Preparation of financial statements and accounts . . . . .	77
110	Submission of reports . . . . .	78
<b>Division 4</b>	<b>Financial institutions accounts</b>	
111	Keeping of accounts. . . . .	79
112	Use of accounts . . . . .	79
<b>Division 5</b>	<b>Audit</b>	
113	Audit of primary licensee's operations . . . . .	79
114	Completion of audit . . . . .	79

---

115	Further information following audit . . . . .	80
<b>Part 7</b>	<b>Conduct of approved lotteries</b>	
<b>Division 1</b>	<b>Ancillary and related agreements</b>	
116	Ancillary lottery agreement. . . . .	80
117	Approval of ancillary lottery agreements . . . . .	81
118	Review of related agreements . . . . .	81
119	Show cause notice for related agreement . . . . .	82
120	Direction to terminate related agreement. . . . .	82
<b>Division 2</b>	<b>Operations of lottery operators and agents</b>	
121	Rules . . . . .	83
121A	Rules to be made available . . . . .	84
122	General responsibilities of lottery operator. . . . .	84
123	Responsibility of lottery operator for acts of lottery agents. . . . .	84
124	Responsibility of lottery agent for agent's acts . . . . .	84
125	Places of operation. . . . .	85
125A	Acceptance of entry form . . . . .	85
126	Price of lottery tickets . . . . .	85
<b>Division 3</b>	<b>Official supervision</b>	
127	Official supervision . . . . .	86
128	Presence of inspector at certain operations. . . . .	86
<b>Division 4</b>	<b>Prizes</b>	
129	Claims for prizes. . . . .	86
130	Payment of prizes . . . . .	87
131	Disposal of unclaimed prizes that are property . . . . .	88
131A	Payment of unclaimed major prizes into the Treasurer's unclaimed moneys fund . . . . .	88
131B	Payment of other unclaimed prizes into the consolidated fund . . . . .	90
132	Unclaimed prizes generally . . . . .	90
132AA	Former lottery operators. . . . .	91
132A	Relationship of provisions about unclaimed prizes with Public Trustee Act . . . . .	93
133	Approval of regulated lottery equipment. . . . .	93
134	Use of regulated lottery equipment . . . . .	94
134A	Approved evaluators. . . . .	94
135	Advertising lotteries . . . . .	94
136	Directions about advertising. . . . .	95
137	Inquiries about complaints . . . . .	95



---

138	Claims for payment . . . . .	96
139	Reporting improper behaviour . . . . .	97
<b>Division 5</b>	<b>Lottery offences</b>	
140	Cheating . . . . .	98
141	Forgery and deception . . . . .	99
142	Impersonating certain persons . . . . .	100
143	Bribery . . . . .	100
144	Participation in lotteries by lottery employees or lottery officials . . . . .	101
145	Key officials . . . . .	101
146	Relationship of key officials with primary licensees and lottery agents . . . . .	102
147	Relationship of key officials with prospective licensees . . . . .	103
148	Relationship of primary licensees and lottery agents with key officials . . . . .	103
149	Participation by minors prohibited . . . . .	104
150	Obscene etc. terms prohibited . . . . .	105
151	Offences by certain persons . . . . .	105
152	Lottery operator not to publish identity of participant in certain cases . . . . .	106
<b>Part 8</b>	<b>Investigation and enforcement</b>	
<b>Division 1</b>	<b>Inspectors</b>	
<b>Subdivision 1</b>	<b>Appointment of inspectors</b>	
153	Appointment and qualifications . . . . .	106
<b>Subdivision 2</b>	<b>Other matters about inspectors</b>	
154	Conditions and limit on powers . . . . .	107
155	Issue of identity card . . . . .	107
156	Production or display of identity card . . . . .	108
157	When inspector ceases to hold office . . . . .	108
157A	Resignation . . . . .	109
157B	Return of identity card . . . . .	109
<b>Subdivision 3</b>	<b>Audit program and report about criminal history</b>	
157C	Audit program . . . . .	109
157D	Report about criminal history . . . . .	110
<b>Division 2</b>	<b>Powers of inspectors</b>	
<b>Subdivision 1</b>	<b>Power to enter places</b>	
158	Entry without consent or warrant . . . . .	110
159	Entry with consent or warrant . . . . .	111

---

<b>Subdivision 2</b>	<b>Consents and warrants for entry</b>	
160	Consent to entry . . . . .	111
161	Evidence of consent . . . . .	112
162	Application for warrant . . . . .	112
163	Issue of warrant . . . . .	112
164	Special warrants . . . . .	113
165	Evidence about special warrants . . . . .	114
<b>Subdivision 3</b>	<b>General powers</b>	
166	General powers after entering places . . . . .	114
167	Failure to help inspector . . . . .	115
168	Failure to give information . . . . .	116
<b>Subdivision 4</b>	<b>Power to seize evidence</b>	
170	Seizing evidence at place that may be entered without consent or warrant . . . . .	116
171	Seizing evidence at places that may only be entered with consent or warrant . . . . .	116
172	Securing things after seizure . . . . .	117
173	Tampering with things subject to seizure . . . . .	117
174	Powers to support seizure . . . . .	117
175	Receipts to be given on seizure . . . . .	118
176	Forfeiture . . . . .	118
177	Return of things that have been seized . . . . .	120
178	Access to things that have been seized . . . . .	120
<b>Subdivision 5</b>	<b>Power to give directions</b>	
179	Direction to stop using thing . . . . .	120
180	Requirements about stop directions . . . . .	121
181	Failure to comply with stop direction . . . . .	121
181A	Direction about conduct of approved lottery . . . . .	121
<b>Subdivision 6</b>	<b>Power to obtain information</b>	
182	Power to require name and address . . . . .	122
183	Failure to give name or address . . . . .	122
185	Power to require production of documents . . . . .	123
186	Failure to produce document . . . . .	124
187	Failure to certify copy of document . . . . .	124
188	Power to require attendance of persons . . . . .	124
189	Failure to comply with requirement about attendance . . . . .	125
190	Power to require financial records . . . . .	126

---

191	Effect of compliance with financial records requirement . . . . .	126
192	Failure to comply with financial records requirement . . . . .	127
<b>Division 3</b>	<b>Powers of Minister</b>	
193	Direction about management practice . . . . .	127
<b>Division 4</b>	<b>General enforcement matters</b>	
194	Forfeiture on conviction . . . . .	128
195	Dealing with forfeited things . . . . .	128
196	Notice of damage . . . . .	128
197	Compensation . . . . .	129
198	Protecting officials from liability . . . . .	130
<b>Division 5</b>	<b>General enforcement offences</b>	
199	False or misleading statements . . . . .	130
200	False, misleading or incomplete documents . . . . .	131
201	Obstructing inspectors . . . . .	131
<b>Part 9</b>	<b>Legal proceedings</b>	
<b>Division 1</b>	<b>Evidence</b>	
203	Application of division. . . . .	132
204	Appointments and authority . . . . .	132
205	Signatures . . . . .	132
206	Evidentiary aids . . . . .	132
<b>Division 2</b>	<b>Proceedings</b>	
207	Indictable and summary offences. . . . .	133
208	Proceedings for indictable offences . . . . .	134
209	Limitation on who may summarily hear indictable offence proceedings . . . . .	134
210	Limitation on time for starting summary proceedings. . . . .	135
211	Responsibility for acts or omissions of representatives . . . . .	135
212	Executive officers must ensure corporation complies with Act. . . . .	136
213	Attempts to commit offences . . . . .	136
<b>Part 10</b>	<b>Appeals</b>	
214	Appeals by lottery operators. . . . .	137
215	Appeals by applicants for key person licences . . . . .	137
216	Appeals by licensees under key person licences . . . . .	137
217	Appeals by lottery agents . . . . .	137
218	Appeals by other persons. . . . .	137
220	Starting appeal . . . . .	138
221	Stay of operation of decisions . . . . .	138

---

222	Hearing procedures . . . . .	139
222A	Power to gather evidence . . . . .	139
223	Powers of Gaming Commission . . . . .	140
223A	Notice of decision . . . . .	140
224	Appeals to District Court . . . . .	140
<b>Part 11</b>	<b>Miscellaneous</b>	
225	Confidentiality of information . . . . .	141
225A	Golden Casket Lottery Corporation Limited exemption from application of Freedom of Information Act 1992 . . . . .	142
226	Delegations . . . . .	142
227	Approval of forms . . . . .	143
228	Regulation-making power . . . . .	143
<b>Part 11A</b>	<b>Transaction involving GCLC</b>	
<b>Division 1</b>	<b>Preliminary</b>	
228A	Definitions for pt 11A . . . . .	143
228B	Object . . . . .	144
<b>Division 2</b>	<b>Share transfer, licences and other matters for the transaction</b>	
228C	Minister's power to execute share transfers . . . . .	145
228D	GCLC stops being a company GOC . . . . .	145
228E	GCLC's current lottery licence ends . . . . .	145
228F	Issue of licences to the State company and GCLC . . . . .	145
228G	GCLC continuously authorised to conduct lotteries . . . . .	146
228H	Lottery operation agreement . . . . .	146
228I	Disposal of public records . . . . .	146
<b>Division 3</b>	<b>Constitutions of GCLC companies and related matters</b>	
228J	Application of div 3 . . . . .	146
228K	Mandatory constitutional requirements for GCLC companies . . . . .	147
228L	Inconsistent alterations to GCLC companies' constitutions have no effect . . . . .	148
228M	Injunctions . . . . .	148
228N	Other powers of Supreme Court . . . . .	150
228O	Jurisdiction of Supreme Court . . . . .	150
228P	Delegation by Minister . . . . .	150
228Q	Suspension or cancellation of licence for breach of head office provision . . . . .	151

<b>Part 12</b>	<b>Repeals and transitional provisions</b>	
<b>Division 1</b>	<b>Repeals</b>	
229	Repeal of Lotteries Act 1994 . . . . .	151
230	References to repealed Act . . . . .	151
<b>Division 2</b>	<b>Transitional provisions for Lotteries Act 1997</b>	
235	Application of division . . . . .	152
236	Definitions . . . . .	152
237	Corporation's exclusive rights . . . . .	152
238	Approval of corporation's control system . . . . .	152
239	Approval of corporation's regulated lottery equipment . . . . .	153
240	Lotteries in progress and unclaimed prize money at commencement day . . . . .	153
241	Continued operation for certain purposes of repealed Act . . . . .	154
242	Key employees . . . . .	154
243	Agency agreements . . . . .	154
244	Agreements with foreign agencies . . . . .	155
246	Re-enactment of Golden Casket Art Union Act 1978, s 22A . . . . .	155
<b>Division 3</b>	<b>Transitional provision for Gaming Machine and Other Legislation Amendment Act (No. 2) 1999</b>	
247	Continuation of appeals . . . . .	157
<b>Division 4</b>	<b>Transitional provisions for Gambling Legislation Amendment Act 2004</b>	
248	Definitions for div 4 . . . . .	157
249	Dealing with show cause notice . . . . .	157
250	Direction to rectify under pre-amended Act . . . . .	158
251	Appeals to Gaming Commission . . . . .	158
<b>Division 5</b>	<b>Transitional provision for Community Ambulance Cover and Other Acts Amendment Act 2007</b>	
252	Payment of prizes—s 130 . . . . .	159
<b>Division 6</b>	<b>Transitional provisions for Lotteries Amendment Act 2007</b>	
253	Definitions for div 6 . . . . .	159
254	Approvals, key person licences, agreements and other documents continue unaffected . . . . .	160
255	Requirements relating to taxes, fees, records and other matters . . . . .	161
256	Payment of prizes . . . . .	161
<b>Schedule 1</b>	<b>Decisions not subject to appeal . . . . .</b>	162
<b>Schedule 2</b>	<b>Decisions of chief executive subject to appeal . . . . .</b>	164
<b>Schedule 3</b>	<b>Dictionary . . . . .</b>	166

**Endnotes**

1	Index to endnotes . . . . .	174
2	Date to which amendments incorporated . . . . .	174
3	Key . . . . .	174
4	Table of reprints . . . . .	175
5	List of legislation . . . . .	175
6	List of annotations . . . . .	177

# Lotteries Act 1997

[as amended by all amendments that commenced on or before 29 June 2007]

## An Act to regulate lotteries and for other purposes

### Part 1 Preliminary

#### 1 Short title

This Act may be cited as the *Lotteries Act 1997*.

#### 2 Commencement

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

#### 2A Object

- (1) The object of this Act is to ensure that, on balance, the State and the community as a whole benefit from lotteries.
- (2) The balance is achieved by allowing lotteries 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 lotteries; and
  - (c) minimising the potential for harm from lotteries.

#### 2B Explanation of licensing scheme

This Act establishes a licensing scheme under which a lottery may be conducted only if—

- (a) a person holds a lottery licence for the lottery; and

- (b) another person holds a lottery operator's licence for the lottery; and
- (c) the lottery is conducted under a lottery operation agreement between the 2 persons.

### **3 Definitions—the dictionary**

The dictionary in schedule 3 defines particular words used in this Act.

## **Part 2 Authorised lotteries**

### **Division 1 Basic concepts**

#### **4 Meaning of *gaming scheme***

A *gaming scheme* is a game, scheme or arrangement in which the winners of prizes are decided—

- (a) wholly or partly by chance; or
- (b) by a competition or other activity of which the outcome is dependent on fate or guessing.

#### **5 Meaning of *lottery***

A *lottery* is a gaming scheme classified under a rule as a lottery.

### **Division 2 Requirement for lottery to be authorised by lottery licence and lottery operator's licence**

#### **6 Requirement for primary licence**

- (1) A person must not conduct a lottery unless the person is authorised to do so under a primary licence.



*Lotteries Act 1997*

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Maximum penalty—200 penalty units or 2 years imprisonment.

- (2) A person must not conduct a gaming scheme that is not a lottery if—
- (a) the gaming scheme may reasonably be confused with a lottery; or
  - (b) because of the scheme's similarity to a lottery, it may reasonably be taken to be in direct competition with a lottery.

Maximum penalty—200 penalty units or 2 years imprisonment.

- (3) Subsection (2) does not apply if the gaming scheme is conducted under a gaming Act.
- (4) A person must not participate in a lottery, or a gaming scheme mentioned in subsection (2), knowing the person who is conducting the lottery or scheme is not authorised under this Act or a gaming Act to conduct the lottery or scheme.

Maximum penalty—40 penalty units.

- (5) A person must not conduct a gaming scheme (other than an approved lottery) under a name that—
- (a) is a name by which an approved lottery is conducted; or
  - (b) is likely to be confused with the name by which an approved lottery is conducted; or
  - (c) includes a word—
    - (i) contained in the name by which an approved lottery is conducted; and
    - (ii) prescribed under a regulation.

Maximum penalty for subsection (5)—40 penalty units.

## **7 Foreign gaming schemes**

- (1) Unless authorised by an approved arrangement or under a gaming Act, a person must not—

- (a) sell or offer for sale, or cause to be sold or offered for sale, a ticket in a gaming scheme conducted by a foreign agency; or
- (b) accept or cause to be accepted, an amount for purchase of a ticket, or submission of an entry form, for a gaming scheme conducted by a foreign agency.

Maximum penalty—200 penalty units or 2 years imprisonment.

- (2) Unless authorised by an approved arrangement or under a gaming Act, a person must not publish or cause to be published an advertisement or notice that promotes, is calculated to promote, or is likely to be taken as promoting, a gaming scheme conducted by a foreign agency.

Maximum penalty—200 penalty units or 2 years imprisonment.

- (3) In this section—

*approved arrangement* means an arrangement, approved by the chief executive in writing, under which a primary licensee, by agreement with a foreign agency that is conducting or proposes to conduct a gaming scheme, is to assume responsibility for the conduct of the gaming scheme in Queensland under this Act.

## **8 Lawful activities**

Despite any other law, the following activities are lawful—

- (a) the conduct, in accordance with this Act, of a lottery stated in a lottery licence and lottery operator's licence, by the lottery licensee and lottery operator;
- (b) activities of a lottery agent in accordance with this Act and the relevant agency agreement;
- (c) participation (including the purchase of a lottery ticket) in a lottery conducted under this Act;
- (d) the use of approved lottery equipment by lottery operators and lottery agents;
- (e) the doing of anything else required or authorised to be done under this Act.

## Part 2A                      Primary licences

### Division 1                      Preliminary

#### 8A                      Person may not hold both types of primary licence

- (1) The same person may not hold both a lottery licence and a lottery operator's licence.
- (2) Subsection (1) does not prevent a body corporate from holding 1 type of primary licence only because a related body corporate holds the other type of primary licence.
- (3) In this section—  
*related body corporate* see the Corporations Act, section 9.

#### 8B                      What a licence authorises

- (1) This section applies if a lottery (the *authorised lottery*) is stated in both a lottery licence and a lottery operator's licence.
- (2) The lottery licence authorises the lottery licensee to conduct the authorised lottery through the lottery operator by entering a lottery operation agreement with the lottery operator.
- (3) The lottery operator's licence authorises the lottery operator to conduct the authorised lottery under a lottery operation agreement with the lottery licensee.

### Division 2                      Issuing and amending primary licences

#### 9                      Application for primary licence

- (1) An application for a primary licence must be made to the Minister in the approved form.
- (2) The application must state whether it is for a lottery licence or a lottery operator's licence.
- (3) An application must be accompanied by any application fee prescribed under a regulation.

- (4) The Minister may, by written notice given to an applicant, require the applicant to give the Minister further information or a document that is necessary and reasonable to help the Minister decide the application.

## **10 Consideration of application**

The Minister must consider an application for a primary licence and either grant or refuse to grant the application.

## **11 Conditions for granting application**

- (1) The Minister may grant an application for a primary licence only if the Minister is satisfied—
  - (a) the applicant is a suitable person to hold a licence of the type to which the application relates; and
  - (b) each business or executive associate of the applicant is a suitable person to be associated with the operations of the holder of a licence of that type.
- (2) However, the Minister may refuse to grant an application even if the Minister is satisfied of the matters mentioned in subsection (1).
- (3) Without limiting the other matters the Minister may consider in deciding whether to grant an application for a primary licence, the Minister may have regard to the terms of another primary licence in force at the time of the application and any commercial arrangements in place relating to that other licence.

## **12 Suitability of applicant to hold primary licence**

- (1) In deciding whether an applicant for a lottery licence or lottery operator's licence is a suitable person to hold a licence of that type, the Minister may have regard to the following matters—
  - (a) the applicant's character or business reputation;
  - (b) the applicant's current financial position and financial background;

- (c) if the applicant is not an individual—whether the applicant has, or has arranged, a satisfactory ownership, trust or corporate structure;
  - (d) whether the applicant has, or is able to obtain, appropriate resources and appropriate services;
  - (e) for an application for a lottery licence—whether the applicant has the appropriate business ability to enter into, and manage, lottery operation agreements;
  - (f) for an application for a lottery operator’s licence—whether the applicant has the appropriate business ability to conduct lotteries successfully under a lottery operator’s licence;
  - (g) the extent to which the applicant has negotiated a proposed lottery operation agreement;
  - (h) if the applicant 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 issues prescribed under a regulation.
- (2) In subsection (1)—

***appropriate resources*** means financial resources the Minister considers adequate to ensure the financial viability of operations conducted under a licence of the type to which the application relates.

***appropriate services*** means the services of persons who have appropriate experience to ensure the proper and successful conduct of lotteries.

### 13 Suitability of business and executive associates

In deciding whether a business or executive associate of an applicant for a primary licence is a suitable person to be associated with the operations of the holder of a licence of the relevant type, the Minister may have regard to the following matters—

- (a) the person's character or business reputation;
- (b) the person's current financial position and financial background;
- (c) if the person 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 matters prescribed under a regulation.

#### **14 Investigations of suitability of persons**

- (1) The chief executive may investigate an applicant for a primary licence to help the Minister decide whether the applicant is a suitable person to hold a licence of the type to which the application relates.
- (2) The chief executive may investigate a business or executive associate of an applicant for a primary licence to help the Minister decide whether the business or executive associate is a suitable person to be associated with the operations of the holder of a licence of the relevant type.

#### **15 Decision on application**

- (1) If the Minister decides to grant an application for a primary licence, the Minister must promptly issue a licence of the relevant type to the applicant.
- (2) If the Minister decides to refuse to grant an application for a primary licence, the Minister must promptly give the applicant written notice of the decision.

#### **16 Conditions of licence**

The Minister may issue a primary licence—

- (a) on conditions the Minister considers necessary or desirable for the proper conduct of lotteries; and

- (b) on other conditions the Minister considers necessary or desirable in the public interest.

## **17 Form of primary licence**

- (1) A primary licence must be in the approved form.
- (2) The approved form must provide for the inclusion of the following particulars—
  - (a) the licensee's name;
  - (b) the type of licence;
  - (c) the date of issue of the licence;
  - (d) the term for which the licence is (subject to this Act) to remain in force;
  - (e) the lotteries to which the licence relates;
  - (f) the conditions of the licence;
  - (g) any other particulars prescribed under a regulation.

## **17A Voluntary omission of a lottery stated in a primary licence**

- (1) With a primary licensee's written approval, the Minister may amend the primary licence to omit a lottery stated in it.
- (2) At a primary licensee's written request, the Minister must amend the primary licence to omit a lottery stated in it.

*Note—*

A primary licence may also be amended, to omit a lottery stated in it, under division 5.

## **18 Changing conditions of primary licence**

- (1) The Minister may decide to change the conditions of a primary licence, if the Minister considers it is necessary or desirable to make the change for the proper conduct of lotteries stated in the licence or otherwise in the public interest.
- (2) If the Minister decides to change conditions of a primary licence under this section, the Minister must promptly give

the primary licensee written notice of the change (a *condition notice*) and the reasons for the change.

- (3) The power of the Minister under subsection (1) includes the power to add conditions to an unconditional licence.

### **18A Other amendments of primary licence**

The Minister may amend a primary licence, other than to omit a lottery or change a condition, only with the written approval of the primary licensee.

### **18B When amendments take effect**

- (1) If the Minister amends a primary licence under this division, the Minister must give the licensee a notice stating the day the amendment takes effect (the *stated day*).
- (2) For an amendment changing the conditions of the licence, the notice may be included in the condition notice.
- (3) For an amendment omitting a lottery stated in a licence, unless the Minister and primary licensee agree otherwise, the stated day must be 3 months after the day the Minister receives the approval or request for the amendment.

### **18C Notice to other interested persons**

If a primary licence is being amended under this division, the Minister must give written notice of the amendment, before the stated day under section 18B, to each person with whom the primary licensee has a lottery operation agreement.

## **19 Return of licence for endorsement of amendments**

- (1) The primary licensee must return the primary licence to the Minister within 7 days of receiving the condition notice notifying a change of conditions or a notice from the Minister requesting the return of the licence to endorse another amendment being made under this division, unless the licensee has a reasonable excuse.

Maximum penalty—40 penalty units.



- (2) On receiving the primary licence, the Minister must—
  - (a) amend the licence in an appropriate way and return the amended licence to the primary licensee; or
  - (b) if the Minister does not consider it is practicable to amend the licence—issue a replacement licence, incorporating the changed conditions or other amendment, to the primary licensee.
- (3) An amendment takes effect on the stated day in the notice given under section 18B and does not depend on the primary licence being amended to record the amendment or a replacement licence being issued.

### **Division 3                      General provisions about primary licences**

#### **21            Primary licence not to be transferable**

- (1) A primary licence can not be transferred.
- (2) However, if a primary licence is mortgaged, charged or encumbered with the written approval of the Minister, this section does not prevent the transfer of the licence, subject to section 22, by way of enforcement of the security.

#### **22            Mortgage and assignment of primary licence**

- (1) A primary licensee must not mortgage, charge or otherwise encumber the licence except with the written approval of the Minister.
- (2) If a person has a right to sell and transfer a primary licence under or because of a mortgage, charge or encumbrance, the licence may only be sold and transferred to a person approved by the Minister.
- (3) Before the Minister approves the transfer of a primary licence under this section, the Minister must be satisfied—
  - (a) the proposed transferee is a suitable person to hold a licence of the relevant type; and

- (b) each business and executive associate of the proposed transferee is a suitable person to be associated with the operations of the holder of a licence of the relevant type.
- (4) The Minister may require the proposed transferee of the primary licence to submit an application for the licence and may deal with the application, and investigate the suitability of the proposed transferee and the proposed transferee's business and executive associates, in the same way as if the application were an application for a new primary licence of the relevant type.
- (5) If a person has, under or because of, a mortgage, charge or encumbrance, a power to appoint a receiver or manager of the business conducted under a primary licence, the power may only be exercised if the Minister first approves the proposed receiver or manager in writing.
- (6) Before transferring a primary licence, the primary licensee must give written notice of the proposed transfer to each other person with whom the primary licensee has a lottery operation agreement.

## **23 Surrender of primary licence**

- (1) A primary licensee may surrender the primary licence by written notice given to the Minister.
- (2) The surrender takes effect—
  - (a) if paragraph (b) does not apply—
    - (i) 3 months after the notice is given; or
    - (ii) if a later day of effect is stated in the notice—on the later day; or
  - (b) if the Minister, by written notice, approves a day of effect that is earlier than 3 months after the notice is given—on the day of effect approved by the Minister.
- (3) Before surrendering a primary licence, the primary licensee must give written notice of the proposed surrender to each other person with whom the primary licensee has a lottery operation agreement.

## **Division 4                      Obligations to act under primary licences**

### **23A    Primary licensees must enter lottery operation agreements**

- (1) This section applies if—
  - (a) a primary licence stating a lottery is issued; or
  - (b) a primary licence is amended to include a lottery; or
  - (c) a lottery operation agreement for the conduct of a lottery stated in a primary licence stops being in force and the primary licensee is not a party to any other lottery operation agreement for the conduct of the lottery.
- (2) The primary licensee must take all reasonable steps to enter an agreement for the conduct of the lottery and have it approved as a lottery operation agreement as soon as practicable.

### **23B    Lottery operators must actively conduct lotteries**

A lottery operator must actively conduct each lottery stated in the lottery operator's licence.

### **23C    Minister may temporarily excuse non-activity**

- (1) The Minister may excuse a primary licensee from complying with a requirement under section 23A or 23B, for a stated period, if satisfied it would be reasonable in all the circumstances.

*Example—*

The Minister may be satisfied it would be reasonable to excuse a lottery operator from actively conducting a lottery, for a stated period, if the lottery operator is unable to conduct the lottery during the period for operational reasons beyond the lottery operator's control.

- (2) Sections 23A and 23B apply to the primary licensee subject to the excuse given by the Minister.

## **Division 5                      Suspension or cancellation of primary licences and omission of lotteries from primary licences**

### **24                      Grounds for suspension or cancellation**

- (1) Each of the following is a ground for suspending or cancelling a primary licence—
  - (a) the primary licensee is not, or is no longer, a suitable person to hold a licence of the relevant type;
  - (b) a business or executive associate of the primary licensee is not, or is no longer, a suitable person to be associated with the operations of the holder of a licence of the relevant type;
  - (c) the primary licensee has been convicted of an offence against this Act or a gaming Act;
  - (d) the primary licensee has been convicted of an indictable offence;
  - (e) the primary licensee has contravened a condition of the primary licence;
  - (f) the primary licensee has contravened a provision of this Act (being a provision a contravention of which does not constitute an offence against this Act);
  - (g) there has been a breach of a lottery operation agreement to which the primary licensee is a party (by any party to the agreement);
  - (h) the primary licensee has failed to discharge the licensee's financial commitments for the licensee's operations;
  - (i) the primary licensee is bankrupt, has compounded with creditors or otherwise taken, or applied to take, advantage of any law about bankruptcy;
  - (j) the primary licensee is affected by control action under the Corporations Act;
  - (k) the primary licence was issued because of a materially false or misleading representation or declaration.

- (2) For forming the belief that the ground mentioned in subsection (1)(a) exists, the Minister may have regard to the same matters to which the Minister may have regard in deciding whether an applicant is a suitable person to hold a licence of the relevant type.
- (3) For forming the belief that the ground mentioned in subsection (1)(b) exists, the Minister may have regard to the same matters to which the Minister may have regard in deciding whether a business or executive associate of an applicant is a suitable person to be associated with the operations of the holder of a licence of the relevant type.
- (4) For subsection (1)(j), a primary licensee is affected by control action under the Corporations Act if the licensee—
  - (a) has executed a deed of company arrangement under that Act; or
  - (b) is the subject of a winding-up (whether voluntarily or under a court order) under that Act; or
  - (c) is the subject of an appointment of an administrator, liquidator, receiver or receiver and manager under that Act.

#### **24A Ground for omitting a lottery from a primary licence**

- (1) A primary licence may be amended to omit a lottery stated in it on the ground that the primary licensee is, and has been for a continuous period of at least 14 days, contravening division 4 in relation to the lottery.
- (2) The power to amend a primary licence under this division to omit a lottery, on the ground mentioned in subsection (1), includes the power to amend the licence to omit the only lottery, or all lotteries, stated in the licence on that ground.

#### **25 Show cause notice**

- (1) This section applies if the Minister believes—
  - (a) a ground exists to suspend or cancel a primary licence; and

- (b) the act, omission or other thing constituting the ground is of a serious and fundamental nature; and
- (c) either—
  - (i) the integrity of the conduct of lotteries stated in the licence may be jeopardised in a material way; or
  - (ii) the public interest may be affected in an adverse and material way.
- (2) This section also applies if the Minister believes the ground exists to amend a primary licence by omitting a lottery stated in it.
- (3) The Minister must give the primary licensee a written notice (a *show cause notice*) that—
  - (a) states the action (the *proposed action*) the Minister proposes taking under this division; and
  - (b) states the grounds for the proposed action; and
  - (c) outlines the facts and circumstances forming the basis for the grounds; and
  - (d) if the proposed action is suspension of the primary licence—states the proposed suspension period; and
  - (e) invites the primary licensee to show within a stated period (the *show cause period*) why the proposed action should not be taken.
- (4) The show cause period must be a period ending at least 21 days after the show cause notice is given to the primary licensee.

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

- (1) The Minister must promptly give a copy of the show cause notice to each person (an *interested person*) the Minister believes has an interest in the primary licence if the Minister considers—
  - (a) the person's interest may be affected adversely by the suspension, cancellation or amendment of the licence; and

- (b) it is otherwise appropriate in the circumstances to give the copy of the notice to the person.
- (2) In considering whether it is appropriate to give a copy of the show cause notice to an interested person, the issues to which the Minister may have regard include the following—
  - (a) the nature of the interested person's interest;
  - (b) whether the primary licensee's interest may be improperly prejudiced.
- (3) Without limiting subsection (1), a person is an interested person if a lottery operation agreement between the person and the primary licensee is in force.
- (4) An interested person to whom a copy of the show cause notice is given may make representations about the notice to the Minister in the show cause period.

## **27 Consideration of representations**

The Minister must consider all written representations (the *accepted representations*) made during the show cause period by—

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

## **28 Immediate suspension**

- (1) The Minister may suspend a primary licence immediately if the Minister believes—
  - (a) a ground exists to suspend or cancel the primary licence; and
  - (b) the circumstances are so extraordinary that it is imperative to suspend the licence immediately to ensure—
    - (i) the public interest is not affected in an adverse and material way; or
    - (ii) the integrity of the conduct of lotteries stated in the licence is not jeopardised in a material way.

- (2) The suspension—
  - (a) must be effected by written notice (a *suspension notice*) given to the primary licensee with a show cause notice; and
  - (b) operates immediately the suspension notice is given; and
  - (c) continues to operate until the show cause notice is finally dealt with.
- (3) If the Minister gives a suspension notice to a primary licensee, the Minister must give a copy of the suspension notice to each other person with whom the primary licensee has a lottery operation agreement.

## **29 Censuring primary licensee**

- (1) This section applies if the Minister—
  - (a) believes a ground exists to suspend or cancel a primary licence; but
  - (b) does not believe the giving of a show cause notice to the primary licensee is warranted.
- (2) This section also applies if, after considering the accepted representations for the show cause notice, the Minister—
  - (a) still believes a ground exists to suspend or cancel the primary licence; but
  - (b) does not believe suspension or cancellation of the primary licence is warranted.
- (3) The Minister may, by written notice given to the primary licensee, censure the licensee for a matter relating to the ground for suspension or cancellation.

## **30 Directions to rectify**

- (1) This section applies if, after considering the accepted representations for the show cause notice, the Minister—
  - (a) still believes a ground exists to suspend or cancel the primary licence; but



- (b) considers a matter relating to the ground for suspension or cancellation is capable of being rectified and that it is appropriate to give the primary licensee an opportunity to rectify the matter.
- (2) The Minister may, by written notice given to the primary licensee, direct the licensee to rectify the matter within the period stated in the notice.
- (3) The period stated must be reasonable, having regard to the nature of the matter to be rectified.

### **31 Notice by the Minister**

- (1) This section applies if, after considering the accepted representations for the show cause notice, the Minister still believes—
  - (a) a ground exists to suspend or cancel the primary licence; and
  - (b) the act, omission or other thing constituting the ground is of a serious and fundamental nature; and
  - (c) either—
    - (i) the integrity of the conduct of lotteries stated in the licence may be jeopardised in a material way; or
    - (ii) the public interest may be affected in an adverse and material way.
- (2) This section also applies if, after considering the accepted representations for the show cause notice, the Minister still believes the ground exists to amend a primary licence by omitting a lottery stated in it.
- (3) This section also applies if the primary licensee fails to comply with a direction to rectify a matter within the period stated in the relevant notice.
- (4) The Minister must forward to the Governor in Council—
  - (a) written notice of the Minister’s belief or of the primary licensee’s failure to comply with the direction; and
  - (b) copies of the accepted representations for the show cause notice.

**32 Suspension, cancellation, amendment and appointment of administrator**

- (1) After receiving the notice from the Minister under section 31, the Governor in Council may—
  - (a) if the proposed action stated in the show cause notice was to suspend the primary licence for a stated period—suspend the licence for not longer than the stated period; or
  - (b) if the proposed action stated in the show cause notice was to cancel the primary licence—
    - (i) suspend the licence for a period; or
    - (ii) cancel the licence; or
    - (iii) appoint an administrator to conduct the operations of the primary licensee under the licence; or
  - (c) if the proposed action stated in the show cause notice was to amend the primary licence by omitting a lottery stated in it—make the amendment.
- (2) The Minister must promptly give written notice of the decision of the Governor in Council to the primary licensee and to each other person with whom the primary licensee has a lottery operation agreement.
- (3) The decision takes effect on—
  - (a) the day the notice is given to the primary licensee; or
  - (b) if a later day of effect is stated in the notice—the later day.

**32A Endorsement of amendment**

- (1) This section applies if—
  - (a) a primary licence is amended under section 32(1)(c); and
  - (b) the Minister asks the primary licensee to return the licence within a stated period of at least 7 days so the amendment may be endorsed on the licence.
- (2) The primary licensee must comply with the request, unless the licensee has a reasonable excuse.

Maximum penalty—40 penalty units.

- (3) On receiving the primary licence, the Minister must—
  - (a) amend the licence in an appropriate way and return the amended licence to the primary licensee; or
  - (b) if the Minister does not consider it is practicable to amend the licence—issue a replacement licence, incorporating the amendment, to the primary licensee.
- (4) An amendment takes effect on the relevant day under section 32(3) and does not depend on the primary licence being amended to record the amendment or a replacement licence being issued.

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

- (1) This section applies to an administrator appointed by the Governor in Council to conduct operations under a primary licence.
- (2) For any matter not provided for under this Act, the administrator holds office on terms decided by the Governor in Council.
- (3) The administrator—
  - (a) has full control of, and responsibility for, the operations of the primary licensee conducted under the primary licence (including lotteries that had been commenced but not completed as at the time of the administrator's appointment); and
  - (b) subject to any directions by the Minister, must conduct the operations in accordance with this Act as if the administrator were the primary licensee.
- (4) The costs of and incidental to the conduct and administration of a primary licensee's operations by an administrator under this section (the *costs of administration*) are payable by the licensee.
- (5) Any profits derived from the conduct of the primary licensee's operations by the administrator are, after payment of the costs of administration, to be paid to the primary licensee.

- (6) This section and section 32(1)(b)(iii) apply despite the Corporations Act.

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

- (1) At any time the suspension of a primary licence is in force, the Governor in Council may—
- (a) cancel the remaining period of suspension; or
  - (b) reduce the remaining period of suspension by a stated period.
- (2) The Minister must promptly give written notice of the decision of the Governor in Council to the primary licensee and to each other person with whom the primary licensee has a lottery operation agreement.

## **Division 6 Investigations into suitability**

### **35 Audit program**

- (1) The Minister may approve an audit program for investigating primary licensees, or business or executive associates of primary licensees.
- (2) The chief executive is responsible for ensuring that investigations under an approved audit program are conducted in accordance with the program.
- (3) A person may be investigated under an audit program only if there has not been an investigation of the same person within the preceding 2 years.

### **36 Investigations**

- (1) The chief executive may investigate a primary licensee to help the Minister decide whether the person is a suitable person to hold, or to continue to hold, a primary licence of the relevant type.
- (2) The chief executive may investigate a business or executive associate of a primary licensee to help the Minister to decide whether the person is, or continues to be, a suitable person to

be associated with the operations of the holder of a primary licence of the relevant type.

- (3) However, the chief executive may investigate a primary licensee only if—
  - (a) the Minister reasonably suspects the primary licensee is not, or is no longer, a suitable person to hold a primary licence of the relevant type; or
  - (b) the investigation is made under an audit program for primary licensees approved by the Minister.
- (4) Also, the chief executive may investigate a business or executive associate of a primary licensee only if—
  - (a) the Minister reasonably suspects the person is not, or is no longer, a suitable person to be associated with the operations of the holder of a primary licence of the relevant type; or
  - (b) the investigation is made under an audit program for business and executive associates of primary licensees approved by the Minister; or
  - (c) the person—
    - (i) became a business or executive associate of the primary licensee after the issue of the primary licence; and
    - (ii) has not been investigated previously under an audit program mentioned in paragraph (b); or
  - (d) the person—
    - (i) was a business or executive associate of the primary licensee when the primary licence was issued; and
    - (ii) has not been investigated under section 14(2).

### **37 Requirement to give information or document for investigation**

- (1) In investigating a primary licensee, or a business or executive associate of a primary licensee, 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.
- (3) The person must comply with the requirement, unless the person has a reasonable excuse.

Maximum penalty—200 penalty units or 2 years imprisonment.

- (4) 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.
- (5) 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.

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

- (1) If the chief executive, in making an investigation about a person under section 14 or 36<sup>1</sup> asks the commissioner of the police service for a written report about the person's criminal history, the commissioner must give the report to the chief executive.
- (2) However, the report is required to contain only criminal history in the commissioner's possession or to which the commissioner has access.

### **39 Decisions about primary licence not to be justiciable**

- (1) A decision of the Governor in Council or Minister made, or appearing to be made, under this Act about a primary licence, or person with an interest or potential interest in a primary licence—
  - (a) is final and conclusive; and
  - (b) can not be challenged, appealed against, reviewed, quashed, set aside, or called in question in another way,

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<sup>1</sup> Section 14 (Investigations of suitability of persons) or 36 (Investigations)

under the *Judicial Review Act 1991* or otherwise (whether by the Supreme Court, another court, a tribunal or another entity); and

- (c) is not subject to any writ or order of the Supreme Court, another court, a tribunal or another entity on any ground.
- (2) The decisions to which subsection (1) applies include, but are not limited to—
- (a) a decision of the Governor in Council mentioned in schedule 1, part 1; and
  - (b) a decision of the Minister mentioned in schedule 1, part 2.
- (3) In this section—
- decision** includes—
- (a) conduct engaged in to make a decision; and
  - (b) conduct related to making a decision; and
  - (c) failure to make a decision.

## Part 2B Lottery operation agreements

### 39A What is a lottery operation agreement

- (1) A **lottery operation agreement** is an agreement between a lottery licensee and a lottery operator, for the conduct of a lottery by the lottery operator, approved by the Minister under this part.
- (2) Another person may also be a party to a lottery operation agreement.

*Example for subsection (2)—*

A person may be a party to a lottery operation agreement because the agreement includes provisions under which the person acts as a guarantor for one of the primary licensees.

**39B Amendments must also be approved**

For this Act, an amendment of a lottery operation agreement is of no effect until it is approved by the Minister.

**39C Approval process**

- (1) A lottery licensee may apply to the Minister for approval of a proposed lottery operation agreement or a proposed amendment of a lottery operation agreement.
- (2) The application must be written and accompanied by a copy of the proposed agreement or amendment.
- (3) The Minister must give, or refuse to give, the approval.
- (4) The Minister may refuse to give the approval only if the Minister reasonably believes it is necessary to do so—
  - (a) in the public interest; or
  - (b) to protect proper standards of integrity in the conduct of lotteries.
- (5) The Minister must promptly give the lottery licensee written notice of the Minister's decision.

**39D Minister to be notified if agreement ends**

If a lottery operation agreement stops being in force, each party to the agreement must immediately give written notice to the Minister.

**39E Being a party to more than 1 lottery operation agreement**

- (1) A lottery licensee may be a party to lottery operation agreements with 2 or more lottery operators at the same time, whether for the same or different lotteries.
- (2) A lottery licensee may not be a party to more than 1 lottery operation agreement with the same lottery operator at the same time.
- (3) A lottery operator may not be a party to more than 1 lottery operation agreement at the same time.



## **Part 3                      Key employees and operators**

### **Division 1                      Requirement for key employees to be licensed**

#### **40                      Meaning of *key employee***

- (1) A lottery employee is a *key employee* if the employee—
  - (a) occupies or acts in a managerial position, or carries out managerial functions, in relation to the primary licensee's operations; or
  - (b) is in a position to affect or significantly influence the operations conducted under the primary licence; or
  - (c) for a lottery employee of a lottery operator—occupies or acts in a position designated in the lottery operator's approved control system as a key position.
- (2) Subsection (1)(a) and (b) applies to a position only if the position is designated by the chief executive by written notice given to the primary licensee as a key position.
- (3) Subsection (1)(a) applies to functions only if the functions are designated by the chief executive by written notice given to the primary licensee as key functions.

#### **41                      Obligation to hold licence**

A person must not occupy or act in the position of a key employee, or carry out the functions of a key employee, in relation to the primary licensee's operations unless the person is a licensed employee.

Maximum penalty—40 penalty units.

#### **42                      Prohibition of employment of unlicensed persons as key employees**

A primary licensee must not employ a person as a key employee, or to carry out the functions of a key employee,

unless the person is a licensed employee.

Maximum penalty—40 penalty units.

## **Division 2                      Key operators**

### **43            Meaning of *key operator***

A *key operator* is a person (other than a lottery employee) who—

- (a) is in a position to control or exercise significant influence over the conduct of a primary licensee's operations; or
- (b) is associated with a primary licensee in a way that enables the person to control or exercise significant influence over the conduct of a primary licensee's operations; or
- (c) occupies a position or has an association with a primary licensee of a kind that makes the person a key operator under criteria prescribed under a regulation.

### **44            Requirement that key operator apply for licence or end role**

- (1) If the chief executive reasonably believes a person is a key operator, the chief executive may, by written notice given to the person, require the person either to apply to be licensed as a key operator under a key person licence, or to stop being a key operator, within 7 days of receiving the notice.
- (2) The person must comply with the requirement (the *key operator's requirement*) within 7 days of receiving the notice, unless the person has a reasonable excuse.

Maximum penalty—100 penalty units or 1 year's imprisonment.

- (3) The chief executive must give a copy of the notice to the relevant primary licensee.

**45 Requirement that key operator end role**

- (1) If the chief executive refuses to approve an application for a key person licence made by a person of whom a key operator's requirement is made, the chief executive may, by written notice given to the person, require the person to stop being a key operator of the primary licensee within the time stated in the notice.
- (2) The person must comply with the requirement within the time stated in the notice, unless the person has a reasonable excuse.  
Maximum penalty—100 penalty units or 1 year's imprisonment.
- (3) A person does not incur any liability as a result of action taken to comply with a notice under this section.

**46 Requirement to end key operator's role**

- (1) This section applies if a key operator's requirement is made of a person and—
  - (a) the person fails to comply with the requirement; or
  - (b) the chief executive refuses to approve an application for a key person licence made by the person.
- (2) The chief executive may, by written notice given to the primary licensee for whom the person is a key operator, require the licensee to take any necessary action to ensure that the person ceases to be a key operator within the time stated in the notice.
- (3) The primary licensee must comply with the requirement.
- (4) This section applies to a primary licensee despite another Act or law.
- (5) A primary licensee does not incur any liability because of action taken to comply with a notice under this section.

## **Division 3                      Applications for, and issue of, key person licences**

### **47            Application for key person licence**

- (1) An application for a key person licence must be made to the chief executive in the approved form.
- (2) The application must be accompanied by—
  - (a) if the applicant applies to be licensed as an employee—a letter from a primary licensee addressed to the chief executive stating that the licensee intends to employ the applicant as a key employee subject to the applicant being issued with a key person licence; and
  - (b) any documents prescribed under a regulation; and
  - (c) the application fee prescribed under a regulation.
- (3) The chief executive may, by written notice given to an applicant for a key person licence, require the applicant to give the chief executive further information or a document that is necessary and reasonable to help the chief executive decide the application.

### **48            Consideration of application**

- (1) The chief executive must consider an application for a key person licence and either grant or refuse to grant the application.
- (2) Despite subsection (1), the chief executive is required to consider an application only if the applicant agrees to having the applicant's photograph and fingerprints taken.

### **49            Conditions for granting application**

- (1) The chief executive may grant an application for a key person licence only if—
  - (a) the applicant's photograph and fingerprints have been taken; and
  - (b) the chief executive is satisfied the applicant is a suitable person to hold a key person licence.

- (2) In deciding whether the applicant is a suitable person to hold a key person licence, the chief executive may have regard to the following matters—
- (a) the applicant's character;
  - (b) the applicant's current financial position and financial background;
  - (c) the applicant's general suitability to carry out functions as a key employee or to be a key operator for a primary licensee.

## **50 Investigation of suitability of applicant**

The chief executive may investigate an applicant for a key person licence to help the chief executive decide whether the applicant is a suitable person to hold a key person licence.

## **51 Decision on application**

- (1) If the chief executive decides to grant an application for a key person licence, the chief executive must promptly—
- (a) issue a key person licence to the applicant; and
  - (b) give written notice of the grant of the licence to the relevant primary licensee.
- (2) If the chief executive decides to refuse to grant an application for a key person licence, the chief executive must promptly—
- (a) give the applicant an information notice about the decision; and
  - (b) give written notice of the decision to the relevant primary licensee.

## **52 Form of key person licence**

- (1) A key person licence must be in the approved form.
- (2) The approved form must provide for the inclusion of the following particulars—
- (a) the key person licensee's name;
  - (b) a recent photograph of the licensee;

- (c) the date of issue of the licence;
- (d) whether the licensee is a licensed employee or licensed as a key operator;
- (e) the conditions of the licence;
- (f) other particulars prescribed under a regulation.

### **53 Term of key person licence**

A key person licence remains in force unless it lapses or is cancelled or surrendered.

### **54 Lapsing of key person licence**

- (1) A key person licence lapses if the key person licensee is a licensed employee and—
  - (a) at the end of 1 year after the licence was issued, the licensee has not been employed (as a key employee or in any other capacity) by a primary licensee; or
  - (b) the licensee ceases to be employed by a primary licensee and is not re-employed by the same or another primary licensee within the following 3 months.
- (2) A key person licence lapses if the person licensed is licensed as a key operator and ceases to be a key operator.

### **55 Conditions**

- (1) The chief executive may issue a key person licence—
  - (a) on conditions the chief executive considers necessary or desirable for the proper conduct of lotteries; and
  - (b) on other conditions the chief executive considers necessary or desirable in the public interest.
- (2) If the chief executive decides to issue a key person licence on conditions, the chief executive must promptly—
  - (a) give the applicant an information notice about the decision; and
  - (b) give a copy of the notice to the relevant primary licensee.

**56 Changing conditions of key person licence**

- (1) The chief executive may decide to change the conditions of a key person licence if the chief executive considers it necessary or desirable to make the change for the proper conduct of lotteries or otherwise in the public interest.
- (2) If the chief executive decides to change the conditions of a key person licence, the chief executive must immediately—
  - (a) give the key person licensee—
    - (i) written notice of the changed conditions; and
    - (ii) an information notice about the decision; and
  - (b) if the chief executive believes the key person licensee is currently an employee or key operator of a primary licensee—give the primary licensee a copy of the information notice.
- (3) The key person licensee must return the licence to the chief executive within 7 days of receiving the information notice, unless the licensee has a reasonable excuse.

Maximum penalty—40 penalty units.
- (4) On receiving the licence, the chief executive must—
  - (a) amend the licence in an appropriate way and return the amended licence to the key person licensee; or
  - (b) if the chief executive does not consider it practicable to amend the licence—issue another key person licence, incorporating the changed conditions, to the key person licensee to replace the licence returned to the chief executive.
- (5) The change of conditions takes effect when the information notice is given to the key person licensee and does not depend on the licence being amended to record the change or a replacement licence being issued.
- (6) The power of the chief executive under subsection (1) includes the power to add conditions to an unconditional licence.

**57 Replacement of key person licence**

- (1) A key person licensee may apply to the chief executive for the replacement of the licensee's licence if it has been lost, stolen, destroyed or damaged.
- (2) The chief executive must consider an application and either grant or refuse to grant the application.
- (3) The chief executive must grant the application if the chief executive is satisfied the licence has been lost, stolen or destroyed, or damaged in a way to require its replacement.
- (4) If the chief executive decides to grant an application, the chief executive must, on payment of the fee prescribed under a regulation, issue another key person licence to the applicant to replace the lost, stolen, destroyed or damaged licence.
- (5) If the chief executive decides to refuse to grant an application, the chief executive must promptly—
  - (a) give the key person licensee an information notice about the decision; and
  - (b) if the chief executive believes the key person licensee is currently an employee or a key operator of a primary licensee—give the primary licensee a copy of the information notice.

**58 Surrender of key person licence**

- (1) A key person licensee may surrender the licence by written notice given to the chief executive.
- (2) The surrender takes effect on—
  - (a) the day the notice is given to the chief executive; or
  - (b) if a later day of effect is stated in the notice—the later day.
- (3) If the chief executive believes the key person licensee was at the time of the surrender an employee or a key operator of a primary licensee, the chief executive must promptly give notice of the surrender to the primary licensee.



## **Division 4                      Suspension and cancellation of key person licences, and other action by chief executive**

### **Subdivision 1                Suspension and cancellation**

#### **59                      Grounds**

- (1) Each of the following is a ground for suspending or cancelling a key person licensee's key person licence—
  - (a) the key person licensee—
    - (i) is not a suitable person to hold a key person licence; or
    - (ii) acts in a way that is inappropriate for the conduct of approved lotteries; or
    - (iii) contravenes a provision of this Act, other than a provision a contravention of which is an offence against this Act; or
    - (iv) contravenes a condition of the licence;
  - (b) the key person licensee has a conviction, other than a spent conviction, for—
    - (i) an offence against this Act or a gaming Act; or
    - (ii) an indictable offence;
  - (c) the key person licence was issued because of a materially false or misleading representation or document.
- (2) For forming a belief that the ground mentioned in subsection (1)(a)(i) exists, the chief executive may have regard to the same matters to which the chief executive may have regard under section 49(2)<sup>2</sup> in deciding whether an applicant for a key person licence is a suitable person to hold the licence.

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<sup>2</sup> Section 49 (Conditions for granting application)

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- (3) For subsection (1)(a)(ii), a key person licensee acts in a way that is inappropriate for the conduct of approved lotteries if the licensee does, or omits to do, an act that results in—
- (a) the conduct of approved lotteries by a lottery operator not being conducted under the approved control system for the conduct of the lotteries; and
  - (b) the integrity of the conduct of approved lotteries being jeopardised.
- (4) In this section—
- spent conviction*** means a conviction—
- (a) for which the rehabilitation period under the *Criminal Law (Rehabilitation of Offenders) Act 1986* has expired under that Act; and
  - (b) that is not revived as prescribed by section 11<sup>3</sup> of that Act.

## 60 Show cause notice

- (1) If the chief executive believes a ground exists to suspend or cancel a key person licence, the chief executive must before taking action to suspend or cancel the licence give the key person licensee a written notice (a ***show cause notice***).
- (2) The show cause notice must state the following—
- (a) the action the chief executive proposes taking under this subdivision (the ***proposed action***);
  - (b) the grounds for the proposed action;
  - (c) an outline of the facts and circumstances forming the basis for the grounds;
  - (d) if the proposed action is suspension of the licence—the proposed suspension period;
  - (e) that the key person licensee may, within a stated period (the ***show cause period***), make written representations

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

to the chief executive to show why the proposed action should not be taken.

- (3) The show cause period must end at least 21 days after the key person licensee is given the show cause notice.
- (4) Subsection (5) applies if the chief executive believes—
  - (a) the key person licensee is an employee or a key operator of a primary licensee; and
  - (b) the existence of the grounds for the proposed action is likely to adversely affect the conduct of approved lotteries stated in the primary licence.
- (5) The chief executive must immediately give a copy of the show cause notice to the primary licensee.
- (6) The primary licensee may make written representations about the show cause notice to the chief executive in the show cause period.

## **61 Consideration of representations**

The chief executive must consider all written representations (the *accepted representations*) made under section 60(2)(e) or (6).

## **62 Immediate suspension**

- (1) The chief executive may suspend a key person licensee's key person licence immediately if the chief executive believes—
  - (a) a ground exists to suspend or cancel the licence; and
  - (b) it is necessary to suspend the licence immediately—
    - (i) in the public interest; or
    - (ii) to ensure the integrity of the conduct of approved lotteries is not jeopardised.
- (2) The suspension—
  - (a) can be effected only by the chief executive giving the key person licensee an information notice about the decision to suspend the licence, together with a show cause notice; and

- (b) operates immediately the information notice is given to the licensee; and
  - (c) continues to operate until the show cause notice is finally dealt with.
- (3) If the chief executive believes the key person licensee is an employee or a key operator of a primary licensee, the chief executive must immediately give written notice of the suspension to the primary licensee.

### **63 Suspension and cancellation of licence after show cause process**

- (1) This section applies if—
- (a) there are no accepted representations for a show cause notice; or
  - (b) after considering the accepted representations for a show cause notice, the chief executive—
    - (i) still believes a ground exists to suspend or cancel a key person licence; and
    - (ii) believes suspension or cancellation of the licence is warranted.
- (2) This section also applies if a key person licensee contravenes a direction given to the licensee under section 65A.<sup>4</sup>
- (3) The chief executive may—
- (a) if the proposed action was to suspend the licence—suspend the licence for not longer than the proposed suspension period; or
  - (b) if the proposed action was to cancel the licence—cancel the licence or suspend it for a period.
- (4) If the chief executive decides to take action under subsection (3), the chief executive must immediately—
- (a) give an information notice about the decision to the key person licensee; and

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4 Section 65A (Direction to rectify matter after show cause process)

- (b) if the chief executive believes the licensee is an employee or a key operator of a primary licensee—give written notice of the suspension or cancellation to the primary licensee.
- (5) The decision takes effect on the later of the following—
  - (a) the day the information notice is given to the key person licensee;
  - (b) the day of effect stated in the information notice.
- (6) If the chief executive cancels the licence, the key person licensee must give the licence to the chief executive within 14 days after the cancellation takes effect.

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

## **Subdivision 2      Other action by chief executive**

### **64      Ending show cause process without further action**

- (1) This section applies if, after considering the accepted representations for a show cause notice, the chief executive no longer believes a ground exists to suspend or cancel a key person licence.
- (2) The chief executive—
  - (a) must not take any further action about the show cause notice; and
  - (b) must give each of the following a written notice stating that no further action is to be taken—
    - (i) the key person licensee;
    - (ii) a primary licensee to whom a copy of the show cause notice was given under section 60(5).

### **65      Censuring key person licensee**

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

- (a) believes a ground exists to suspend or cancel the key person licensee's key person licence but does not believe that giving a show cause notice to the licensee is warranted; or
  - (b) after considering the accepted representations for a show cause notice, still believes a ground exists to suspend or cancel the key person licensee's key person licence but does not believe suspension or cancellation of the licence is warranted.
- (2) The censure can be effected only by the chief executive giving the key person licensee an information notice about the decision to censure the licensee.
  - (3) If the chief executive believes the key person licensee is an employee or a key operator of a primary licensee, the chief executive must immediately give written notice of the censure to the primary licensee.

#### **65A Direction to rectify matter after show cause process**

- (1) This section applies if, after considering the accepted representations for a show cause notice, the chief executive—
  - (a) still believes a ground exists to suspend or cancel a key person licence; and
  - (b) believes a matter relating to the ground for suspension or cancellation is capable of being rectified and it is appropriate to give the key person licensee an opportunity to rectify the matter.
- (2) The chief executive may direct the key person licensee to rectify the matter.
- (3) If the chief executive decides to give a key person licensee a direction under this section, the direction can be effected only by the chief executive giving the licensee an information notice about the decision.
- (4) The information notice must state the period for rectifying the matter.
- (5) The period must be reasonable, having regard to the nature of the matter to be rectified.

- (6) If the chief executive gave a copy of the show cause notice to a primary licensee under section 60(5), the chief executive must give written notice of the direction to the primary licensee immediately after giving the information notice to the key person licensee.

### **65B Cancellation or reduction of period of suspension**

- (1) If the chief executive suspends a key person licence, the chief executive may, for any remaining period of suspension and at any time the suspension is in force—
  - (a) cancel the period; or
  - (b) reduce the period by a stated period.
- (2) The chief executive may cancel or reduce the period only if the chief executive considers it is appropriate to take the action.
- (3) The chief executive must immediately give written notice of the decision to—
  - (a) the key person licensee; and
  - (b) if the chief executive believed the key person licensee was an employee or a key operator of a primary licensee when the key person licence was suspended—the primary licensee.
- (4) Subsection (1) does not apply to an immediate suspension.

## **Division 5 Investigation of key person licensees**

### **66 Audit program**

- (1) The chief executive may approve an audit program for investigating key person licensees.
- (2) The chief executive is responsible for ensuring that investigations of key person licensees are conducted under an approved audit program in accordance with the program.

- (3) A person may be investigated under an audit program only if there has not been an investigation of the same person within the preceding 2 years.

## **67 Investigations into suitability of key person licensees**

- (1) The chief executive may investigate a key person licensee to help the chief executive decide whether the licensee is a suitable person to hold, or to continue to hold, a key person licence.
- (2) However, the chief executive may investigate a key person licensee under this section only if—
  - (a) the chief executive reasonably suspects the licensee is not, or is no longer, a suitable person to hold a key person licence; or
  - (b) the investigation is made under an audit program for key person licensees approved by the chief executive.

## **68 Requirement to give information or document for investigation**

- (1) In investigating a key person licensee, the chief executive may, by written notice given to the licensee, require the licensee 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 key person licensee that it is an offence to fail to comply with the requirement, unless the licensee has a reasonable excuse.
- (3) The key person licensee must comply with the requirement, unless the licensee has a reasonable excuse.

Maximum penalty—200 penalty units or 2 years imprisonment.

- (4) It is a reasonable excuse if complying with the requirement might tend to incriminate the key person licensee.
- (5) The key person licensee 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.



**69 Reports about criminal history**

- (1) If the chief executive, in making an investigation under section 50 or 67<sup>5</sup> into the suitability of a person to hold, or to continue to hold, a key person licence, asks the commissioner of the police service for a written report on the person's criminal history, the commissioner must give the report to the chief executive.
- (2) However, the report is required to contain only criminal history in the commissioner's possession or to which the commissioner has access.

**Division 6 Requirements about employment****70 Notice of start of licensed employee's employment**

Within 7 days after a licensed employee starts employment with a primary licensee, the primary licensee must notify the chief executive of the start of the employment by notice in the approved form.

Maximum penalty—40 penalty units.

**71 Returns about employees**

- (1) The chief executive may, by written notice given to a primary licensee, require the licensee to give a return under this section.
- (2) The notice must state the time (not less than 14 days after the notice is given) for giving the return.
- (3) A notice must not be given under this section within 1 month after the giving of a previous notice.
- (4) If a primary licensee is given a notice under subsection (1), the licensee must give a return as required by this section listing the licensed and unlicensed employees currently employed by the licensee and the nature of the duties in which each of them is engaged.

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5 Section 50 (Investigation of suitability of applicant) or 67 (Investigations into suitability of key person licensees)

Maximum penalty—40 penalty units.

- (5) The return must—
  - (a) be in the approved form; and
  - (b) be given to the chief executive within the time stated in the notice.

## **72 Notice of end of licensed employee's employment**

- (1) This section applies if—
  - (a) a primary licensee ends the employment of a licensed employee; or
  - (b) a licensed employee ends the employee's employment with a primary licensee; or
  - (c) a licensed employee otherwise ceases to be employed by a primary licensee.
- (2) Within 7 days after a licensed employee's employment with a primary licensee ends, the primary licensee must notify the chief executive of the end of the employment by notice in the approved form.

Maximum penalty—40 penalty units.

## **73 Requirement to end licensed employee's employment**

- (1) This section applies if—
  - (a) a key person licence held by a licensed employee of a primary licensee is cancelled or suspended; or
  - (b) a licensed employee of a primary licensee ceases to hold a key person licence for some other reason.
- (2) The chief executive may, by written notice given to the primary licensee, require the licensee to terminate the employee's employment as a key employee within the time stated in the notice.
- (3) The primary licensee must comply with the requirement.
- (4) This section applies to a primary licensee despite another Act or law or any industrial award or agreement.

- (5) A primary licensee does not incur any liability by complying with a requirement of the chief executive under this section.

## **Division 7                      Requirements about association with key operators**

### **74            Notice to end key operator's role**

- (1) This section applies if a person who holds a key person licence as a key operator stops being a key operator for a primary licensee.
- (2) Within 7 days after the person stops being a key operator for the primary licensee, the primary licensee must notify the chief executive of that fact by notice in the approved form.

Maximum penalty—40 penalty units.

### **75            Requirement to end key operator's role**

- (1) This section applies if—
- (a) a key person licence held by a key operator for a primary licensee is cancelled or suspended; or
  - (b) a key operator for a primary licensee ceases to hold a key person licence for some other reason.
- (2) The chief executive may, by written notice given to the primary licensee, require the primary licensee to take any action reasonably necessary to ensure that the person ceases to be a key operator for the licensee within the time stated in the notice.
- (3) The primary licensee must comply with the notice.
- (4) This section applies to a primary licensee despite any other Act or law.
- (5) A primary licensee does not incur any liability because the licensee complies with a notice under this section.

## Division 8                      General

### 76        **False statements by applicants**

A person must not, for an application made under this part, state anything the person knows is false or misleading in a material particular.

Maximum penalty—40 penalty units.

### 77        **Destruction of fingerprints**

- (1) This section applies if—
  - (a) an application for a key person licence is refused; or
  - (b) a key person licence is surrendered; or
  - (c) a key person licence lapses; or
  - (d) a key person licence is cancelled.
- (2) The chief executive must cause any fingerprints of the applicant or former key person licensee taken for the application for the key person licence to be destroyed as soon as practicable.

## Part 4                              Lottery agents

### Division 1                      Agency agreements

#### 78        **Meaning of *agency agreements***

An *agency agreement* is an agreement between a lottery operator and another person—

- (a) appointing the other person as an agent (a *lottery agent*) for 1 or more of the following purposes—
  - (i) selling lottery tickets;
  - (ii) paying prizes;

- (iii) promoting lotteries conducted by the lottery operator;
- (iv) another purpose relating to the conduct of lotteries by the lottery operator; and
- (b) dealing with the lottery agent's authority; and
- (c) stating the conditions under which the lottery agent acts as, and remains, an agent of the lottery operator; and
- (d) stating other matters agreed between the lottery agent and the lottery operator.

## **79 Conditions for entering into agency agreement**

- (1) A lottery operator may enter into an agency agreement with a person only if—
  - (a) it is entered into in relation to a small business owned and controlled by the person; and
  - (b) the person is prescribed under a regulation as a person eligible to be a lottery agent.
- (2) Subsection (1)(a) does not apply if the business in relation to which the agency agreement is to be entered into is—
  - (a) a business in relation to which a previous agency agreement applied; or
  - (b) a mail order business.
- (3) A lottery operator may enter into an agency agreement only if the agreement—
  - (a) states the lottery agent's place of operation; and
  - (b) includes any other provisions required by the chief executive.
- (4) The chief executive may, by written notice given to a lottery operator and lottery agent, require them to amend their agency agreement in a stated way.
- (5) A notice under subsection (4) must state—
  - (a) the amendment required; and
  - (b) the reason for the amendment; and

- 
- (c) the time, not less than 30 days after the notice is given to both parties to the agreement, within which they must comply with the notice; and
  - (d) that the lottery operator or lottery agent may appeal to the Gaming Commission, within 28 days after receiving the notice, against the decision to require the amendment.
- (6) The chief executive must not require the inclusion of a provision in an agency agreement, or an amendment of an agency agreement, unless the chief executive believes on reasonable grounds that the inclusion of the provision or the amendment is reasonably necessary to ensure—
- (a) the integrity of the conduct of lotteries by the lottery operator is not jeopardised in a material way; or
  - (b) the public interest is not affected in an adverse and material way.
- (7) In this section—

***mail order business*** means a business intended to be operated by a person for selling tickets (whether by mail or otherwise) to persons outside Queensland.

***previous agency agreement*** means an agency agreement that is, under section 243(1),<sup>6</sup> taken to be an agency agreement duly made in accordance with this Act.

***small business*** means a business undertaking—

- (a) that is wholly owned and controlled by an individual or individuals in partnership or by a proprietary company within the meaning of the Corporations Act; and
- (b) that is managed by the owner or directors; and
- (c) that is not a subsidiary of, or does not form part of, a larger business or enterprise; and
- (d) in which—
  - (i) no more than 50 persons are employed; or

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<sup>6</sup> Section 243 (Agency agreements)

- (ii) if more than 50 persons are employed, the total number of hours worked by the employees in a week is no more than 2000.

## **82 Returns about agents**

- (1) A lottery operator must give a return as required by this section listing the lottery operator's current lottery agents and their places of operation.

Maximum penalty—40 penalty units.

- (2) The return must be in the approved form, and given to the chief executive at least once every 6 months.

## **Division 2 Terminating agency agreements**

### **83 Grounds for termination**

- (1) Each of the following is a ground for directing the termination of an agency agreement—
  - (a) the lottery agent is not, or is no longer, a suitable person to be a lottery agent;
  - (b) a business or executive associate of the lottery agent is not, or is no longer, a suitable person to be associated with a lottery agent's operations;
  - (c) the lottery agent has been convicted of an offence against this Act or a gaming Act;
  - (d) the lottery agent has been convicted of an indictable offence;
  - (e) the lottery agent has contravened a provision of this Act (being a provision a contravention of which does not constitute an offence against this Act).
- (2) Also, it is a ground for directing the termination of an agency agreement if the lottery agent is not, or is no longer, eligible to be a lottery agent for a lottery operator.
- (3) For forming a belief that the ground mentioned in subsection (1)(a) exists, the chief executive may have regard to the following issues—

- (a) the lottery agent's character or business reputation;
  - (b) the lottery agent's current financial position and financial background;
  - (c) the lottery agent's general suitability to act as an agent for a lottery operator.
- (4) For forming a belief that the ground mentioned in subsection (1)(b) exists, the chief executive may have regard to the business or executive associate's character or business reputation, and current financial position and financial background.

## **84 Show cause notice**

- (1) This section applies if the chief executive believes—
- (a) a ground exists for directing the termination of an agency agreement; and
  - (b) the act, omission or other thing constituting the ground is of a serious and fundamental nature; and
  - (c) either—
    - (i) the integrity of the conduct of lotteries by the lottery operator may be jeopardised; or
    - (ii) the public interest may be affected adversely.
- (2) The chief executive must give the lottery agent a written notice (a *show cause notice*) that—
- (a) states the chief executive proposes to take action (the *proposed action*) to direct the lottery operator to terminate the agency agreement; and
  - (b) states the grounds for the proposed action; and
  - (c) outlines the facts and circumstances forming the basis for the grounds; and
  - (d) invites the agent to show within a stated period (the *show cause period*) why the proposed action should not be taken.



- (3) The show cause period must be a period ending not less than 21 days after the show cause notice is given to the lottery agent.
- (4) The chief executive must promptly give a copy of the show cause notice to the lottery operator.
- (5) A lottery operator to whom a copy of the show cause notice is given may make representations about the notice to the chief executive in the show cause period.
- (6) The chief executive must consider all written representations (the *accepted representations*) made during the show cause period by—
  - (a) the lottery agent; or
  - (b) a lottery operator to whom a copy of the show cause notice is given.

## **85 Suspending lottery agent's operations**

- (1) This section applies if the chief executive believes—
  - (a) a ground exists to direct the termination of an agency agreement; and
  - (b) it is necessary to suspend the lottery agent's operations—
    - (i) in the public interest; or
    - (ii) to ensure the integrity of the conduct of lotteries by the lottery operator is not jeopardised.
- (2) The chief executive may suspend the lottery agent's operations.
- (3) The suspension—
  - (a) must be effected by written notice (a *suspension notice*) given to the lottery agent with a show cause notice; and
  - (b) operates immediately the suspension notice is given; and
  - (c) continues to operate until the show cause notice is finally dealt with.

- (4) The suspension notice must state the reason for the decision to suspend the lottery agent's operations.
- (5) The chief executive must promptly give a copy of the suspension notice to the lottery operator.
- (6) A lottery agent must not carry on operations while the agent's operations are suspended.

Maximum penalty for subsection (6)—200 penalty units or 2 years imprisonment.

## **86 Censuring lottery agent**

- (1) This section applies if the chief executive—
  - (a) believes a ground exists to direct the termination of the agency agreement; but
  - (b) does not believe the giving of a show cause notice to the lottery agent is warranted.
- (2) This section also applies if, after considering the accepted representations for the show cause notice, the chief executive—
  - (a) still believes a ground exists to direct the termination of the agency agreement; but
  - (b) does not believe termination of the agreement is warranted.
- (3) The chief executive may, by written notice given to the lottery agent, censure the agent for a matter relating to the ground for directing the termination of the agreement.
- (4) The notice must state the reason for the decision to censure the lottery agent.
- (5) The chief executive must promptly give a copy of the notice to the lottery operator.

## **87 Direction to rectify**

- (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 direct the termination of the agency agreement; but
  - (b) considers a matter relating to the ground is capable of being rectified and that it is appropriate to give the lottery agent an opportunity to rectify the matter.
- (2) The chief executive may, by written notice given to the lottery agent, direct the agent to rectify the matter within the period stated in the notice.
  - (3) The notice must state the reason for the decision to give the direction.
  - (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 must promptly give a copy of the notice to the lottery operator.

## **88 Directions to terminate affecting lottery agents**

- (1) This section applies if, after considering the accepted representations for the show cause notice, the chief executive still believes—
  - (a) a ground exists to direct the termination of the agency agreement; and
  - (b) the act, omission or other thing constituting the ground is of a serious and fundamental nature; and
  - (c) either—
    - (i) the integrity of the conduct of lotteries by the lottery operator may be jeopardised; or
    - (ii) the public interest may be affected adversely.
- (2) This section also applies if the lottery agent fails to comply with a direction to rectify a matter within the period stated in the relevant notice.
- (3) The chief executive may, by written notice given to the lottery operator, direct the lottery operator to terminate the agreement within the time stated in the notice.

- (4) If the chief executive decides to give a direction under this section, the chief executive must promptly give written notice of the decision to the lottery agent affected by the decision.
- (5) A notice under subsection (3) or (4) must state—
  - (a) the reason for the decision to give the direction; and
  - (b) that the person to whom the notice is given may appeal against the decision to the Gaming Commission within 28 days.

## **89 Termination of agreement**

- (1) If the chief executive directs a lottery operator to terminate an agency agreement, the lottery operator must—
  - (a) terminate the agreement within the time stated in the notice giving the direction; and
  - (b) notify the chief executive of the termination in the approved form within 7 days after terminating the agreement.
- (2) If the lottery operator does not terminate the agency agreement as required by subsection (1), the agreement is terminated by this Act.
- (3) The State does not incur any liability if an agency agreement is terminated by a lottery operator under subsection (1) or by this Act.
- (4) A lottery operator does not incur any liability because the lottery operator terminates an agency agreement under subsection (1).

## **90 Notice of termination of agreement**

- (1) This section applies if an agency agreement is terminated otherwise than because of a direction to terminate the agreement given to the lottery operator by the chief executive.
- (2) The lottery operator must notify the chief executive in writing of the termination within 7 days after the agreement is terminated.

Maximum penalty—40 penalty units.

## **Division 3                      Investigations into suitability**

### **91                      Investigations**

- (1) The chief executive may investigate a lottery agent to help the chief executive decide whether the person is, or continues to be, a suitable person to be a lottery agent.
- (2) The chief executive may investigate a business or executive associate of a lottery agent to help the chief executive decide whether the person is, or continues to be, a suitable person to be associated with a lottery agent's operations.
- (3) However, the chief executive may investigate a lottery agent, or a business or executive associate of a lottery agent, only if the chief executive reasonably suspects the person is not, or is no longer, a suitable person to be a lottery agent, or to be associated with a lottery agent's operations.

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

- (1) In investigating a lottery agent or business or executive associate of a lottery agent, 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.
- (3) The person must comply with the requirement unless the person has a reasonable excuse.

Maximum penalty—200 penalty units or 2 years imprisonment.

- (4) It is a reasonable excuse if complying with the requirement might tend to incriminate the person.
- (5) 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.

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

- (1) If the chief executive, in making an investigation under this division about a person, asks the commissioner of the police service for a written report about the person's criminal history, the commissioner must give the report to the chief executive.
- (2) However, the report is required to contain only criminal history in the commissioner's possession or to which the commissioner has access.

**Part 5 Lottery tax and licence fee****94 Liability to tax**

- (1) A lottery operator must pay a tax (a *lottery tax*) to the chief executive.
- (2) The lottery tax is to be calculated and paid in accordance with a regulation.

**95 Liability to licence fees**

- (1) A primary licensee must give consideration (the *licence fees*) for the primary licence.
- (2) The licence fees are to be calculated and paid or satisfied in accordance with the conditions of the primary licence.

**96 Returns for calculation of lottery tax**

- (1) A lottery operator must give the chief executive returns as required under a regulation giving the details required under the regulation for the calculation of lottery tax.
- (2) A return must be in the approved form.

**97 Penalty for late payment**

- (1) A primary licensee must pay to the chief executive a penalty on an amount or value of lottery tax or licence fee outstanding (the *unpaid amount*) as at the end of the period allowed for payment.
- (2) The penalty is the percentage prescribed under a regulation of the unpaid amount.
- (3) An additional penalty is payable by the primary licensee to the chief executive for any part of the unpaid amount, and any previous penalty, remaining unpaid—
  - (a) 1 month after the end of the period allowed for payment of the unpaid amount; and
  - (b) at the end of each succeeding month starting—
    - (i) on the day of the month corresponding to the day mentioned in paragraph (a); or
    - (ii) if there is no corresponding day—on the first day of the following month.
- (4) The additional penalty is the percentage prescribed under a regulation of each unpaid or other amount for which the penalty is payable.
- (5) A penalty, or a part of a penalty, is not payable if the chief executive, for a reason the chief executive considers appropriate, decides the penalty, or the part of the penalty, need not be paid.

**97A Liability of lottery operator's holding companies for unpaid tax, fee or penalty**

- (1) This section applies to any of the following amounts payable by a lottery operator that is a corporation—
  - (a) lottery tax or a licence fee that remains unpaid by the lottery operator at the end of the period allowed for its payment;
  - (b) a penalty payable by the lottery operator under section 97.

- (2) The lottery operator and each holding company of the lottery operator are jointly and severally liable for payment of the amount.
- (3) In this section—  
*holding company* see the Corporations Act, section 9.

## **98 Recovery of amounts**

An amount of lottery tax, licence fee or penalty payable under this part is a debt payable to the State and may be recovered by action in a court of competent jurisdiction.

## **99 Revenue offences**

- (1) A primary licensee must not—
  - (a) evade the payment of an amount payable by the licensee as lottery tax or licence fee; or
  - (b) give the chief executive a return containing information the licensee knows to be false, misleading or incomplete in a material particular.

Maximum penalty—200 penalty units or 2 years imprisonment.

- (2) Subsection (1)(b) does not apply to a primary licensee if the licensee, when giving the return—
  - (a) informs the chief executive in writing, to the best of the licensee's ability, how the return is false, misleading or incomplete; and
  - (b) if the licensee has, or can reasonably obtain, the correct information—gives the correct information.
- (3) It is enough for a complaint for an offence against subsection (1) to state that the return was false, misleading or incomplete to the defendant's knowledge.

## **99A Application of lottery tax**

- (1) Each month, the Minister must pay into the community investment fund established under the *Gaming Machine Act*



1991, section 314(1), a percentage of all amounts received by the chief executive by way of lottery tax for the previous month.

- (2) The amounts paid into the community investment fund are administered receipts under the *Financial Administration and Audit Act 1977*.
- (3) The percentage mentioned in subsection (1) is the percentage prescribed under a regulation.

## Part 6 Compliance requirements

### Division 1 Control systems

#### 100 Lottery to be conducted under an approved control system

- (1) A lottery operator must not conduct a lottery under the lottery operator's licence unless the lottery operator has an approved control system for conducting the lottery.

Maximum penalty—200 penalty units.

- (2) If a lottery operator has an approved control system for conducting the lottery, the lottery operator must not contravene the approved control system in the conduct of the lottery.

Maximum penalty—200 penalty units.

- (3) A lottery operator must not change the approved control system other than under a direction or approval of the chief executive.

Maximum penalty—200 penalty units.

#### 101 Control system submission

- (1) A lottery operator may make a submission (a *control system submission*) to the chief executive for approval of the lottery operator's proposed control system.

- (2) A control system submission must be made in writing—
  - (a) at least 90 days before the lottery operator proposes to start conducting lotteries under the lottery operator's licence; 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 lottery operator's proposed control system.
- (4) In particular, a control system submission must include information about—
  - (a) the following things to be used for the conduct of lotteries—
    - (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 conduct of lotteries; and
  - (c) the procedures and standards for the maintenance, security, storage and transportation of equipment to be used for the conduct of lotteries; and
  - (d) the procedures for recording entries, and paying prizes won, in lotteries; and
  - (e) the procedures for using and maintaining security facilities.
- (5) However, a lottery operator's control system submission need not include particular information mentioned in subsection (4) if the chief executive is satisfied, having regard to the nature of the lottery operator's operations, that the information is not necessary for the chief executive's proper consideration of the submission under section 103.
- (6) A control system submission may include information additional to the information mentioned in subsection (4).

**102 Control system (change) submission**

- (1) A lottery operator may make a submission (a *control system (change) submission*) to the chief executive for approval to change the lottery operator's approved control system.
- (2) A control system (change) submission must be made in writing—
  - (a) at least 90 days before the lottery operator proposes to start conducting lotteries under the approved control system, as proposed to be changed; or
  - (b) if the chief executive considers it appropriate to allow a submission to be made at a later time—by the time allowed by the chief executive.
- (3) A control system (change) submission must contain particulars of the proposed changes of the lottery operator's approved control system.

**103 Dealing with submissions**

- (1) This section applies to a control system submission or control system (change) submission made to the chief executive by a lottery operator.
- (2) The chief executive must consider the submission and either approve, or refuse to approve, the lottery operator's proposed control system or the proposed change of the lottery operator's approved control system.
- (3) In considering the submission, the chief executive may, by written notice given to the lottery operator, require the lottery operator to give the chief executive, within a reasonable period stated in the notice, 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—
  - (a) whether the submission satisfies the requirements under this division for the submission; and
  - (b) whether the lottery operator's proposed control system, or approved control system as proposed to be changed,

is capable of providing satisfactory and effective control over the conduct of lotteries.

- (5) The chief executive may refuse to give an approval if the lottery operator fails to comply with a requirement under subsection (3) without a reasonable excuse.
- (6) If the chief executive approves the proposed control system, or proposed change of the approved control system, the chief executive must as soon as practicable give the lottery operator written notice of the decision.
- (7) If the chief executive refuses to approve the proposed control system, or proposed change of the approved control system, the chief executive must as soon as practicable give the lottery operator a written notice that—
  - (a) states the decision and 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—
    - (i) explains how the submission can be changed; and
    - (ii) invites the lottery operator to resubmit the submission after making the appropriate changes.

#### **104 Direction to change approved control system**

- (1) The chief executive may, by written notice given to a lottery operator, direct the lottery operator to change the lottery operator's approved control system within the period, and in the way, stated in the notice.
- (2) The lottery operator must comply with the direction.
- (3) If the lottery operator does not comply with the direction, at the end of the period stated in the notice the lottery operator's approved control system is taken to have been changed in the way stated in the notice.

## Division 2                      Lottery records

### 104A    Application of div 2 to former primary licensees

This division continues to apply to the lottery records for a primary licence after the licence ends and, for that purpose, a reference in this division to a primary licensee includes a person who has stopped being a primary licensee.

### 105      Notices about keeping lottery records

- (1) The chief executive may, by written notice given to a primary licensee—
  - (a) approve a place (the *approved place*) nominated by the licensee as the place where the licensee is required to keep the licensee's lottery records; or
  - (b) specify a lottery record of the licensee (an *exempt lottery record*) that is not required to be kept at the approved place; or
  - (c) specify a lottery record of the licensee that may be kept temporarily at a place other than the approved place, and the period for which, or the circumstances in which, the record may be kept at the other place; or
  - (d) approve the keeping of information contained in a lottery record in a way different from the way the information was kept when the record was being used by the licensee; or
  - (e) approve the destruction of a lottery record the chief executive considers need not be kept.
- (2) A lottery record mentioned in subsection (1)(c) is also an *exempt lottery record*—
  - (a) for the period stated in the notice; or
  - (b) while the circumstances stated in the notice exist.
- (3) The chief executive may specify a lottery record for subsection (1)(b) only if the chief executive considers there is sufficient reason for the record to be kept at a place other than the approved place.

- (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 lottery record.

### **106 Lottery records to be kept at certain place**

- (1) A primary licensee must keep the licensee's lottery records at—
- (a) the licensee's public office; or
  - (b) at an approved place for the records.
- Maximum penalty—40 penalty units.
- (2) Subsection (1) does not apply to an exempt lottery record.

### **107 Lottery records to be kept for required period**

- (1) A primary licensee must keep a lottery record—
- (a) in the case of a record relating to an unclaimed prize—for 7 years after closure of the lottery; or
  - (b) in the case of any other lottery record—
    - (i) if it relates to a lottery for which the only prize, or all prizes, are paid or given on 1 day—for 5 years after that day; or
    - (ii) otherwise—for 5 years after the last day on which a prize or part of a prize in the lottery is paid or given to the person entitled to it.

*Example for subparagraph (ii)—*

The prize for a lottery consists of a particular amount paid to the prize winner at the end of each year for 20 years. A lottery record for the lottery must be kept for 5 years after the day the last payment is paid.

Maximum penalty—40 penalty units.

- (2) Subsection (1) does not apply to a lottery record if the information previously contained in the record is kept in another way under an approval of the chief executive.
- (3) Also, subsection (1) does not apply to a lottery record that has been destroyed under an approval of the chief executive.

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

### **Division 3                      Financial accounts, statements and reports**

#### **108      Keeping of accounts**

A primary licensee must—

- (a) keep accounting records that correctly record and explain the transactions and financial position for the licensee's operations conducted under the primary licence; 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—40 penalty units.

#### **109      Preparation of financial statements and accounts**

- (1) A primary licensee must prepare financial statements and accounts as required by this section giving a true and fair view of the licensee's financial operations conducted under the primary licence.

Maximum penalty—40 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.

**110 Submission of reports**

- (1) A primary licensee must give reports to the chief executive as required by this section about the licensee's operations under the primary licence.

Maximum penalty—40 penalty units.

- (2) The reports must be given at the times stated in a written notice given to the primary licensee by the chief executive.
- (3) A report must be in the approved form.
- (4) The chief executive may, by written notice given to a primary licensee, require the licensee to give the chief executive further information about a report within the time stated in the notice to help the chief executive acquire a proper appreciation of the licensee's operations.
- (5) A primary licensee must comply with a requirement under subsection (4) within the time stated in the notice, unless the licensee has a reasonable excuse.

Maximum penalty—40 penalty units.

- (6) A primary licensee must not give the chief executive a report containing information, or further information about a report, the licensee knows to be false, misleading or incomplete in a material particular.

Maximum penalty—100 penalty units.

- (7) Subsection (6) does not apply to a primary licensee if the licensee, when giving the report or further information—
- (a) informs the chief executive in writing, to the best of the licensee's ability, how the return or information is false, misleading or incomplete; and
  - (b) if the licensee has, or can reasonably obtain, the correct information—gives the correct information.
- (8) It is enough for a complaint of an offence against subsection (6) to state that the report or information was false, misleading or incomplete to the defendant's knowledge.



## **Division 4                      Financial institutions accounts**

### **111      Keeping of accounts**

A primary licensee 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 licensee's operations conducted under the primary licence.

Maximum penalty—40 penalty units.

### **112      Use of accounts**

A primary licensee 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.

## **Division 5                      Audit**

### **113      Audit of primary licensee's operations**

As soon as practicable after the end of a financial year, a primary licensee must, at the licensee's own expense, cause the licensee's books, accounts and financial statements for the licensee's operations conducted under the primary licence for the financial year to be audited by a registered company auditor approved by the chief executive.

Maximum penalty—40 penalty units.

### **114      Completion of audit**

- (1) The auditor must—
  - (a) complete the audit within 3 months after the end of the financial year; and
  - (b) immediately after completion of the audit, give a copy of the audit report to the chief executive and the primary licensee.

Maximum penalty—40 penalty units.

- (2) Subsection (1)(a) does not apply to the auditor if, in the circumstances, it would be unreasonable to require the auditor to comply with the paragraph and the auditor completes the audit as soon as practicable.

## **115 Further information following audit**

- (1) On receiving a copy of the audit report, the chief executive may, by written notice given to the primary licensee, require the licensee to give the chief executive further information about a matter relating to the licensee's operations mentioned in the audit report.
- (2) A primary licensee must comply with a requirement under subsection (1) within the time stated in the notice, unless the licensee has a reasonable excuse.

Maximum penalty for subsection (2)—40 penalty units.

# **Part 7 Conduct of approved lotteries**

## **Division 1 Ancillary and related agreements**

### **116 Ancillary lottery agreement**

- (1) An *ancillary lottery agreement* is an agreement, contract, lease or arrangement (whether written or unwritten) under which a person agrees to provide to a lottery operator a thing or service in return for a direct or indirect interest in, or percentage or share of—
  - (a) amounts received by the lottery operator in conducting approved lotteries; or
  - (b) the revenue, profit or earnings derived by the lottery operator in conducting approved lotteries.
- (2) However, an ancillary lottery agreement does not include an agency agreement or a lottery operation agreement.

- (3) A lottery operator must not enter into, or be a party to, an ancillary lottery agreement without the written approval of the Minister.

Maximum penalty for subsection (3)—40 penalty units.

### **117 Approval of ancillary lottery agreements**

- (1) A lottery operator may apply to the Minister for approval to enter into an ancillary lottery agreement.
- (2) The Minister may give the approval if the Minister considers it appropriate or desirable in all the circumstances for the lottery operator to enter into the agreement.
- (3) An approval must be in writing.

### **118 Review of related agreements**

- (1) The Minister may, by written notice given to a lottery operator, require the lottery operator to give to the Minister, within the time stated in the notice—
  - (a) the information stated in the notice about a related agreement to which the lottery operator is a party; and
  - (b) if the agreement is in writing—a copy of the agreement.
- (2) Without limiting subsection (1), the information the Minister may require to be given about the agreement includes the following—
  - (a) the names of the parties;
  - (b) a description of any property, goods or other things, or any services, supplied or to be supplied;
  - (c) the value or nature of the consideration;
  - (d) the term of the agreement.
- (3) The lottery operator must comply with the requirement within the time stated in the notice, unless the lottery operator has a reasonable excuse.

**119 Show cause notice for related agreement**

- (1) This section applies if, after considering the information given to the Minister about a related agreement and, if appropriate, the contents of the agreement, the Minister believes the continuance of the agreement—
  - (a) may jeopardise the integrity of the conduct of lotteries by the lottery operator who is a party to the agreement; or
  - (b) may affect the public interest adversely.
- (2) The Minister must give the lottery operator who is a party to the agreement a written notice (a *show cause notice*) that—
  - (a) states the Minister proposes to take action to direct the termination of the agreement (the *proposed action*); and
  - (b) states the grounds for the proposed action; and
  - (c) outlines the facts and circumstances forming the basis for the grounds; and
  - (d) invites the lottery operator to show within a stated period (the *show cause period*) why the proposed action should not be taken.
- (3) The show cause period must be a period ending at least 21 days after the notice is given.
- (4) The Minister must promptly give a copy of the show cause notice to each other person (an *interested person*) who is a party to the agreement.
- (5) An interested person may make representations about the notice to the Minister in the show cause period.
- (6) The Minister must consider all written representations (the *accepted representations*) made during the show cause period by the lottery operator or an interested person.

**120 Direction to terminate related agreement**

- (1) The Minister may direct the termination of a related agreement if, after considering the accepted representations for a show cause notice, the Minister still believes the continuance of the agreement—

- (a) may jeopardise the integrity of the conduct of lotteries by the lottery operator who is a party to the agreement;  
or
  - (b) may affect the public interest adversely.
- (2) The direction must be given by written notice to each of the parties to the agreement.
  - (3) The notice must state—
    - (a) the reason for the decision to direct the termination of the related agreement; and
    - (b) the time within which the agreement is required to be terminated.
  - (4) If the agreement is not terminated within the time stated in the notice, it is terminated at the end of the time by this Act.
  - (5) The termination of the agreement under the direction or by this Act does not affect any rights or liabilities acquired or incurred by a party to the agreement before the termination.
  - (6) The State does not incur any liability if the agreement is terminated under the direction or by this Act.
  - (7) A party to the agreement does not incur any liability for breach of the agreement because the agreement is terminated under the direction.

## **Division 2                      Operations of lottery operators and agents**

### **121      Rules**

- (1) The Minister may make rules about the following—
  - (a) classifying gaming schemes as lotteries;
  - (b) regulating the conduct of lotteries;
  - (c) regulating prizes in lotteries.
- (2) Rules are subordinate legislation.
- (3) A primary licensee may make submissions to the Minister about a rule or proposed rule.

**121A Rules to be made available**

A lottery operator must—

- (a) for each lottery stated in the lottery operator's licence—make a copy of the rules for the lottery available for public inspection, during ordinary office hours, at the lottery operator's public office; and
- (b) for each lottery for which a lottery agent of the lottery operator does anything under the agency agreement—give a copy of the rules for the lottery to the lottery agent.

Maximum penalty—40 penalty units.

**122 General responsibilities of lottery operator**

A lottery operator, in doing an act for the conduct of an approved lottery, must ensure the act is done in accordance with the rules for the lottery.

Maximum penalty—40 penalty units.

**123 Responsibility of lottery operator for acts of lottery agents**

- (1) This section applies to the doing of an act by a lottery agent for the conduct of an approved lottery by the lottery operator by whom the agent is appointed.
- (2) The lottery operator must take reasonable steps to ensure the act is done in accordance with the rules for the approved lottery.

Maximum penalty—40 penalty units.

**124 Responsibility of lottery agent for agent's acts**

A lottery agent, in doing an act for the conduct of an approved lottery by the lottery operator by whom the agent is appointed, must ensure the act is done in accordance with the rules for the approved lottery.

Maximum penalty—40 penalty units.

**125 Places of operation**

- (1) A lottery operator must not carry on the lottery operator's operations at a place other than a place that—
  - (a) the lottery operator has, by notice given to the chief executive, nominated as being the lottery operator's proposed place of operation; and
  - (b) if lottery tickets are to be sold or otherwise distributed to the public from the place—has been approved by the chief executive.

Maximum penalty—200 penalty units or 2 years imprisonment.

- (2) A lottery agent must not carry on the agent's operations at a place other than a place that—
  - (a) is of a kind prescribed under a regulation as appropriate for a lottery agent; and
  - (b) is stated in the agency agreement as the agent's place of operation.

Maximum penalty for subsection (2)—200 penalty units or 2 years imprisonment.

**125A Acceptance of entry form**

A lottery operator, in carrying on the lottery operator's operations, may accept an entry form for an approved lottery submitted to the lottery operator by phone or another form of communication.

*Example of another form of communication—*

e-mail

**126 Price of lottery tickets**

- (1) Before lottery tickets are made available for purchase, the lottery operator must obtain the chief executive's approval for the price at which the lottery tickets are to be offered for sale.
- (2) A lottery operator or lottery agent must not offer lottery tickets for sale within the State at a price other than the price approved by the chief executive.

## **Division 3                      Official supervision**

### **127      Official supervision**

The chief executive must ensure the supervision of the following—

- (a) the systems used to decide prize winners in an approved lottery to ensure the security and efficient operation of the systems;
- (b) the operation of the systems for each approved lottery;
- (c) the accuracy of the results of each approved lottery.

### **128      Presence of inspector at certain operations**

- (1) The chief executive may take action under this section to ensure the integrity of the conduct of an approved lottery.
- (2) The chief executive may by written notice given to a lottery operator direct the lottery operator not to do a stated thing in the conduct of an approved lottery unless an inspector is present.
- (3) The lottery operator must comply with the direction.

Maximum penalty for subsection (3)—40 penalty units.

## **Division 4                      Prizes**

### **129      Claims for prizes**

- (1) A claim for payment of a prize in an approved lottery may be made to the lottery operator or a lottery agent of the lottery operator.
- (2) A participant's entitlement to claim a prize in an approved lottery continues until whichever of the following happens first—
  - (a) the prize is paid;
  - (b) the end of 7 years after the closure of the lottery in which the prize is won.



- (3) The rules may provide that a person who is registered with the lottery operator for an approved lottery need not make a claim for a prize to which the person is entitled.

### **130 Payment of prizes**

- (1) If the holder of a winning lottery ticket in an approved lottery claims the prize and gives the lottery ticket to the lottery operator or a lottery agent of the lottery operator, the lottery operator must, or the agent may if authorised to do so by the agency agreement, pay the prize to the person or as directed by the person.
- (2) However, the lottery operator or agent is not required to pay a prize if there are reasonable grounds to believe that the claimant obtained the lottery ticket unlawfully or that an antecedent holder of the ticket obtained it unlawfully.
- (3) A lottery operator or a lottery agent need not inquire, and does not incur any liability for failing to inquire, into whether a person from whom a lottery ticket is received—
  - (a) is the lawful holder of the lottery ticket; or
  - (b) is a minor or otherwise under a legal disability.
- (4) A lottery operator may pay a prize to a person registered with the lottery operator whom the lottery operator believes to be entitled to the prize or as directed by the person.
- (5) A lottery operator may also pay a prize to a person if, after appropriately investigating the person's claim, having regard to the value of the prize being claimed, the lottery operator is satisfied the person is entitled to the prize even though—
  - (a) the person is not registered with the lottery operator; and
  - (b) the person does not give the lottery operator the winning lottery ticket for the prize.
- (6) Without limiting subsection (5), appropriately investigating the person's claim may include investigating all or any of the following—
  - (a) when, where and from whom the person claims to have obtained the winning lottery ticket;

- (b) whether the person can establish a pattern of buying lottery tickets at a particular time and place or on a particular day of the week;
  - (c) whether the lottery operator or lottery agent who sold the winning lottery ticket has any video or other record of the person's purchase of the ticket;
  - (d) whether the person has previously claimed a prize without holding the winning lottery ticket.
- (7) The obligation of a lottery operator to pay a prize in an approved lottery is fully complied with and discharged on payment of the prize under this Act by the lottery operator or a lottery agent of the lottery operator.

### **131 Disposal of unclaimed prizes that are property**

- (1) This section applies to a prize in an approved lottery if—
- (a) it is property other than money or lottery tickets; and
  - (b) it is not paid or collected within 3 months after the closure of the lottery.
- (2) The lottery operator—
- (a) may dispose of the property by public auction or tender or in some other way approved by the chief executive; and
  - (b) may pay for the disposal from the proceeds of sale; and
  - (c) must keep and deal with the remainder of the proceeds as if the remainder were the prize in the lottery.
- (3) On disposal of a prize under subsection (2), entitlement to the prize is converted to an entitlement to the remainder kept.

### **131A Payment of unclaimed major prizes into the Treasurer's unclaimed moneys fund**

- (1) This section applies to a prize in an approved lottery if—
- (a) it is 3 months since the closure of the lottery; and
  - (b) the prize has not been claimed by the person entitled to it; and

*Lotteries Act 1997*

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- (c) the prize has a value of at least the relevant amount.
- (2) If it is a monetary prize, the lottery operator must pay the amount of the prize to the chief executive.
- (3) If it is a non-monetary prize, the lottery operator must, as soon as practicable and in any case within 6 months after the closure of the lottery—
- (a) dispose of the prize under section 131; and
- (b) pay the amount of the proceeds, less the cost of disposal, to the chief executive.
- (4) However, the chief executive may allow a longer time for disposal of a non-monetary prize if the chief executive considers it would be reasonable to do so having regard to all the circumstances including the nature of the prize.
- (5) The chief executive must pay the amount received under subsection (2) or (3) into the Treasurer's unclaimed moneys fund.
- (6) If, after the amount is paid into the Treasurer's unclaimed moneys fund, the lottery operator is required under section 130 to pay the prize, the lottery operator may give the chief executive a written request in the approved form to be repaid the amount.
- (7) On receiving a request under subsection (6), the chief executive must—
- (a) pay the amount from the Treasurer's unclaimed moneys fund; or
- (b) if the amount has been paid into the consolidated fund under the *Financial Administration and Audit Act 1977*, section 46(3), pay the amount from the consolidated fund without further appropriation.
- (8) In this section—

***relevant amount*** means the amount, at least \$500000, prescribed under a regulation for this section.

***Treasurer's unclaimed moneys fund*** means the fund by that name kept under the *Financial Administration and Audit Act 1977*, section 46.

***value***, of a prize, means—

- (a) if it is a monetary prize consisting of 1 payment—the amount of the payment; or
- (b) if it is a monetary prize consisting of 2 or more payments—the total amount of the payments; or
- (c) if it is a non-monetary prize—the amount, or highest amount, claimed to be the prize's value by the lottery operator in promotional material or other information made publicly available for the lottery.

### **131B Payment of other unclaimed prizes into the consolidated fund**

- (1) This section applies to a prize in an approved lottery, other than a prize to which section 131A applies, if—
  - (a) it is 7 years since the closure of the lottery; and
  - (b) the prize has not been claimed by the person entitled to it; and
  - (c) the prize has not been used for a prize or additional prize, or in another way, under section 132.
- (2) If it is a monetary prize, the lottery operator must pay the amount of the prize to the chief executive.
- (3) If it is a non-monetary prize, the lottery operator must, as soon as practicable—
  - (a) dispose of the prize under section 131; and
  - (b) pay the amount of the proceeds, less the cost of disposal, to the chief executive.
- (4) The chief executive must pay the amount received under subsection (2) or (3) into the consolidated fund.

### **132 Unclaimed prizes generally**

- (1) If a prize in an approved lottery is not paid to a person who is entitled to the prize under the rules, the lottery operator must identify the prize in its accounting records as unclaimed prize money for 7 years after the closure of the lottery.
- (2) After unclaimed money has been identified under subsection (1) for 1 year, the lottery operator may use the money for a

prize or additional prize in an approved lottery or, with the approval of the chief executive, in another way.

- (3) This section does not affect a person's entitlement to claim a prize in an approved lottery for 7 years after the closure of the lottery.

### **132AA Former lottery operators**

- (1) This section applies if a person stops being a lottery operator.
- (2) This section applies in relation to the following approved lotteries conducted by the person (*relevant lotteries*)—
  - (a) a lottery that closed within 7 years before the person stopped being a lottery operator;
  - (b) another lottery for which there is any prize money that the person has not paid but is required to pay (including amounts the person is required to pay at a later time).

*Example for paragraph (b)—*

a lottery, closed 10 years ago, for which the prize consisted of a particular amount paid to the prize winner at the end of each year for 20 years

- (3) The person must pay to the chief executive the amount of all the prize money for relevant lotteries that has not been—
  - (a) paid to someone entitled to it as a prize under this Act; or
  - (b) paid to the chief executive under this Act; or
  - (c) used for a prize or additional prize, or in another way, under section 132.
- (4) If the person has used an amount for a prize or additional prize, or in another way, under section 132, the chief executive may—
  - (a) decide, on the advice of an actuary, the amount of prizes for relevant lotteries that has not yet been claimed under this Act but is likely to be claimed (the *likely claims amount*); and
  - (b) if the amount the person has paid to the chief executive is less than the likely claims amount, give the person a notice stating—

- (i) the likely claims amount; and
  - (ii) how the likely claims amount was decided; and
  - (iii) that the person must make a further payment to the chief executive to meet the likely claims amount; and
  - (iv) the day, not less than 30 days after the notice is given, by which the person must make the payment; and
  - (v) that, within 28 days after receiving the notice, the person may apply to the Commercial and Consumer Tribunal for a review of the decision about the likely claims amount; and
  - (vi) how the person may apply for the review.
- (5) The person must comply with a notice under subsection (4)(b).
- (6) A reference in subsection (3) to prize money includes an amount held after dealing with a non-monetary prize under section 131.
- (7) The person must give to the chief executive anything other than money that—
- (a) is a prize for a relevant lottery; and
  - (b) has not been given to someone entitled to it under this Act; and
  - (c) has not been dealt with under section 131.
- (8) Sections 129 to 131 apply, as if the chief executive were the lottery operator, in relation to prizes for relevant lotteries that have been paid or given to the chief executive under this section.
- (9) Amounts received by the chief executive are to be paid into the consolidated fund.
- (10) If, after an amount of a prize is paid into the consolidated fund under this section, the chief executive is required under section 130 to pay the prize, the chief executive must pay the amount from the consolidated fund without further appropriation.

**132A Relationship of provisions about unclaimed prizes with Public Trustee Act**

Sections 131 to 132AA have effect despite the *Public Trustee Act 1978*, part 8.<sup>7</sup>

**133 Approval of regulated lottery equipment**

- (1) A lottery operator may apply to the chief executive—
  - (a) for an approval for regulated lottery equipment proposed to be used in the conduct of lotteries by the lottery operator; or
  - (b) for approval to modify regulated lottery equipment used in the conduct of lotteries by the lottery operator.
- (2) The chief executive must consider the application and if, for deciding the application, the chief executive considers it is necessary for the equipment, or the equipment as proposed to be modified, to be evaluated the chief executive must—
  - (a) carry out the evaluation; or
  - (b) direct the lottery operator—
    - (i) to arrange to have the equipment evaluated by an approved evaluator; and
    - (ii) to give the chief executive a written report of the evaluation.
- (3) If the chief executive carries out an evaluation of the equipment—
  - (a) the lottery operator 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 lottery operator, the State may recover the amount from the lottery operator 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

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<sup>7</sup> *Public Trustee Act 1978*, part 8 (Unclaimed property)

- (b) the lottery operator fails to comply with a direction of the chief executive under subsection (2)(b).
- (5) If the chief executive gives an approval, the chief executive must immediately give the lottery operator written notice of the decision.
- (6) If the chief executive refuses to give an approval, the chief executive must immediately give the lottery operator an information notice for the decision.

### **134 Use of regulated lottery equipment**

- (1) A lottery operator must not use any regulated lottery equipment in conducting an approved lottery unless the equipment is approved lottery equipment.

Maximum penalty—200 penalty units.

- (2) A lottery agent must not use any regulated lottery equipment for the conduct of an approved lottery for the lottery operator by whom the agent was appointed unless the equipment is approved lottery equipment.

Maximum penalty—200 penalty units.

- (3) A lottery operator or agent must not modify approved lottery equipment unless the modification is approved by the chief executive in writing.

Maximum penalty for subsection (3)—200 penalty units.

### **134A Approved evaluators**

The Governor in Council may, under a regulation, declare an entity to be an approved entity for evaluating regulated lottery equipment.

### **135 Advertising lotteries**

A person who advertises an approved lottery must take reasonable steps to ensure that 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.

### **136 Directions about advertising**

- (1) If the chief executive reasonably believes an advertisement about a lottery does not comply with section 135, the chief executive may direct the person appearing to be responsible for authorising the advertisement to take the appropriate steps—
  - (a) to stop the advertisement being shown; 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)—20 penalty units.

### **137 Inquiries about complaints**

- (1) A lottery operator must inquire into—
  - (a) a complaint made to the lottery operator by a person about—
    - (i) the conduct of an approved lottery by the lottery operator; or
    - (ii) the operations of a lottery agent of the lottery operator relating to an approved lottery conducted by the lottery operator; or
  - (b) a complaint referred to the lottery operator by the chief executive under subsection (3).
- (2) Within 21 days after the complaint is received by, or referred to, the lottery operator, the lottery operator must give written notice of the result of the inquiry to—

- (a) the complainant; and
  - (b) if the complaint was referred to the lottery operator by the chief executive—the chief executive.
- (3) If a complaint is made to the chief executive by a person about the conduct of an approved lottery, or the operations of a lottery agent relating to an approved lottery, the chief executive must promptly—
- (a) inquire into the complaint; or
  - (b) if the chief executive believes the complaint has not previously been referred to the lottery operator who conducted the lottery and that it is appropriate to refer the complaint to the lottery operator—refer the complaint to the lottery operator.
- (4) The chief executive must promptly advise the complainant of—
- (a) the result of the chief executive’s inquiry; or
  - (b) the chief executive’s decision to refer the complaint to the lottery operator.
- (5) A complaint must—
- (a) be in writing; and
  - (b) state the complainant’s name and address; and
  - (c) give appropriate details of the complaint.

### **138 Claims for payment**

- (1) If a claim for payment of a prize in an approved lottery is made to a lottery operator, the lottery operator must—
- (a) immediately try to resolve the claim; and
  - (b) if the lottery operator is not able to resolve the claim—by written notice (a *claim result notice*) given to the claimant, promptly inform the claimant—
    - (i) of the lottery operator’s decision on the claim; and
    - (ii) that the person may, within 10 days of receiving the notice, ask the chief executive to review the decision.

- (2) If the claim is not resolved, the claimant may ask the chief executive to review the lottery operator's decision on the claim, or if the claimant has not received a claim result notice, to resolve the claim.
- (3) A request to the chief executive under subsection (2)—
  - (a) must be in the approved form; and
  - (b) if the claimant received a claim result notice—must be made within 10 days after receiving the notice.
- (4) If a request is made to the chief executive, the chief executive must deal with the request in the way prescribed under a regulation.

### **139 Reporting improper behaviour**

- (1) This section applies if a lottery operator becomes aware, or reasonably suspects, that—
  - (a) a person, by a dishonest act, has obtained a benefit for the person or another person in relation to an approved lottery conducted by the lottery operator; or
  - (b) there has been a contravention of this Act, in relation to the conduct of an approved lottery, by a lottery agent, an employee of a lottery agent or another person.
- (2) This section also applies if a lottery agent becomes aware, or reasonably suspects, that—
  - (a) a person, by a dishonest act, has obtained a benefit for the person or another person in relation to an approved lottery conducted by the lottery operator by whom the agent is appointed; or
  - (b) there has been a contravention of this Act, in relation to the conduct of an approved lottery, by an employee of the agent or by another person.
- (3) Within 3 days of becoming aware of, or suspecting, the dishonest act or contravention, the lottery operator or agent must give the chief executive a written notice advising the chief executive of all facts known to the lottery operator or agent about the matter.

Maximum penalty—200 penalty units or 2 years imprisonment.

- (4) A person must not mistreat another person because—
- (a) the other person has given, or may give, a notice under this section; or
  - (b) the person believes the other person has given, or may give, a notice under this section.

Maximum penalty—200 penalty units or 2 years imprisonment.

- (5) In this section—

*dishonest act* means fraud, misrepresentation or theft.

*mistreat* a person means—

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

## Division 5                      Lottery offences

### 140      Cheating

- (1) A person must not, in relation to an approved lottery, dishonestly obtain a benefit by—
- (a) an act, practice or scheme; or
  - (b) the use of a thing.

Maximum penalty—200 penalty units or 2 years imprisonment.

- (2) For subsection (1), a person obtains a benefit if the person obtains for the person or another person, or induces a person to deliver, give or credit to the person or another person, any money, benefit, advantage, valuable consideration or security.

**141 Forgery and deception**

- (1) A person must not—
  - (a) forge an official lottery document; or
  - (b) knowingly utter a forged official lottery document.

Maximum penalty—200 penalty units or 2 years imprisonment.
- (2) A person must not connive at the commission of an offence against subsection (1).

Maximum penalty—200 penalty units or 2 years imprisonment.
- (3) A person forges a document if the person makes a false document, knowing it to be false, with the intention that—
  - (a) it may be used or acted on to the prejudice or benefit of a person; or
  - (b) a person may, in the belief that it is genuine, be induced to do, or refrain from doing, something.
- (4) Without limiting subsection (3), a genuine document may become a false document because of—
  - (a) an alteration of the document in a material respect; or
  - (b) an addition to the body of the document in a material respect; or
  - (c) an addition of a false date, signature, attestation, seal or other material matter.
- (5) A person utters a document if the person—
  - (a) uses or deals with the document; or
  - (b) attempts to use or deal with the document; or
  - (c) induces a person to use, deal with or act on the document; or
  - (d) attempts to induce a person to use, deal with or act on the document.

**142 Impersonating certain persons**

- (1) A person must not pretend to be a lottery agent, a key person licensee or a lottery official.

Maximum penalty—200 penalty units or 2 years imprisonment.

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

Maximum penalty for subsection (2)—200 penalty units or 2 years imprisonment.

**143 Bribery**

- (1) A lottery official must not ask for, receive or obtain, or agree to receive or obtain, any money, property or benefit of any kind for the official or another person for an improper purpose.

Maximum penalty—200 penalty units or 2 years imprisonment.

- (2) A person must not give, confer or obtain, or promise or offer to give, confer or obtain, any money, property or benefit of any kind to, on or for a lottery official or another person for an improper purpose.

Maximum penalty—200 penalty units or 2 years imprisonment.

- (3) A lottery official or other person does an act mentioned in subsection (1) or (2) for an improper purpose if the official or other person does the act—

(a) for the official to forego or neglect the official's functions under this Act, or to influence the official in the performance of the official's 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 the official's functions under this Act; or

- (c) for the official to use, or take advantage of, the official's office improperly to gain a benefit or advantage for, or facilitate the commission of an offence by—
  - (i) if the act is done by the official—another person; or
  - (ii) if the act is done by another person—that person or another person.

#### **144 Participation in lotteries by lottery employees or lottery officials**

- (1) A lottery employee (whether licensed or unlicensed) or a lottery official must not participate in a lottery if directly involved in the draw, supervising the draw, or recording the results of the draw, of the lottery.

Maximum penalty—40 penalty units.

- (2) A person who participates in a lottery contrary to a prohibition under subsection (1) is disqualified from winning any prize that the person might otherwise have won.

#### **145 Key officials**

- (1) The chief executive may declare a lottery official to be a key official.
- (2) The chief executive may direct a key official—
  - (a) not to participate in lotteries; or
  - (b) not to participate in a lottery except in stated circumstances or for stated purposes; or
  - (c) not to have a financial relationship with a primary licensee or a lottery agent.
- (3) A declaration or direction—
  - (a) must be made or given by written notice given to the lottery official; and
  - (b) may only be made or given if the chief executive considers it appropriate to take the action in the public interest.

- (4) A key official must not participate in a lottery in contravention of a direction given by the chief executive under this section.

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

#### **146 Relationship of key officials with primary licensees and lottery agents**

- (1) This section applies only to a key official who has been given a direction by the chief executive not to have a financial relationship with a primary licensee or lottery agent.

- (2) A key official must not—

- (a) accept or solicit employment from a primary licensee or lottery agent; or
- (b) be an employee in any capacity of a primary licensee or lottery agent; or
- (c) knowingly have, directly or indirectly—
  - (i) a business or financial association with a primary licensee or lottery agent; or
  - (ii) a business or financial interest together with a primary licensee or lottery agent.

Maximum penalty—40 penalty units.

- (3) A person must not, for 1 year after ceasing to be a key official, without the chief executive's approval—

- (a) accept or solicit employment from a primary licensee or lottery agent; or
- (b) be an employee in any capacity of a primary licensee or lottery agent; or
- (c) knowingly have, directly or indirectly—
  - (i) a business or financial association with a primary licensee or lottery agent; or
  - (ii) a business or financial interest together with a primary licensee or lottery agent.

Maximum penalty for subsection (3)—40 penalty units.



**147 Relationship of key officials with prospective licensees**

- (1) This section applies if a key official knowingly has, directly or indirectly—
  - (a) a business or financial association with another person who is a prospective primary licensee; or
  - (b) a business or financial interest together with another person who is a prospective primary licensee.
- (2) However, this section applies only if the key official has been given a direction by the chief executive not to have a financial relationship with a primary licensee or lottery agent.
- (3) Immediately after the key official becomes aware that the other person is a prospective primary licensee, the official must give written notice of the official's association or interest to the chief executive.

Maximum penalty—40 penalty units.

- (4) The chief executive may, by written notice given to the key official, direct the official to end the association, or give up the interest, within the time stated in the notice.
- (5) However, the chief executive may give the direction only if the chief executive considers it appropriate to take the action in the public interest.
- (6) A key official to whom a direction is given must comply with the direction within the time stated in the notice.

Maximum penalty—40 penalty units.

- (7) In this section—

*prospective primary licensee* means a person who has applied for a primary licence but whose application has not yet been decided.

**148 Relationship of primary licensees and lottery agents with key officials**

- (1) This section applies only to a key official who has been given a direction by the chief executive not to have a financial relationship with a primary licensee or lottery agent.

- (2) Also, this section applies only if the primary licensee or the lottery agent knows, or ought reasonably to know, that the key official is a key official to whom this section applies.
- (3) The primary licensee or lottery agent must not—
- (a) employ the key official in any capacity; or
  - (b) knowingly have, directly or indirectly—
    - (i) a business or financial association with the key official; or
    - (ii) a business or financial interest together with the key official.

Maximum penalty—40 penalty units.

- (4) The primary licensee or lottery agent must not, for 1 year after the person ceases to be a key official, without the chief executive's approval—
- (a) employ the person in any capacity; or
  - (b) knowingly have, directly or indirectly—
    - (i) a business or financial association with the person; or
    - (ii) a business or financial interest together with the person.

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

## **149 Participation by minors prohibited**

- (1) A person involved in the conduct of an approved lottery must not accept an entry form, or money or other consideration for a lottery ticket, for the lottery from a minor.

Maximum penalty—40 penalty units.

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

**150 Obscene etc. terms prohibited**

- (1) A person must not give to a lottery operator or lottery agent—
- (a) an entry form containing a name or designation that is obscene, indecent or offensive; or
  - (b) for inclusion on an entry form a name or designation that is obscene, indecent or offensive.

Maximum penalty—20 penalty units.

- (2) A lottery operator or a lottery agent may refuse to accept an entry form, name or designation that the lottery operator or agent reasonably considers is given in contravention of subsection (1).

**151 Offences by certain persons**

- (1) Except as authorised under an agency agreement, a person (other than a lottery operator) must not—
- (a) for the person's gain or reward—
    - (i) induce anyone else to take part in an approved lottery; or
    - (ii) offer to anyone else an opportunity to take part in an approved lottery; or
    - (iii) distribute or supply entry forms for an approved lottery or lottery tickets, or cause entry forms for an approved lottery or lottery tickets to be distributed or supplied to persons other than lottery operators or agents; or
  - (b) advertise or publicly promote subscription to, or taking part in, an approved lottery.

Maximum penalty—200 penalty units.

- (2) A person must not, for an approved lottery, charge an amount for—
- (a) filling in an entry form; or
  - (b) depositing an entry form, directly or indirectly, with a lottery operator or a lottery agent; or

(c) submitting, or arranging for the submission of, an entry form to a lottery operator or a lottery agent; or

(d) collecting or distributing prizes.

Maximum penalty—200 penalty units.

(3) A person must not hold himself or herself out, by advertisement or in another way, to be available to perform a service mentioned in subsection (2).

Maximum penalty for subsection (3)—200 penalty units.

### **152 Lottery operator not to publish identity of participant in certain cases**

If a lottery participant asks a lottery operator for anonymity, the lottery operator must not publish the name, or other identifying particulars, of the participant so that it becomes or is likely to become publicly known that the person has participated, or has won or claimed a prize, in an approved lottery.

Maximum penalty—40 penalty units.

## **Part 8 Investigation and enforcement**

### **Division 1 Inspectors**

#### **Subdivision 1 Appointment of inspectors**

### **153 Appointment and qualifications**

(1) The chief executive may appoint a person as an inspector.

(2) However, a person may be appointed as an inspector only if—

(a) the person is—

(i) a public service officer or employee; or

- (ii) a member of a class of persons prescribed under a regulation; and
- (b) the chief executive is satisfied the person—
  - (i) has the necessary expertise or experience to be an inspector; or
  - (ii) has satisfactorily finished training approved by the chief executive; and
- (c) the chief executive is satisfied the person is a suitable person to be an inspector, having regard to—
  - (i) the person's character; and
  - (ii) the person's current financial position and financial background; and
  - (iii) any other matter the chief executive considers relevant to the person's suitability to be an inspector.

## **Subdivision 2 Other matters about inspectors**

### **154 Conditions and limit on powers**

- (1) An inspector holds office on any conditions stated in—
  - (a) the inspector's instrument of appointment; or
  - (b) a signed notice given to the inspector; or
  - (c) a regulation.
- (2) The instrument of appointment, a signed notice given to the inspector or a regulation may limit the inspector's powers under this Act.
- (3) In this section—  
*signed notice* means a notice signed by the chief executive.

### **155 Issue of identity card**

- (1) The chief executive must issue an identity card to each inspector.

- (2) The identity card must—
  - (a) contain a recent photo of the inspector; and
  - (b) contain a copy of the inspector's signature; and
  - (c) identify the person as an inspector under this Act; and
  - (d) state an expiry date for the card.
- (3) This section does not prevent the issue of a single identity card to a person for this Act and other purposes.

### **156 Production or display of identity card**

- (1) In exercising a power under this Act in relation to a person, an inspector must—
  - (a) produce the inspector's identity card for the person's inspection before exercising the power; or
  - (b) have the identity card displayed so it is clearly visible to the person when exercising the power.
- (2) However, if it is not practicable to comply with subsection (1), the inspector must produce the identity card for the person's inspection at the first reasonable opportunity.
- (3) For subsection (1), an inspector does not exercise a power in relation to a person only because the inspector has entered a place as mentioned in section 158(a) or (d).

### **157 When inspector ceases to hold office**

- (1) An inspector ceases to hold office if any of the following happens—
  - (a) the term of office stated in a condition of office ends;
  - (b) under another condition of office, the inspector ceases to hold office;
  - (c) the inspector's resignation under section 157A takes effect.
- (2) Subsection (1) does not limit the ways an inspector may cease to hold office.
- (3) In this section—

*condition of office* means a condition on which the inspector holds office.

### **157A Resignation**

An inspector may resign by signed notice given to the chief executive.

### **157B Return of identity card**

A person who ceases to be an inspector must return the person's identity card to the chief executive immediately after ceasing to be an inspector unless the person has a reasonable excuse.

Maximum penalty—40 penalty units.

## **Subdivision 3      Audit program and report about criminal history**

### **157C Audit program**

- (1) The Minister may approve an audit program for investigating inspectors.
- (2) The chief executive may investigate an inspector under an approved audit program to help the chief executive decide whether the inspector is a suitable person to be an inspector, having regard to—
  - (a) the inspector's character; and
  - (b) the inspector's current financial position and financial background; and
  - (c) any other matter the chief executive considers relevant to the person's suitability to be an inspector.
- (3) However, the chief executive may investigate an inspector under subsection (2) only once every 2 years, unless the chief executive reasonably suspects the inspector is not a suitable person to be an inspector having regard to the matters mentioned in subsection (2).

- (4) The chief executive must ensure the investigation is conducted under the approved audit program.
- (5) In this section—  
*approved audit program* means an audit program approved by the Minister under subsection (1).

### **157D Report about criminal history**

- (1) To help decide whether a person is a suitable person to be an inspector or continue as an inspector, the chief executive may ask the commissioner of the police service for a written report about the person's criminal history.
- (2) If asked by the chief executive, the commissioner of the police service must give the chief executive a written report about the criminal history of the person.
- (3) The duty imposed on the commissioner of the police service applies only to information in the commissioner's possession or to which the commissioner has access.

## **Division 2 Powers of inspectors**

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

#### **158 Entry without consent or warrant**

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

- (a) a public place; or
- (b) a place where a lottery is being, or is about to be, conducted under a lottery operator's licence; or
- (c) a place where a primary licensee or a lottery agent carries on business at any time when the place is open for carrying on business or otherwise open for entry; or
- (d) the land around premises to ask its occupier for consent to enter the premises.



**159 Entry with consent or warrant**

Unless an inspector is authorised to enter a place under section 158, an inspector may enter a place only if—

- (a) its occupier consents to the entry; or
- (b) the entry is authorised by a warrant.

**Subdivision 2 Consents and warrants for entry****160 Consent to entry**

- (1) This section applies if an inspector intends to ask an occupier of a place to consent to the inspector or another inspector entering the place.
- (2) Before asking for the consent, the inspector must tell the occupier—
  - (a) the purpose of the entry; and
  - (b) that the occupier is not required to consent.
- (3) If the consent is given, the inspector may ask the occupier to sign an acknowledgment of the consent (a *consent acknowledgment*).
- (4) The acknowledgment must state—
  - (a) the occupier has been told—
    - (i) the purpose of the entry; and
    - (ii) that the occupier is not required to consent; and
  - (b) the purpose of the entry; and
  - (c) the occupier gives the inspector consent to enter the place and exercise powers under this part; and
  - (d) the time and date the consent was given.
- (5) If the occupier signs a consent acknowledgment, the inspector must promptly give a copy to the occupier.

**161 Evidence of consent**

- (1) Subsection (2) applies if—
  - (a) an issue arises in a court proceeding whether the occupier of a place consented to an inspector entering the place under this part; and
  - (b) a consent acknowledgment is not produced in evidence for the entry; and
  - (c) it is not proved the occupier consented to the entry.
- (2) The court may presume the occupier did not consent.

**162 Application for warrant**

- (1) An inspector may apply to a magistrate for a warrant for a place.
- (2) The application must be sworn and state the grounds on which the warrant is sought.
- (3) The magistrate may refuse to consider the application until the inspector gives the magistrate all the information the magistrate requires about the application in the way the magistrate requires.

*Example—*

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

**163 Issue of warrant**

- (1) The magistrate may issue a warrant only if the magistrate is satisfied there are reasonable grounds for suspecting—
  - (a) there is a particular thing or activity (the *evidence*) that may provide evidence of an offence against this Act; and
  - (b) the evidence is at the place, or may be at the place, within the next 7 days.
- (2) The warrant must state—
  - (a) that a stated inspector may, with necessary and reasonable help and force, enter the place and exercise the inspector's powers under this part; and

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

### 164 Special warrants

- (1) An inspector may apply for a warrant (a *special warrant*) by phone, fax, radio or another form of communication if the inspector considers it necessary because of—
  - (a) urgent circumstances; or
  - (b) other special circumstances, including, for example, the inspector's remote location.
- (2) Before applying for the warrant, the inspector must prepare an application stating the grounds on which the warrant is sought.
- (3) The inspector may apply for the warrant before the application is sworn.
- (4) After issuing the warrant, the magistrate must promptly fax a copy to the inspector if it is reasonably practicable to fax the copy.
- (5) If it is not reasonably practicable to fax a copy to the inspector—
  - (a) the magistrate must tell the inspector—
    - (i) what the terms of the warrant are; and
    - (ii) the date and time the warrant was issued; and
  - (b) the inspector must complete a form of warrant (a *warrant form*) and write on it—
    - (i) the magistrate's name; and
    - (ii) the date and time the magistrate issued the warrant; and
    - (iii) the terms of the warrant.

- (6) The facsimile warrant, or the warrant form properly completed by the inspector, authorises the entry and the exercise of the other powers stated in the warrant issued by the magistrate.
- (7) The inspector must, at the first reasonable opportunity, send to the magistrate—
  - (a) the sworn application; and
  - (b) if the inspector completed a warrant form—the completed warrant form.
- (8) On receiving the documents, the magistrate must attach them to the warrant.

### **165 Evidence about special warrants**

- (1) Subsection (2) applies if—
  - (a) an issue arises in a court proceeding whether a power exercised by an inspector was not authorised by a special warrant; and
  - (b) the warrant is not produced in evidence.
- (2) The court must presume the exercise of the power was not authorised by a special warrant, unless the contrary is proved.

## **Subdivision 3 General powers**

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

- (1) This section applies to an inspector who enters a place.
- (2) However, if an inspector enters a place to get the occupier's consent to enter premises, this section applies to the inspector only if the consent is given or the entry is otherwise authorised.
- (3) For monitoring or enforcing compliance with this Act, the inspector may—
  - (a) search any part of the place; or
  - (b) inspect, measure, test, photograph or film any part of the place or anything at the place; or

- (c) take a thing, or a sample of or from a thing, at the place for analysis or testing; or
  - (d) copy a document at the place; or
  - (e) access, electronically or in some other way, a system used at the place for conducting a lottery or other gaming scheme or for administrative purposes related to the conduct of a lottery or other gaming scheme; or
  - (f) take into or onto the place any person, equipment and materials the inspector reasonably requires for exercising a power under this part; or
  - (g) require the occupier of the place, or a person at the place, to give the inspector reasonable help to exercise the inspector's powers under paragraphs (a) to (f); or
  - (h) require the occupier of the place, or a person at the place, to give the inspector information to help the inspector ascertain whether this Act is being complied with.
- (4) When making a requirement mentioned in subsection (3)(g) or (h), the inspector must warn the person it is an offence to fail to comply with the requirement, unless the person has a reasonable excuse.

### **167 Failure to help inspector**

- (1) A person required to give reasonable help under section 166(3)(g) must comply with the requirement, unless the person has a reasonable excuse.

Maximum penalty—40 penalty units.

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

**168 Failure to give information**

- (1) A person of whom a requirement is made under section 166(3)(h) must comply with the requirement, unless the person has a reasonable excuse.

Maximum penalty—40 penalty units.

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

**Subdivision 4 Power to seize evidence****170 Seizing evidence at place that may be entered without consent or warrant**

An inspector who enters a place that may be entered under this part without the consent of the occupier and without a warrant, may seize a thing at the place if the inspector reasonably believes the thing is evidence of an offence against this Act.

**171 Seizing evidence at places that may only be entered with consent or warrant**

- (1) This section applies if—
  - (a) an inspector is authorised to enter a place under this part only with the consent of the occupier or a warrant; and
  - (b) the inspector enters the place after obtaining the necessary consent or warrant.
- (2) If the inspector enters the place with the occupier's consent, the inspector may seize a thing at the place if—
  - (a) the inspector reasonably believes the thing is evidence of an offence against this Act; and
  - (b) seizure of the thing is consistent with the purpose of entry as told to the occupier when asking for the occupier's consent.
- (3) If the inspector enters the place with a warrant, the inspector may seize the evidence for which the warrant was issued.

- (4) The inspector may also seize anything else at the place if the inspector reasonably believes—
- (a) the thing is evidence of an offence against this Act; and
  - (b) the seizure is necessary to prevent the thing being—
    - (i) hidden, lost or destroyed; or
    - (ii) used to continue, or repeat, the offence.
- (5) Also, the inspector may seize a thing at the place if the inspector reasonably believes it has just been used in committing an offence against this Act.

### **172 Securing things after seizure**

Having seized a thing, an inspector may—

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

*Examples of restricting access to a thing—*

- 1 sealing a thing and marking it to show access to it is restricted
- 2 sealing the entrance to a room where the thing is situated and marking it to show access is restricted

### **173 Tampering with things subject to seizure**

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

Maximum penalty—40 penalty units.

### **174 Powers to support seizure**

- (1) To enable a thing to be seized, an inspector may require the person in control of it—
- (a) to take it to a stated reasonable place by a stated reasonable time; and

- (b) if necessary, to remain in control of it at the stated place for a reasonable time.
- (2) The requirement—
  - (a) must be made by notice in the approved form; or
  - (b) if for any reason it is not practicable to give the notice, may be made orally and confirmed by notice in the approved form as soon as practicable.
- (3) A person of whom a requirement is made must comply with the requirement, unless the person has a reasonable excuse.  
Maximum penalty—40 penalty units.
- (4) A further requirement may be made under this section about the same thing if it is necessary and reasonable to make the further requirement.

### **175 Receipts to be given on seizure**

- (1) As soon as practicable after an inspector seizes a thing, the inspector must give a receipt for it to the person from whom it was seized.
- (2) However, if for any reason it is not practicable to comply with subsection (1), the inspector must leave the receipt at the place of seizure in a conspicuous position and in a reasonably secure way.
- (3) The receipt must describe generally each thing seized and its condition.
- (4) This section does not apply to a thing if it is impracticable or would be unreasonable to give the receipt (given the thing's nature, condition and value).

### **176 Forfeiture**

- (1) A thing that has been seized under this part is forfeited to the State if the inspector who seized the thing—
  - (a) can not find its owner, after making reasonable inquiries; or
  - (b) can not return it to its owner, after making reasonable efforts; or



- (c) reasonably believes it is necessary to retain the thing to prevent it being used to commit an offence against this Act.
- (2) In applying subsection (1)—
    - (a) subsection (1)(a) does not require the inspector to make inquiries if it would be unreasonable to make inquiries to find the owner; and
    - (b) subsection (1)(b) does not require the inspector to make efforts if it would be unreasonable to make efforts to return the thing to its owner.
  - (3) If the inspector decides to forfeit a thing under subsection (1)(c), the inspector must tell the owner of the decision by written notice.
  - (4) Subsection (3) does not apply if—
    - (a) the inspector can not find the owner, after making reasonable inquiries; or
    - (b) it is impracticable or would be unreasonable to give the notice.
  - (5) The notice must state—
    - (a) the reasons for the decision; and
    - (b) that the owner may appeal against the decision to the Gaming Commission within 28 days; and
    - (c) how the appeal may be made; and
    - (d) that the owner may apply for a stay of the decision if the owner appeals against the decision.
  - (6) Regard must be had to a thing's nature, condition and value—
    - (a) in deciding—
      - (i) whether it is reasonable to make inquiries or efforts; and
      - (ii) if making inquiries or efforts—what inquiries or efforts are reasonable; or
    - (b) in deciding whether it would be unreasonable to give notice about a thing.

**177 Return of things that have been seized**

- (1) If a thing has been seized but not forfeited, the inspector must return it to its owner—
  - (a) at the end of 6 months; or
  - (b) if a proceeding for an offence involving the thing is started within 6 months—at the end of the proceeding and any appeal from the proceeding.
- (2) Despite subsection (1), unless the thing has been forfeited, the inspector must promptly return a thing seized as evidence to its owner if the inspector stops being satisfied its continued retention as evidence is necessary.

**178 Access to things that have been seized**

- (1) Until a thing that has been seized is forfeited or returned, an inspector must allow its owner to inspect it and, if it is a document, to copy it.
- (2) Subsection (1) does not apply if it is impracticable or would be unreasonable to allow the inspection or copying.

**Subdivision 5 Power to give directions****179 Direction to stop using thing**

- (1) This section applies if an inspector reasonably believes—
  - (a) a thing used in the conduct of approved lotteries is unsatisfactory for the purpose for which it is used; and
  - (b) the continued use of the thing may—
    - (i) jeopardise the integrity of the conduct of approved lotteries; 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, in the conduct of approved lotteries.

**180 Requirements about stop directions**

- (1) A direction given to a person under section 179 (a *stop direction*) may be given orally or by written notice (a *stop notice*).
- (2) 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.
- (3) A stop direction may be given for a thing at a place occupied by a primary licensee, a lottery agent or other person involved in the conduct of an approved lottery.
- (4) A stop direction does not apply to a use of the thing carried out for repairing or testing the thing.
- (5) A stop notice must state—
  - (a) the grounds on which the inspector believes the thing is unsatisfactory; and
  - (b) the circumstances (if any) under which the stop direction may be cancelled.

**181 Failure to comply with stop direction**

A person to whom a stop direction is given must comply with the direction.

Maximum penalty—40 penalty units.

**181A Direction about conduct of approved lottery**

- (1) This section applies to an inspector who is supervising a matter mentioned in section 127<sup>8</sup> for an approved lottery.
- (2) The inspector may direct the lottery licensee or lottery operator for the approved lottery to take reasonable action, within the reasonable period stated by the inspector, to ensure the lottery is conducted in a way that does not jeopardise the integrity of the conduct of the approved lottery.
- (3) The direction may be given orally or by written notice.

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8 Section 127 (Official supervision)

- (4) If the direction is given orally, it must be confirmed by written notice given to the licensee or lottery operator as soon as practicable.
- (5) The lottery licensee or lottery operator must comply with the direction unless the licensee or lottery operator has a reasonable excuse.

Maximum penalty—100 penalty units.

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

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

- (1) This section applies if—
  - (a) an inspector finds a person committing an offence against this Act; or
  - (b) an inspector finds a person in circumstances that lead, or has information that leads, the inspector reasonably to suspect the person has just committed an offence against this Act.
- (2) The inspector may require the person to state the person's name and residential address.
- (3) When making the requirement, the inspector must warn the person that it is an offence to fail to state the person's name or residential address, unless the person has a reasonable excuse.
- (4) The inspector may require the person to give evidence of the correctness of the stated name or residential address if the inspector reasonably suspects the stated name or address to be false.
- (5) A requirement under subsection (2) or (4) is called a *personal details requirement*.

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

- (1) A person of whom a personal details requirement is made must comply with the requirement, unless the person has a reasonable excuse.

Maximum penalty—40 penalty units.

- (2) A person does not commit an offence against subsection (1) if—
- (a) the person was required to state the person's name and residential address by an inspector who suspected the person had committed an offence against this Act; and
  - (b) the person is not proved to have committed the offence.

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

- (1) An inspector may require a person to make available for inspection by an inspector, or produce to the inspector for inspection, at a reasonable time and place nominated by the inspector—
- (a) a document issued to the person under this Act; or
  - (b) a document required to be kept by the person under this Act; or
  - (c) if the person is a lottery licensee—a document kept by the licensee about the licensee's operations under the lottery licence; or
  - (d) if the person is a lottery operator—a document kept by the lottery operator about the conduct of lotteries by the lottery operator; or
  - (e) if the person is a lottery agent—a document kept by the agent about the conduct of lotteries by the lottery operator by whom the agent is appointed.
- (2) The inspector may keep the document to copy it.
- (3) If the inspector copies the document, or an entry in the document, the inspector may require the person responsible for keeping the document to certify the copy as a true copy of the document or entry.
- (4) The inspector must return the document to the person as soon as practicable after copying it.
- (5) However, if a requirement (a *document certification requirement*) is made of a person under subsection (3), the inspector may keep the document until the person complies with the requirement.

- (6) A requirement under subsection (1) is called a *document production requirement*.

### **186 Failure to produce document**

- (1) A person of whom a document production requirement is made must comply with the requirement, unless the person has a reasonable excuse.

Maximum penalty—40 penalty units.

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

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

A person of whom a document certification requirement is made must comply with the requirement, unless the person has a reasonable excuse.

Maximum penalty—40 penalty units.

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

- (1) An inspector may require a person, or an executive officer of a corporation, of whom a document production requirement has been made to attend before the inspector to answer questions or give information about the document to which the document production requirement relates.
- (2) An inspector may require any of the following persons to attend before the inspector to answer questions or give information about the operations of a primary licensee conducted under a primary licence—
- (a) the licensee or, if the licensee is a corporation, an executive officer of the licensee;
  - (b) a licensed employee employed by the licensee;
  - (c) if the licensee is a lottery operator—a lottery agent appointed by the lottery operator or, if the lottery agent is a corporation, an executive officer of the corporation;

- (d) an employee of a lottery agent mentioned in paragraph (c);
  - (e) another person associated with the operations or management of—
    - (i) the licensee; or
    - (ii) a lottery agent mentioned in paragraph (c).
- (3) An inspector may require any of the following persons to attend before the inspector to answer questions or give information about a lottery agent's operations for the conduct of an approved lottery by the lottery operator by whom the agent is appointed—
- (a) the lottery agent or, if the agent is a corporation, an executive officer of the agent;
  - (b) an employee of the lottery agent;
  - (c) the lottery operator or, if the lottery operator is a corporation, an executive officer of the corporation;
  - (d) another person associated with the operations or management of—
    - (i) the lottery agent; or
    - (ii) the lottery operator.
- (4) A requirement made of a person under this section must—
- (a) be made by written notice given to the person; and
  - (b) state a reasonable time and place for the person's attendance.
- (5) When making the requirement, the inspector must warn the person that it is an offence to fail to comply with the requirement, unless the person has a reasonable excuse.

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

- (1) A person of whom a requirement is made under section 188 must not, unless the person has a reasonable excuse—
- (a) fail to attend before the inspector at the time and place stated in the notice imposing the requirement; or
  - (b) when attending before the inspector—

- (i) fail to comply with a requirement to answer a question or give information; or
- (ii) state anything the person knows to be false or misleading in a material particular.

Maximum penalty—40 penalty units.

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

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

- (1) This section applies to a person who is the manager or other principal officer at a place of business of a financial institution at which—
  - (a) a primary licensee keeps an account in relation to the licensee's operations under a primary licence; or
  - (b) a lottery agent keeps an account in relation to the agent's operations.
- (2) An inspector may, by written notice given to the person, require the person to give to the inspector, within the time (not less than 7 days) stated in the notice—
  - (a) a statement of account for the account; or
  - (b) copies of cheques or other records relevant to the account; or
  - (c) other particulars or documents relevant to the account stated in the notice.
- (3) An inspector may make a requirement under subsection (2) (*financial records requirement*) only with the written approval of the chief executive.

### **191 Effect of compliance with financial records requirement**

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



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

### **192 Failure to comply with financial records requirement**

A person of whom a financial records requirement is made must comply with the requirement within the time stated in the relevant notice, unless the person has a reasonable excuse.

Maximum penalty—40 penalty units.

## **Division 3 Powers of Minister**

### **193 Direction about management practice**

- (1) This section applies if the Minister reasonably believes—
  - (a) the management, supervision or control of a part of a primary licensee's or lottery agent's operations (the *management practice*) is unsatisfactory; and
  - (b) the management practice may—
    - (i) compromise proper standards of integrity in the conduct of approved lotteries stated in the primary licence; or
    - (ii) adversely affect the public interest in some other way.
- (2) The Minister may direct the primary licensee or the lottery agent to stop, or change, the management practice.
- (3) The direction must—
  - (a) be in writing; and
  - (b) state the grounds on which the Minister believes the management practice is unsatisfactory; and
  - (c) if the person is required to change the management practice—clearly describe how the practice is to be changed; and

- (d) state when the person is required to comply with the direction.
- (4) A person to whom a direction is given must comply with the direction, unless the person has a reasonable excuse.  
Maximum penalty for subsection (4)—40 penalty units.

## **Division 4                    General enforcement matters**

### **194    Forfeiture on conviction**

- (1) On 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) The court may make any order to enforce the forfeiture it considers appropriate.
- (4) This section does not limit the court's powers under the *Penalties and Sentences Act 1992* or another law.

### **195    Dealing with forfeited things**

- (1) On the forfeiture of a thing to the State, the thing becomes the State's property and may be dealt with by the chief executive as the chief executive considers appropriate.
- (2) Without limiting subsection (1), the chief executive may destroy the thing.

### **196    Notice of damage**

- (1) This section applies if—

- (a) an inspector damages something when exercising or purporting to exercise a power; or
  - (b) a person (the *other person*) acting under the direction of an inspector damages something.
- (2) The inspector must promptly give written notice of particulars of the damage to the person who appears to the inspector to be the owner of the thing.
  - (3) If the inspector believes the damage was caused by a latent defect in the thing or circumstances beyond the inspector's or other person's control, the inspector may state that belief in the notice.
  - (4) If, for any reason, it is impracticable to comply with subsection (2), the inspector must leave the notice in a conspicuous position and in a reasonably secure way where the damage happened.
  - (5) This section does not apply to damage the inspector reasonably considers trivial.
  - (6) In this section—  
*owner*, of a thing, includes the person in possession or control of it.

## 197 Compensation

- (1) A person may claim compensation from the State if the person incurs loss or expense because of the exercise or purported exercise of a power under any of the following subdivisions of division 2<sup>9</sup>—
  - subdivision 1 (Power to enter places)
  - subdivision 3 (General powers)
  - subdivision 4 (Power to seize evidence)
  - subdivision 6 (Power to obtain information).
- (2) Without limiting subsection (1), compensation may be claimed for loss or expense incurred in complying with a requirement made of the person under the subdivision.

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9 Division 2 (Powers of inspectors)

- (3) Compensation may be claimed and ordered in a proceeding—
  - (a) brought in a court with jurisdiction in proceedings for the recovery of the amount of compensation claimed; or
  - (b) for an offence against this Act brought against the person claiming compensation.
- (4) A court may order compensation to be paid only if it is satisfied it is just to make the order in the circumstances of the particular case.
- (5) A regulation may prescribe matters that may, or must, be taken into account by the court when considering whether it is just to make the order.

## **198 Protecting officials from liability**

- (1) In this section—

*official* means—

  - (a) the Minister; or
  - (b) the chief executive; or
  - (c) an inspector; or
  - (d) a person acting under the direction of an inspector.
- (2) An official is not civilly liable for an act done, or omission made, honestly and without negligence under this Act.
- (3) If subsection (2) prevents a civil liability attaching to an official, the liability attaches instead to the State.

## **Division 5 General enforcement offences**

### **199 False or misleading statements**

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

Maximum penalty—40 penalty units.
- (2) It is enough for a complaint for an offence against subsection (1) to state that the statement made was false or misleading to the person's knowledge.

**200 False, misleading or incomplete documents**

- (1) A person must not give an inspector a document containing information the person knows to be false, misleading or incomplete in a material particular.

Maximum penalty—40 penalty units.

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

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

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

Maximum penalty—40 penalty units.

- (4) It is enough for a complaint for an offence against subsection (1) or (3) to state that the document or entry was false, misleading or incomplete to the person's knowledge.

**201 Obstructing inspectors**

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

Maximum penalty—40 penalty units.

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

- (a) it is an offence to obstruct the inspector, unless the person has a reasonable excuse; and
- (b) the inspector considers the person's conduct an obstruction; and
- (c) if the person continues to obstruct the inspector, the inspector may ask a police officer to help the inspector exercise the power.

## **Part 9                      Legal proceedings**

### **Division 1                Evidence**

#### **203      Application of division**

This division applies to a proceeding under this Act.

#### **204      Appointments and authority**

It is not necessary to prove—

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

#### **205      Signatures**

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

#### **206      Evidentiary aids**

- (1) A certificate purporting to be signed by the chief executive stating any of the following matters is evidence of the matter—
  - (a) a stated document is one of the following things made, given, issued or kept under this Act—
    - (i) an appointment, approval or decision;
    - (ii) a notice, direction or requirement;
    - (iii) a licence;
    - (iv) a record, or an extract from a record;
  - (b) a stated document is another document kept under this Act;

- (c) a stated document is a copy of a thing mentioned in paragraph (a) or (b);
  - (d) on a stated day, or during a stated period, a stated person was or was not the holder of a licence;
  - (e) on a stated day, or during a stated period, a licence—
    - (i) was or was not in force; or
    - (ii) was or was not subject to a stated condition;
  - (f) on a stated day, a licence was suspended for a stated period or cancelled;
  - (g) on a stated day, or during a stated period, a stated appointment (including a person's appointment as an inspector under a gaming Act) or a stated approval was, or was not, in force for a stated person or thing;
  - (h) on a stated day, a stated person was given a stated notice or direction under this Act;
  - (i) on a stated day, a stated requirement was made of a stated person;
  - (j) a stated amount is payable under this Act by a stated person and has not been paid;
  - (k) anything else prescribed under a regulation.
- (2) In this section—

*licence* means a lottery licence, lottery operator's licence or a key person licence.

## Division 2                      Proceedings

### 207      Indictable and summary offences

- (1) An offence against section 140, 141, or 143<sup>10</sup> is an indictable offence.
- (2) Any other offence against this Act is a summary offence.

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<sup>10</sup> Section 140 (Cheating), 141 (Forgery and deception) or 143 (Bribery)

**208 Proceedings for indictable offences**

- (1) A proceeding for an indictable offence against this Act may be taken, at the election of the prosecution—
  - (a) by way of summary proceedings under the *Justices Act 1886*; or
  - (b) on indictment.
- (2) A magistrate must not hear an indictable offence summarily if—
  - (a) the defendant asks at the start of the hearing that the charge be prosecuted on indictment; or
  - (b) the magistrate considers the charge should be prosecuted on indictment.
- (3) If subsection (2) applies—
  - (a) the magistrate must proceed by way of an examination of witnesses for an indictable offence; and
  - (b) a plea of the person charged at the start of the proceedings must be disregarded; and
  - (c) evidence brought in the proceedings before the magistrate decided to act under subsection (2) is taken to be evidence in the proceeding for the committal of the person for trial or sentence; and
  - (d) before committing the person for trial or sentence, the magistrate must make a statement to the person as required by the *Justices Act 1886*, section 104(2)(b).<sup>11</sup>
- (4) The maximum penalty that may be summarily imposed for an indictable offence is 165 penalty units.

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

- (1) A proceeding must be before a magistrate if it is a proceeding—

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<sup>11</sup> *Justices Act 1886*, section 104 (Proceedings upon an examination of witnesses in relation to an indictable offence)



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

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

A proceeding for an offence against this Act by way of summary proceeding under the *Justices Act 1886* may start at any time but if started more than 1 year after the commission of the offence must start within 6 months after the offence comes to the complainant's knowledge.

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

- (1) In this section—
- representative* means—
- (a) of a corporation—an executive officer, employee or agent of the corporation; or
  - (b) of an individual—an employee or agent of the individual.
- state of mind* of a person includes—
- (a) the person's knowledge, intention, opinion, belief or purpose; and
  - (b) the person's reasons for the intention, opinion, belief or purpose.
- (2) Subsections (3) and (4) apply in a proceeding for an offence against this Act.
- (3) If it is relevant to prove a person's state of mind about a particular act or omission, it is enough to show—

- (a) the act was done or omitted to be done by a representative of the person within the scope of the representative's actual or apparent authority; and
  - (b) the representative had the state of mind.
- (4) An act done or omitted to be done for a person by a representative of the person within the scope of the representative's actual or apparent authority is taken to have been done or omitted to be done also by the person, unless the person proves the person could not, by the exercise of reasonable diligence, have prevented the act or omission.

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

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

Maximum penalty for subsection (2)—the penalty for the contravention of the provision by an individual.

- (3) Evidence that the corporation has been convicted of an offence against a provision of this Act is evidence that each of the executive officers committed the offence of failing to ensure that the corporation complies with the provision.
- (4) However, it is a defence for an executive officer to prove—
  - (a) if the officer was in a position to influence the conduct of the corporation in relation to the offence—the officer exercised reasonable diligence to ensure the corporation complied with the provision; or
  - (b) the officer was not in a position to influence the conduct of the corporation in relation to the offence.

## **213 Attempts to commit offences**

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

- (2) The maximum penalty for an attempt is one-half the maximum penalty for the completed offence.
- (3) The Criminal Code, section 4<sup>12</sup> applies to subsection (1).

## **Part 10                      Appeals**

### **214      Appeals by lottery operators**

A lottery operator may appeal to the Gaming Commission against a decision of the chief executive mentioned in schedule 2, part 1.

### **215      Appeals by applicants for key person licences**

An applicant for a key person licence may appeal to the Gaming Commission against a decision of the chief executive under section 48<sup>13</sup> to refuse to grant the application.

### **216      Appeals by licensees under key person licences**

A licensee under a key person licence may appeal to the Gaming Commission against a decision of the chief executive mentioned in schedule 2, part 2.

### **217      Appeals by lottery agents**

A lottery agent may appeal to the Gaming Commission against a decision of the chief executive mentioned in schedule 2, part 3.

### **218      Appeals by other persons**

- (1) Within 28 days after receiving a notice under section 132AA(4)(b), a person may may apply to the Commercial and

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12      Criminal Code, section 4 (Attempts to commit offences)

13      Section 48 (Consideration of application)

Consumer Tribunal for a review of the decision under section 132AA(4)(a).

- (2) The owner of a thing seized by an inspector may appeal to the Gaming Commission against a decision of an inspector under section 176<sup>14</sup> to forfeit the thing.

## **220 Starting appeal**

- (1) An appeal to the Gaming Commission is started by—
  - (a) filing a written notice of appeal with the registrar of the Gaming Commission; and
  - (b) serving a copy of the notice on the person (the *decision maker*) who made the decision appealed against.
- (2) The notice of appeal must be—
  - (a) accompanied by the fee prescribed under a regulation; and
  - (b) filed within 28 days after the appellant receives notice of the decision.
- (3) The Gaming Commission may at any time extend the period for filing the notice of appeal.
- (4) The notice of appeal must state fully the grounds of the appeal and the facts relied on.

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

- (1) The Gaming Commission may grant a stay of the operation of a decision appealed against to secure the effectiveness of the appeal.
- (2) A stay—
  - (a) may be given on conditions the Gaming Commission considers appropriate; and
  - (b) operates for the period fixed by the commission; and
  - (c) may be revoked or amended by the commission.

- (3) The period of a stay under this section must not extend past the time when the Gaming Commission decides the appeal.
- (4) An appeal against a decision affects the decision, or carrying out of the decision, only if the decision is stayed.

## **222 Hearing procedures**

- (1) In deciding an appeal, the Gaming Commission—
  - (a) has the same powers as the decision maker; and
  - (b) is not bound by the rules of evidence; and
  - (c) must comply with natural justice; and
  - (d) may hear the appeal in public or in private.
- (2) An appeal is by way of rehearing.

## **222A Power to gather evidence**

- (1) The Gaming 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, relating to an appeal mentioned in the notice.
- (2) The answers to questions given in response to a notice under subsection (1)(a) must, if the notice so requires, be verified by statutory declaration.
- (3) A person must not, without reasonable excuse—
  - (a) fail to comply with a requirement of a notice under this section; or
  - (b) if appearing for examination before the Gaming 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 (1)(b).

Maximum penalty—40 penalty units.

- (4) A member of the Gaming Commission may administer an oath or affirmation to a person appearing before the commission for examination.
- (5) It is a reasonable excuse for a person to fail to comply with a requirement to answer a question or produce a document if complying with the requirement might tend to incriminate the person.

## **223 Powers of Gaming Commission**

- (1) In deciding an appeal, the Gaming Commission may—
  - (a) confirm the decision; or
  - (b) set aside the decision and substitute another decision; or
  - (c) set aside the decision and return the issue to the decision maker with the directions the commission considers appropriate.
- (2) If the Gaming Commission substitutes another decision, the substituted decision is, for this Act (other than this part) taken to be the decision maker's decision.

### **223A Notice of decision**

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

## **224 Appeals to District Court**

An appeal to the District Court from a decision of the Gaming Commission may be made only on a question of law.



(6) In this section—

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

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

## **225A Golden Casket Lottery Corporation Limited exemption from application of Freedom of Information Act 1992**

(1) The *Freedom of Information Act 1992* does not apply to a document received or brought into existence by the Golden Casket Lottery Corporation Limited ACN 078 785 449 (the ***corporation***) in carrying out its excluded activities before the commencement of section 228D.<sup>15</sup>

(2) For subsection (3), definition *excluded activities*, paragraph (a), a regulation may declare the activities of the corporation that are taken to be, or are taken not to be, activities conducted on a commercial basis.

(3) In this section—

***excluded activities*** means—

- (a) activities conducted on a commercial basis; or
- (b) community service obligations, within the meaning of the *Government Owned Corporations Act 1993*, that are prescribed under a regulation.

## **226 Delegations**

(1) The Minister may delegate the Minister's powers under this Act to—

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

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<sup>15</sup> Section 228D (GCLC stops being a company GOC)



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

(3) In this section—

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

*Example of standing—*

a person's classification level in the public service

## **227 Approval of forms**

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

## **228 Regulation-making power**

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

(2) A regulation may—

(a) be about fees; or

(b) impose a penalty of no more than 20 penalty units for contravention of a regulation.

# **Part 11A Transaction involving GCLC**

## **Division 1 Preliminary**

### **228A Definitions for pt 11A**

In this part—

*commencement day* means the day this part commences.

*constitution* see the Corporations Act, section 9.

*current lottery licence*, of GCLC, means the lottery licence held by GCLC immediately before the commencement day.

**GCLC** means Golden Casket Lottery Corporation Limited ACN 078 785 449.

**GCLC company** means—

- (a) GCLC; or
- (b) a subsidiary of GCLC other than Bounty Limited ACN 096 276 292.

**mandatory constitutional requirements** means—

- (a) the requirement under section 228K that a GCLC company must have a constitution at all times; and
- (b) the requirements under section 228K about what must be in a GCLC company's constitution at all times.

**share** means a share in the share capital of a body corporate.

**State company** means Queensland Lottery Corporation Pty Ltd ACN 124 921 311.

**subsidiary** see the Corporations Act, section 9.

**transaction** means the transaction mentioned in section 228B.

## **228B Object**

The object of this part is to facilitate a transaction comprising the following—

- (a) GCLC stops being a company GOC;
- (b) the shares in GCLC are transferred;
- (c) GCLC's current lottery licence ends;
- (d) a lottery licence is issued to the State company;
- (e) a lottery operator's licence is issued to GCLC;
- (f) the State company and GCLC enter into an agreement which is approved as a lottery operation agreement;
- (g) the State company starts operating as a lottery licensee;
- (h) GCLC starts operating as a lottery operator in compliance with this part.

## **Division 2                      Share transfer, licences and other matters for the transaction**

### **228C    Minister's power to execute share transfers**

- (1) For the transaction, the Minister may execute any document transferring shares in GCLC to a person.
- (2) Subsection (1) applies even if the shares are held by a Minister other than the Minister.

### **228D    GCLC stops being a company GOC**

- (1) At the beginning of the commencement day, GCLC stops being a company GOC.
- (2) Subsection (1) does not affect GCLC's registration under the Corporations Act.

### **228E    GCLC's current lottery licence ends**

At the beginning of the commencement day, GCLC is taken to have surrendered its current lottery licence.

### **228F    Issue of licences to the State company and GCLC**

- (1) On the commencement day, the Minister must—
  - (a) issue a lottery licence to the State company; and
  - (b) issue a lottery operator's licence to GCLC.
- (2) For all purposes, the licences are taken to have been issued at the beginning of the day.
- (3) The term of each licence is the period ending on 31 July 2072.
- (4) Sections 9 to 15 do not apply to the issue of the licences.
- (5) Otherwise, this section does not limit the application of this Act to the licences.

*Examples for subsection (5)—*

- 1 The conditions of a licence may be changed under section 18.
- 2 A licence may be suspended or cancelled, or amended to omit a lottery, under part 2A, division 5.

**228G GCLC continuously authorised to conduct lotteries**

To remove any doubt, it is declared that there is no time, between holding its current lottery licence and holding the lottery operator's licence issued under section 228F, at which GCLC does not hold a licence under this Act to conduct a lottery.

**228H Lottery operation agreement**

- (1) This section applies if, on or before the commencement day, the State company and GCLC enter into an agreement for the purpose of this section.
- (2) On or as soon as practicable after the commencement day, the State company and GCLC must give a copy of the agreement to the Minister.
- (3) From the beginning of the commencement day, the agreement is taken to be approved by the Minister as a lottery operation agreement under part 2B.

**228I Disposal of public records**

- (1) This section applies if—
  - (a) a thing is done as part of the transaction; and
  - (b) the thing is, or involves, a disposal of a public record under the *Public Records Act 2002*.
- (2) To remove any doubt, it is declared that, for the purpose of section 13 of that Act, the public record is disposed of under legal authority, justification or excuse.

**Division 3                      Constitutions of GCLC companies  
and related matters****228J Application of div 3**

This division applies to each GCLC company while a lottery operation agreement is in force between GCLC and the State company.

**228K Mandatory constitutional requirements for GCLC companies**

- (1) A GCLC company must have, at all times, a constitution requiring the company's head office to be located in Queensland.
- (2) Without limiting subsection (1), a constitution does not comply with subsection (1) unless it requires—
  - (a) the principal operational offices of the following company officers and personnel, however described, to be located in Queensland—
    - (i) at least 2 of the company's directors;
    - (ii) the chairperson;
    - (iii) the senior officer having overall management of the company's affairs;
    - (iv) the senior officer having overall management of the company's financial affairs;
    - (v) the senior officer having overall management of the company's lottery operations;
    - (vi) the senior officer having overall management of any of the company services mentioned in paragraph (b)(i) to (vii); and
  - (b) the principal operational offices for the following company services, however described, to be located in Queensland—
    - (i) distribution, sales and marketing;
    - (ii) strategic planning and business and product development;
    - (iii) accounting;
    - (iv) human resource management;
    - (v) risk management, compliance, audit and regulatory affairs;
    - (vi) information technology and related services;
    - (vii) administration and corporate services; and

- (c) the following meetings of the company to be held in Queensland—
  - (i) each annual general meeting;
  - (ii) a majority of the board meetings in each year.

### **228L Inconsistent alterations to GCLC companies' constitutions have no effect**

- (1) A resolution of a GCLC company that would, apart from this subsection, have the effect of the company ceasing to have a constitution, or of altering the company's constitution so that it would not comply with section 228K, has no effect.
- (2) A resolution of a GCLC company has no effect if it would—
  - (a) if acted on and apart from this subsection—result in a contravention of the mandatory constitutional requirements; or
  - (b) apart from this subsection—ratify an act or omission contravening the mandatory constitutional requirements.

### **228M Injunctions**

- (1) Subsection (2) applies if a GCLC company or another person has engaged, is engaging or is proposing to engage in conduct constituting—
  - (a) a contravention of the mandatory constitutional requirements; or
  - (b) attempting to contravene the mandatory constitutional requirements; or
  - (c) aiding, abetting, counselling or procuring a person to contravene the mandatory constitutional requirements; or
  - (d) inducing or attempting to induce, whether by threats, promises or otherwise, a person to contravene the mandatory constitutional requirements; or
  - (e) being in any way, directly or indirectly, knowingly concerned in, or party to, the contravention by a person of the mandatory constitutional requirements; or

- (f) conspiring with others to contravene the mandatory constitutional requirements.
- (2) On the application of the Minister, the Supreme Court may grant an injunction restraining the company or other person from engaging in the conduct and, if the court considers it appropriate, requiring the company or other person to do something.
- (3) If a GCLC company or another person has failed, is failing or is proposing to fail to do something that the company or other person is required by the mandatory constitutional requirements to do, the Supreme Court may, on the application of the Minister, grant an injunction requiring the company or other person to do the thing.
- (4) On an application under subsection (2) or (3), the court may grant the injunction sought with the consent of all the parties to the proceeding, whether or not the court is satisfied the subsection applies.
- (5) The court may grant an interim injunction pending a decision on an application under subsection (2) or (3).
- (6) The court may discharge or vary an injunction, and may grant an injunction on conditions.
- (7) The court's power to grant an injunction restraining a GCLC company or another person from engaging in conduct may be exercised—
  - (a) whether or not it appears to the court that the company or other person intends to engage again, or to continue to engage, in the conduct; and
  - (b) whether or not the company or other person has previously engaged in conduct of that kind; and
  - (c) whether or not there is an imminent danger of substantial damage to a person if the company or other person engages, or continues to engage, in the conduct.
- (8) The court's power to grant an injunction requiring a GCLC company or another person to do something may be exercised—

- (a) whether or not it appears to the court that the company or other person intends to fail again, or to continue to fail, to do the thing; and
  - (b) whether or not the company or other person has previously failed to do a thing of that kind; and
  - (c) whether or not there is an imminent danger of substantial damage to a person if the company or other person fails, or continues to fail, to do the thing.
- (9) If the Minister makes an application under subsection (2) or (3), the court must not require the Minister, as a condition of granting an interim injunction, to give an undertaking as to damages.

### **228N Other powers of Supreme Court**

- (1) Subsection (2) applies if the Supreme Court has power under section 228M to grant an injunction restraining a GCLC company or another person from engaging in particular conduct, or requiring a GCLC company or another person to do a particular thing.
- (2) The court may, either in addition to, or in substitution for, the grant of the injunction, make any other order it considers appropriate against the company or the other person who engaged in the conduct or a person who was involved in the failure to do the thing.

### **228O Jurisdiction of Supreme Court**

The Supreme Court has jurisdiction for matters arising under this part and that jurisdiction is exclusive of the jurisdiction of all other courts, other than the jurisdiction of the High Court under the Commonwealth Constitution, section 75.<sup>16</sup>

### **228P Delegation by Minister**

The Minister may delegate the Minister's powers to apply to the Supreme Court under section 228M to the chief executive.

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16 Commonwealth Constitution, section 75 (Original jurisdiction of High Court)



**228Q Suspension or cancellation of licence for breach of head office provision**

- (1) This section applies if a lottery operation agreement to which GCLC is a party includes a head office provision.
- (2) The following provisions do not apply in relation to the suspension or cancellation of a primary licence, on the ground stated in section 24(1)(g), for a breach of the head office provision—
  - section 25(1)(b) and (c)
  - section 31(1)(b) and (c)
- (3) In this section—

*head office provision* means a provision of an agreement imposing on a party—

- (a) a requirement that the party must establish and retain in Queensland the national and international headquarters of the party's lottery business; or
- (b) another requirement that is the same as, or substantially similar to, a requirement that must be contained in the constitution of a GCLC company under section 228K.

## **Part 12                      Repeals and transitional provisions**

### **Division 1                      Repeals**

#### **229      Repeal of Lotteries Act 1994**

The *Lotteries Act 1994* is repealed.

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

A reference in any other Act or instrument to the repealed Act is to be read (where the context admits) as a reference to this Act.

## **Division 2                      Transitional provisions for Lotteries Act 1997**

### **235      Application of division**

This division applies only if, on the commencement day, the corporation becomes the holder of a lottery licence.

### **236      Definitions**

In this division—

*commencement day* means the day on which the provision in which the term is used commences.

*corporation* means the Golden Casket Lottery Corporation established under the repealed Act and, if before or on the commencement day that entity becomes a government owned corporation, includes the entity as a government owned corporation.

*repealed Act* means the *Lotteries Act 1994*.

### **237      Corporation's exclusive rights**

- (1) This section applies if the Minister issues a lottery licence to the corporation before issuing a lottery licence to another person.
- (2) The lottery licence may be issued as an exclusive licence for a specified term and on specified conditions.
- (3) The lottery licence may be issued on conditions about the exclusive right of the corporation to conduct certain gaming schemes or classes of gaming schemes.

### **238      Approval of corporation's control system**

This section applies if, on the commencement day, the corporation makes a control system submission to the chief executive.

- (2) The corporation's control system is taken to be an approved control system until the chief executive approves or refuses to approve the control system.

### **239 Approval of corporation's regulated lottery equipment**

- (1) This section applies if, on the commencement day, the corporation applies to the chief executive for approval of the corporation's regulated lottery equipment.
- (2) The corporation's regulated lottery equipment is taken to be approved lottery equipment for the corporation until the chief executive approves or refuses to approve the equipment.

### **240 Lotteries in progress and unclaimed prize money at commencement day**

- (1) A lottery that had been commenced under the repealed Act by the corporation but not completed at the commencement day may be continued and completed under this Act by the corporation.
- (2) If, immediately before the commencement day, an amount was identified in the corporation's accounting records under the repealed Act, section 28(1) as unclaimed prize money for a lottery, the corporation—
  - (a) must continue to identify the amount in its accounting records as unclaimed prize money for the lottery until the end of 1 year after the closure of the lottery; and
  - (b) may, at the end of the period mentioned in paragraph (a), use the money as if it were money to which section 132(2) applied.
- (3) If, before the commencement day, the corporation was entitled to use unclaimed prize money for a lottery under the repealed Act, section 28(2) but did not use the money under the subsection, the corporation may use the money as if it were money to which section 132(2) applied.

**241 Continued operation for certain purposes of repealed Act**

- (1) Despite its repeal, the repealed Act, sections 17(2), 18 and 24(1) to (5) (the *former provisions*), and the rules in force under the repealed Act immediately before the commencement day (the *former rules*), continue to operate, and apply to lotteries conducted under this Act by the corporation, as if they were valid rules under this Act until the earlier of the following—
  - (a) the end of the period of 1 year from the commencement day;
  - (b) the commencement of rules made under this Act superseding the relevant former provisions or rules.
- (2) A rule expressed to supersede a former provision or rule operates to the exclusion of the former provision or rule.
- (3) In this section and for the former provisions and rules—

*entry form* means a lottery ticket.

*selling fee* means the amount to which a lottery agent is entitled for processing the entry form for a participant in the lottery concerned under the agent's agency agreement.

*subscription* means the amount calculated by deducting any selling fee from the price of a lottery ticket.

**242 Key employees**

- (1) This section applies to a key employee of the corporation who, on the commencement day, applies to the chief executive to be licensed as an employee under a key person licence.
- (2) The key employee is taken to be a licensed employee until the chief executive grants or refuses to grant the application.

**243 Agency agreements**

- (1) An agency agreement made under the repealed Act by the corporation before and in force at the commencement day is taken to be an agency agreement duly made in accordance with this Act.

- (2) Within 7 days after the commencement day, the corporation must give the chief executive a written notice informing the chief executive of the name and place of operation of each lottery agent with whom the corporation has an agency agreement to which this section applies.
- (3) An agency agreement that continues in force under this section terminates (if it does not terminate earlier for some other reason) when the corporation ceases to be a lottery licensee.

#### **244 Agreements with foreign agencies**

An agreement between the corporation and a foreign agency in force immediately before the commencement day continues in force as an approved arrangement under section 7.<sup>17</sup>

#### **246 Re-enactment of Golden Casket Art Union Act 1978, s 22A**

- (1) In this section—
 

*Instant Casket* has the same meaning as it had for the purposes of the *Golden Casket Art Union Act 1978*, section 22A.

*symbol* includes amount, word and number.
- (2) This section is enacted to settle any doubt about whether tickets in certain Instant Caskets conducted before the commencement day are tickets that entitle the ticket holder to a prize.
- (3) Subsections (5) and (6) apply to a ticket in an Instant Casket that included a statement to the effect that a prize is won if a specified number of symbols printed in a panel on the ticket are matched.
- (4) Subsection (7) applies to a ticket in an Instant Casket whether or not it included a statement to that effect.

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17 Section 7 (Foreign gaming schemes)

- (5) The ticket is a winning ticket only if the panel has printed in it the specified number of the same symbol.

*Example of winning ticket—*

- 1 Statement on ticket—‘Match 3 numbers and win’.
- 2 Panel on ticket.

7	1
Seven	One
3	7
Three	Seven
4	7
Four	Seven

- (6) The ticket is not a winning ticket if, for example, the panel has printed in it the specified number of pairs of different symbols.

*Example of non-winning ticket—*

- 1 Statement on ticket—‘Match 3 numbers and win’.
- 2 Panel on ticket.

7	1
Seven	One
3	7
Three	Seven
3	1
Three	One

- (7) In deciding whether a ticket is a winning ticket, a caption to a symbol is taken to be part of the symbol and not a separate symbol.

### **Division 3                      Transitional provision for Gaming Machine and Other Legislation Amendment Act (No. 2) 1999**

#### **247      Continuation of appeals**

- (1) This section applies if—
  - (a) an appeal to a Magistrates Court was started under this Act before the commencement of this section; and
  - (b) the appeal was not finally decided before the commencement.
- (2) This section applies despite the amendment of this Act by the *Gaming Machine and Other Legislation Amendment Act (No. 2) 1999*.
- (3) The appeal may be continued and decided under this Act as in force immediately before the commencement of this section.

### **Division 4                      Transitional provisions for Gambling Legislation Amendment Act 2004**

#### **248      Definitions for div 4**

In this division—

*commencement* means the day this division commences.

*pre-amended Act* means this Act as in force before the commencement of the *Gambling Legislation Amendment Act 2004*, part 7.

#### **249      Dealing with show cause notice**

- (1) This section applies if—
  - (a) under the pre-amended Act, section 60 or 61, the chief executive has given a show cause notice to a key person licensee; and

- (b) the notice has not been finally dealt with before the commencement.
- (2) For dealing with the show cause notice, the pre-amended Act continues to apply as if the *Gambling Legislation Amendment Act 2004*, part 7, had not commenced.
- (3) Subsection (4) applies if, under the pre-amended Act, a person could appeal to the Gaming Commission against a decision of the chief executive relating to the show cause notice.
- (4) The person may appeal, and the Gaming Commission may hear and decide the appeal, under the pre-amended Act.

## **250 Direction to rectify under pre-amended Act**

- (1) This section applies to a direction to rectify a matter given to a key person licensee under the pre-amended Act, section 63, if, before the commencement—
  - (a) the period for rectifying the matter under that Act has not ended; or
  - (b) the period for rectifying the matter under that Act has ended and action has not been taken under section 64 of that Act in relation to a failure to comply with the direction.
- (2) A failure to comply with the direction may be dealt with under the pre-amended Act as if the *Gambling Legislation Amendment Act 2004*, part 7, had not commenced.

## **251 Appeals to Gaming Commission**

- (1) Subsection (2) applies if—
  - (a) a person has appealed to the Gaming Commission against a decision of the chief executive under the repealed provision; and
  - (b) the appeal has not been decided before the commencement.
- (2) The Gaming Commission may hear, or continue to hear, and decide the appeal under the pre-amended Act.
- (3) Subsection (4) applies if—



- (a) immediately before the commencement a person could have appealed to the Gaming Commission against a decision of the chief executive under the repealed provision; and
  - (b) the person has not appealed before the commencement.
- (4) The person may appeal, and the Gaming Commission may hear and decide the appeal, under the pre-amended Act.
- (5) In this section—  
*repealed provision* means the pre-amended Act, section 64.

## **Division 5                      Transitional provision for Community Ambulance Cover and Other Acts Amendment Act 2007**

### **252      Payment of prizes—s 130**

Section 130(5) and (6) is taken to apply, and to have always applied, to an approved lottery conducted during the following period immediately before the commencement of this section—

- (a) if the approved lottery is prescribed under a regulation as a designated lottery for section 129—3 years; or
- (b) if paragraph (a) does not apply—7 years.

## **Division 6                      Transitional provisions for Lotteries Amendment Act 2007**

### **253      Definitions for div 6**

In this division—

*commencement day* means the day of commencement of the provision in which the term appears.

## 254 Approvals, key person licences, agreements and other documents continue unaffected

- (1) Each current document continues in force under this Act despite GCLC ceasing to be a lottery licensee and becoming a lottery operator under part 11A.
- (2) Unless the context otherwise requires, a reference in a current document to GCLC as a lottery licensee is taken to be a reference to GCLC as a lottery operator.
- (3) In this section—

*current document* means any of the following in force immediately before the commencement day—

- (a) the chief executive's approval under section 7<sup>18</sup> of an arrangement to which GCLC is a party;
- (b) a key person licence, notice or other document relating to GCLC under part 3;<sup>19</sup>
- (c) an agency agreement between GCLC and another person or other document relating to GCLC under part 4;<sup>20</sup>
- (d) an approval, submission, direction, notice or other document relating to GCLC under part 6;<sup>21</sup>
- (e) an approval, notice, direction or other document relating to GCLC under part 7;<sup>22</sup>
- (f) a requirement, direction or other document relating to GCLC under part 8.<sup>23</sup>

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18 Section 7 (Foreign gaming schemes)

19 Part 3 (Key employees and operators)

20 Part 4 (Lottery agents)

21 Part 6 (Compliance requirements)

22 Part 7 (Conduct of approved lotteries)

23 Part 8 (Investigation and enforcement)

**255 Requirements relating to taxes, fees, records and other matters**

- (1) This section applies to any of the following requirements applying to GCLC that relate entirely or partly to its operations before the commencement day—
  - (a) a requirement under part 5 to pay a tax, fee or penalty or give a return;
  - (b) a requirement under part 6 to keep a record, prepare a statement or account, give a return or report or do another thing;
  - (c) a requirement under part 7, division 4, about prize money;
  - (d) other requirements under part 7 relating to the conduct of an approved lottery or the operations of a lottery agent;
  - (e) a direction or other requirement under part 8.
- (2) The requirement continues or arises under this Act despite GCLC ceasing to be a lottery licensee and becoming a lottery operator under part 11A.

**256 Payment of prizes**

Sections 131A, 131B and 132AA do not apply in relation to an approved lottery that closed before the commencement day.

## **Schedule 1      Decisions not subject to appeal**

section 39

### **Part 1                      Decisions of Governor in Council**

<b>Section</b>	<b>Description of decision</b>
32	amending a primary licence to omit a lottery stated in it
32	suspending a primary licence
32	cancelling a primary licence
32	appointing an administrator to conduct the operations of a primary licensee
34	for a primary licence that is suspended—cancelling or reducing any remaining period of suspension

### **Part 2                      Decisions of Minister**

<b>Section</b>	<b>Description of decision</b>
10	granting or refusing to grant an application for a primary licence
16	imposing a condition on a primary licence
18	changing conditions of a primary licence
28	suspending a primary licence
29	censuring a primary licensee
30	directing a primary licensee to rectify a matter
39C	granting or refusing to grant an application for approval of a proposed lottery operation agreement or a proposed amendment of a lottery operation agreement
117	giving, or refusing to give, an approval for an ancillary lottery agreement

## Schedule 1 (continued)

- 120 directing the termination of a related agreement
- 193 directing a primary licensee or lottery agent to stop or change a management practice

## **Schedule 2      Decisions of chief executive subject to appeal**

sections 214, 216 and 217

### **Part 1              Decisions affecting lottery operators**

<b>Section</b>	<b>Description of decision</b>
79	requiring an amendment of an agency agreement
88	directing lottery operator to terminate an agency agreement
133	refusing to approve regulated lottery equipment
133	refusing to approve a modification of regulated lottery equipment

### **Part 2              Decisions affecting licensees under key person licences**

<b>Section</b>	<b>Description of decision</b>
55	imposing condition on key person licence
56	changing a condition of a key person licence
57	refusing to grant an application to replace a key person licence
62	immediately suspending a key person licence
63	suspending or cancelling a key person licence
65	censuring a key person licensee
65A	directing a key person licensee to rectify a matter

Schedule 2 (continued)

**Part 3**

**Decisions affecting lottery agents**

<b>Section</b>	<b>Description of decision</b>
79	requiring an amendment of an agency agreement
88	directing a lottery operator to terminate an agency agreement

## Schedule 3 Dictionary

### section 3

***accepted representations***—

- (a) for part 2A, division 5—see section 27; and
- (b) for part 3, division 4—see section 61; and
- (c) for part 4, division 2—see section 84(6); and
- (d) for part 7, division 1—see section 119(6).

***agency agreement*** see section 78.

***ancillary lottery agreement*** see section 116.

***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 form*** see section 227.

***approved lottery*** means a lottery conducted by a lottery operator under a lottery operator's licence.

***approved lottery equipment*** means regulated lottery equipment approved under section 133.

***approved place*** see section 105.

***business associate***, of a lottery agent, means a person whom the chief executive reasonably believes to be associated with the ownership or management of the agent's operations.

***business associate***, of an applicant for a primary licence, means a person who the Minister reasonably believes—

- (a) is associated with the ownership or management of the applicant's operations; or
- (b) will, if a primary licence is issued to the applicant, be associated with the ownership or management of the licensee's operations.



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Schedule 3 (continued)

**business associate**, of a primary licensee, means a person whom the Minister reasonably believes to be associated with the ownership or management of the licensee's operations.

**closure**, of a lottery, means—

- (a) if a computer system is used to issue lottery tickets for the lottery—when the functioning computer system does not allow the tickets to be issued for the lottery; or
- (b) in any other case—the day fixed by the lottery operator for the closure of the lottery by notice displayed in the lottery operator's public office.

**commencement**, for part 12, division 4, see section 248.

**commencement day**—

- (a) for part 11A—see section 228A; or
- (b) for part 12, division 2—see section 236; or
- (c) for part 12, division 6—see section 253.

**computer system** means a computer system operated by a lottery operator—

- (a) to process entry forms in a lottery; and
- (b) to issue lottery tickets; and
- (c) to identify whether an entry is a winning entry.

**condition notice** see section 18.

**conduct** includes promote, organise and operate.

**constitution**, for part 11A, see section 228A.

**control system** means a system of internal controls and administrative and accounting procedures for the conduct of lotteries by a lottery operator.

**control system (change) submission** see section 102.

**control system submission** see section 101.

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

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Schedule 3 (continued)

***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.

***current lottery licence***, for part 11A, see section 228A.

***document certification requirement*** see section 185.

***document production requirement*** see section 185.

***employ*** includes engage under a contract for services.

***employee*** of a primary licensee or a lottery agent means a person employed by the licensee or agent in functions related to the conduct of lotteries.

***entry form***, for an approved lottery or other gaming scheme, means an application form for tickets in the lottery or other gaming scheme made available by the person conducting the lottery or other gaming scheme for use by prospective participants.

***executive associate***, of a lottery agent, means an executive officer of a corporation, partner or trustee, or another person stated by the Minister, whom the Minister reasonably believes to be associated with the ownership or management of the operations of the agent.

***executive associate***, of an applicant for a primary licence, means an executive officer of a corporation, partner or trustee, or another person stated by the Minister whom the Minister reasonably believes—

- (a) is associated with the ownership or management of the applicant's operations; or
- (b) will, if a primary licence is issued to the applicant, be associated with the ownership or management of the licensee's operations.

## Schedule 3 (continued)

***executive associate***, of a primary licensee, means an executive officer of a corporation, partner or trustee, or another person stated by the Minister, whom the Minister reasonably believes to be associated with the ownership or management of the operations of the licensee.

***executive officer***, of a corporation, means a person who is concerned with, or takes part in, the corporation's management, whether or not the person is a director or the person's position is given the name of executive officer.

***exempt lottery record*** see section 105.

***financial records requirement*** see section 190.

***foreign agency*** means any of the following—

- (a) a department of government of another jurisdiction authorised by the law of the other jurisdiction to conduct a gaming scheme;
- (b) a statutory body or corporation established under the law of another jurisdiction that is authorised by the law of the other jurisdiction to conduct a gaming scheme;
- (c) another entity permitted by the law of another jurisdiction to conduct a gaming scheme.

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

- *Casino Control Act 1982*
- *Charitable and Non-Profit Gaming Act 1999*
- *Gaming Machine Act 1991*
- *Interactive Gambling (Player Protection) Act 1998*
- *Keno Act 1996*
- *Wagering Act 1998*.

***Gaming Commission*** means the Queensland Gaming Commission under the *Gaming Machine Act 1991*.

***gaming scheme*** see section 4.

***GCLC*** see section 228A.

***GCLC company***, for part 11A, see section 228A.

## Schedule 3 (continued)

***identity card***, for an inspector, means the inspector's identity card under this Act.

***indictable offence*** includes an indictable offence dealt with summarily, whether or not the Criminal Code, section 659,<sup>24</sup> applies to the indictable offence.

***information notice***, for a decision of the chief executive, is a written notice stating—

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

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

***interested person***, for section 27, see section 26.

***key employee*** see section 40.

***key official*** means a lottery official declared under section 145 to be a key official.

***key operator*** see section 43.

***key operator's requirement*** see section 44.

***key person licence*** means a licence issued under section 51.

***key person licensee*** means a person licensed under a key person licence.

***license fees*** see section 95.

***licensed employee*** means a person licensed as an employee under a key person licence.

***lottery*** see section 5.

***lottery agent*** see section 78.

***lottery employee*** means a person employed by a primary licensee in operations conducted under the primary licence.

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<sup>24</sup> Criminal Code, section 659 (Effect of summary conviction for indictable offences)

## Schedule 3 (continued)

**lottery equipment** means a machine or other device (whether electronic, electrical or mechanical), computer software, or another thing, used, or suitable for use, in the conduct of a lottery.

**lottery licence** means a licence under this Act to enter agreements with lottery operators for the conduct of lotteries.

**lottery licensee** means a person who holds a lottery licence.

**lottery official** means—

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

**lottery operation agreement** see section 39A.

**lottery operator** means a person who holds a lottery operator's licence.

**lottery operator's licence** means a licence under this Act to conduct a lottery.

**lottery record**, of a primary licensee, means a record (including a document) about the operations conducted by the licensee under the licence.

**lottery tax** see section 94.

**lottery ticket** means a ticket in an approved lottery.

**mandatory constitutional requirements**, for part 11A, see section 228A.

**official lottery document** means—

- (a) a lottery ticket; or
- (b) a lottery licence; or
- (c) a lottery operator's licence; or
- (d) a key person licence; or
- (e) an inspector's identity card.

**participant**, in an approved lottery or other gaming scheme, means a person who purchases a ticket, or otherwise participates, in the lottery or gaming scheme.

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Schedule 3 (continued)

**personal details requirement** see section 182.

**pre-amended Act**, for part 12, division 4, see section 248.

**primary licence** means a lottery licence or lottery operator's licence.

**primary licensee** means a lottery licensee or lottery operator.

**proposed action**, for part 3, division 4, see section 60(2)(a).

**public office**, for a primary licensee, means the licensee's principal place of business in the State or, if the licensee is a corporation and has its registered office in the State, the registered office.

**registered company auditor** means a person registered as an auditor, or taken to be so registered, under the Corporations Act, part 9.2.

**registrar**, of the Gaming Commission, see the *Gaming Machine Act 1991*, schedule.<sup>25</sup>

**regulated lottery equipment** means lottery equipment declared under a regulation to be regulated lottery equipment.

**related agreement** means—

- (a) an agreement, contract, lease or arrangement (whether written or unwritten), other than a lottery operation agreement, that—
  - (i) is entered into between a lottery operator and another person; and
  - (ii) relates to the operations of the lottery operator under the licence; or
- (b) an ancillary lottery agreement.

**rules** means rules made under section 121.

**share**, for part 11A, see section 228A.

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<sup>25</sup> *Gaming Machine Act 1991*, schedule (Dictionary)—

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

## Schedule 3 (continued)

***show cause notice***—

- (a) for part 2A, division 5—see section 25(3); and
- (b) for part 3, division 4—see section 60(1); and
- (c) for part 4, division 2—see section 84(2); and
- (d) for part 7, division 1—see section 119(2).

***show cause period***, for part 2A, division 5, see section 25(3)(e).

***special warrant*** see section 164.

***State company***, for part 11A, see section 228A.

***stop direction*** see section 180.

***subsidiary***, for part 11A, see section 228A.

***ticket***, in an approved lottery or other gaming scheme, means a right of participation (however described) in the lottery or other gaming scheme and includes a document, token or other thing evidencing a right to participate in the lottery or other gaming scheme.

***transaction***, for part 11A, see section 228A.

## Endnotes

### 1 Index to endnotes

		Page
2	Date to which amendments incorporated . . . . .	174
3	Key . . . . .	174
4	Table of reprints . . . . .	175
5	List of legislation . . . . .	175
6	List of annotations . . . . .	177

### 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 29 June 2007. Future amendments of the Lotteries Act 1997 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**

<b>Key</b>	<b>Explanation</b>	<b>Key</b>	<b>Explanation</b>
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	(retro)	= retrospectively
notfd	= notified	rv	= revised edition
num	= numbered	s	= section
o in c	= order in council	sch	= schedule
om	= omitted	sdiv	= subdivision
orig	= original	SIA	= Statutory Instruments Act 1992
p	= page	SIR	= Statutory Instruments Regulation 2002
para	= paragraph	SL	= subordinate legislation
prec	= preceding	sub	= substituted
pres	= present	unnum	= unnumbered
prev	= previous		



## 4 Table of reprints

Reprints are issued for both future and past effective dates. For the most up-to-date table of reprints, see the reprint with the latest effective date.

If a reprint number includes a letter of the alphabet, the reprint was released in unauthorised, electronic form only.

Reprint No.	Amendments to	Effective	Reprint date
1	none	1 August 1997	1 August 1997
1A	1998 Act No. 14	1 August 1997	15 July 1998
1B	1998 Act No. 14	1 October 1998	2 October 1998
1C	1999 Act No. 19	30 April 1999	12 May 1999
1D	1999 Act No. 26	1 July 1999	15 November 1999
1E	1999 Act No. 26	1 December 1999	1 December 1999
1F	1999 Act No. 77	14 December 1999	5 January 2000
2	2000 Act No. 5	14 December 1999	2 May 2000
2A	2000 Act No. 51	1 December 2000	8 December 2000
2B	2001 Act No. 50	2 August 2001	10 August 2001
3	2001 Act No. 50	2 August 2001	26 October 2001

Reprint No.	Amendments included	Effective	Notes
3A	2002 Act No. 43	1 October 2002	
3B	2004 Act No. 21	1 December 2004	
3C	2004 Act No. 21	1 May 2005	
	2005 Act No. 12		
3D	2005 Act No. 28	31 May 2005	R3D withdrawn, see R4
4	—	31 May 2005	
4A	2007 Act No. 17	23 April 2007	
4B	2007 Act No. 22	29 June 2007	

## 5 List of legislation

### **Lotteries Act 1997 No. 34**

date of assent 18 July 1997

ss 1–2 commenced on date of assent

remaining provisions commenced 1 August 1997 (1997 SL No. 230)

amending legislation—

### **Interactive Gambling (Player Protection) Act 1998 No. 14 ss 1–2, 268**

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 ss 1, 2(2) pt 6**

date of assent 30 March 1999

ss 1–2 commenced on date of assent

remaining provisions commenced 1 July 1999 (1999 SL No. 124)

**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)

**Gaming Machine and Other Legislation Amendment Act (No. 2) 1999 No. 77 ss 1–2(1), pt 7, s 210 sch 2**

date of assent 14 December 1999  
commenced on date of assent (see s 2(1))

**Police Powers and Responsibilities Act 2000 No. 5 ss 1–2, 461 (prev s 373) sch 3**

date of assent 23 March 2000  
ss 1–2 commenced on date of assent  
remaining provisions commenced 1 July 2000 (see s 2(1), (3) and 2000 SL No. 174)

**Gambling Legislation Amendment Act 2000 No. 51 pts 1, 8**

date of assent 17 November 2000  
ss 1–2 commenced on date of assent  
remaining provisions commenced 1 December 2000 (see s 2)

**Corporations (Ancillary Provisions) Act 2001 No. 45 ss 1–2, 29 schs 2–3**

date of assent 28 June 2001  
ss 1–2 commenced on date of assent  
sch 3 commenced 15 July 2001 (see s 2(2) of Act 2001 No. 45 (Qld) and Corporations Act 2001 No. 50 (Cwlth) and proc pubd Cwlth of Australia gaz 13 July 2001, No. S285)  
remaining provisions commenced immediately before 15 July 2001 (see s 2(1) of Act 2001 No. 45 (Qld) and Corporations Act 2001 No. 50 (Cwlth) and proc pubd Cwlth of Australia gaz 13 July 2001, No. S285)

**Gaming Machine Amendment Act 2001 No. 50 ss 1, 18 sch**

date of assent 2 August 2001  
commenced on date of assent

**Gambling Legislation Amendment Act 2002 No. 43 pts 1, 7, s 112 sch 2**

date of assent 12 September 2002  
ss 1–2 commenced on date of assent  
remaining provisions commenced 1 October 2002 (2002 SL No. 263)

**Gambling Legislation Amendment Act 2004 No. 21 pts 1, 7, s 123 sch**

date of assent 13 September 2004  
ss 1–2 commenced on date of assent  
ss 88–89, 91–99, 102(1) (to the extent it om defs “agency payment period”, “identity card”, “inspector”), 102(2) (to the extent it ins defs “appointed inspector”, “criminal history”, “identity card”, “indictable offence”, “inspector”), 102(3), 123 sch commenced 1 December 2004 (2004 SL No. 252)  
remaining provisions commenced 1 May 2005 (2005 SL No. 68)

**Gambling Legislation Amendment Act 2005 No. 12 ss 1, 2(3), pt 8, s 88 sch**

date of assent 22 April 2005

ss 1–2 commenced on date of assent

remaining provisions commenced 1 May 2005 (see s 2(3))

**Freedom of Information and Other Legislation Amendment Act 2005 No. 28 ss****1–2(3)–(4), ch 2 pt 3**

date of assent 31 May 2005

commenced on date of assent (see s 2(3)–(4))

**Community Ambulance Cover and Other Acts Amendment Act 2007 No. 17 pts 1, 6**

date of assent 23 April 2007

commenced on date of assent (see s 2(2))

**Lotteries Amendment Act 2007 No. 22 pts 1–2, s 3 sch 1**

date of assent 28 May 2007

ss 1–2 commenced on date of assent

remaining provisions commenced 29 June 2007 (2007 SL No. 167)

## **6 List of annotations**

**Object**

s 2A ins 2000 No. 51 s 95

**Explanation of licensing scheme**

s 2B ins 2007 No. 22 s 4

**PART 2—AUTHORISED LOTTERIES****Division 2—Requirement for lottery to be authorised by lottery licence and lottery operator's licence**

div hdg sub 2007 No. 22 s 5

**Requirement for primary licence**

prov hdg amd 2007 No. 22 s 3 sch 1

s 6 amd 2004 No. 21 s 123 sch; 2007 No. 22 s 3 sch 1

**Foreign gaming schemes**

s 7 amd 1998 No. 14 s 268(2)–(3); 2004 No. 21 s 123 sch; 2007 No. 22 ss 6, 3 sch 1

**Lawful activities**

s 8 amd 2007 No. 22 ss 7, 3 sch 1

**PART 2A—PRIMARY LICENCES**

pt hdg ins 2007 No. 22 s 8

**Division 1—Preliminary**

div 1 (ss 8A–8B) ins 2007 No. 22 s 8

**Division 2—Issuing and amending primary licences**

div hdg ins 2007 No. 22 s 9

**Application for primary licence**

**prov hdg** amd 2007 No. 22 s 3 sch 1  
**s 9** amd 2007 No. 22 ss 10, 3 sch 1

**Consideration of application**

**s 10** amd 2007 No. 22 s 3 sch 1

**Conditions for granting application**

**s 11** amd 2007 No. 22 s 11

**Suitability of applicant to hold primary licence**

**prov hdg** amd 2007 No. 22 s 3 sch 1

**s 12** amd 2007 No. 22 s 12

**Suitability of business and executive associates**

**s 13** amd 2007 No. 22 ss 13, 3 sch 1

**Investigations of suitability of persons**

**s 14** amd 2007 No. 22 ss 14, 3 sch 1

**Decision on application**

**s 15** amd 2007 No. 22 ss 15, 3 sch 1

**Conditions of licence**

**s 16** amd 2007 No. 22 s 3 sch 1

**Form of primary licence**

**prov hdg** amd 2007 No. 22 s 3 sch 1

**s 17** amd 2007 No. 22 ss 16, 3 sch 1

**Voluntary omission of a lottery stated in a primary licence**

**s 17A** ins 2007 No. 22 s 17

**Changing conditions of primary licence**

**prov hdg** amd 2007 No. 22 s 3 sch 1

**s 18** amd 2007 No. 22 ss 18, 3 sch 1

**Other amendments of primary licence**

**s 18A** ins 2007 No. 22 s 19

**When amendments take effect**

**s 18B** ins 2007 No. 22 s 19

**Notice to other interested persons**

**s 18C** ins 2007 No. 22 s 19

**Return of licence for endorsement of amendments**

**prov hdg** amd 2007 No. 22 s 20(1)

**s 19** amd 2007 No. 22 ss 20(2)–(4), 3 sch 1

**Amendment of lottery licence**

**s 20** om 2007 No. 22 s 21

**Division 3—General provisions about primary licences**

**div hdg** prev div 3 hdg om 2007 No. 22 s 9

pres div 3 hdg ins 2007 No. 22 s 22

**Primary licence not to be transferable****prov hdg** amd 2007 No. 22 s 3 sch 1**s 21** amd 2007 No. 22 s 3 sch 1**Mortgage and assignment of primary licence****prov hdg** amd 2007 No. 22 s 3 sch 1**s 22** amd 2007 No. 22 ss 23, 3 sch 1**Surrender of primary licence****prov hdg** amd 2007 No. 22 s 3 sch 1**s 23** amd 2004 No. 21 s 123 sch; 2007 No. 22 ss 24, 3 sch 1**Division 4—Obligations to act under primary licences****div hdg** prev div 4 hdg om 2007 No. 22 s 22

pres div 4 hdg ins 2007 No. 22 s 25

**Primary licensees must enter lottery operation agreements****s 23A** ins 2007 No. 22 s 25**Lottery operators must actively conduct lotteries****s 23B** ins 2007 No. 22 s 25**Minister may temporarily excuse non-activity****s 23C** ins 2007 No. 22 s 25**Division 5—Suspension or cancellation of primary licences and omission of lotteries from primary licences****div hdg** sub 2007 No. 22 s 26**Grounds for suspension or cancellation****s 24** amd 2001 No. 45 s 29 sch 3; 2004 No. 21 s 123 sch; 2007 No. 22 ss 27, 3 sch 1**Ground for omitting a lottery from a primary licence****s 24A** ins 2007 No. 22 s 28**Show cause notice****s 25** amd 2007 No. 22 ss 29, 3 sch 1**Copy of show cause notice to be given to interested persons****s 26** amd 2007 No. 22 ss 30, 3 sch 1**Consideration of representations****s 27** amd 2007 No. 22 s 3 sch 1**Immediate suspension****s 28** amd 2007 No. 22 ss 31, 3 sch 1**Censuring primary licensee****prov hdg** amd 2007 No. 22 s 3 sch 1**s 29** amd 2007 No. 22 s 3 sch 1**Directions to rectify****s 30** amd 2007 No. 22 s 3 sch 1**Notice by the Minister****s 31** amd 2007 No. 22 ss 32, 3 sch 1

**Suspension, cancellation, amendment and appointment of administrator**

**prov hdg** amd 2007 No. 22 s 32(1)  
**s 32** amd 2007 No. 22 ss 32(2)–(3), 3 sch 1

**Endorsement of amendment**

**s 32A** ins 2007 No. 22 s 34

**Terms of appointment, and role, of administrator**

**s 33** amd 2001 No. 45 s 29 schs 2–3; 2007 No. 22 s 3 sch 1

**Cancellation or reduction of period of suspension**

**s 34** amd 2007 No. 22 ss 35, 3 sch 1

**Audit program**

**s 35** amd 2007 No. 22 s 3 sch 1

**Investigations**

**s 36** amd 2002 No. 43 s 95; 2007 No. 22 ss 36, 3 sch 1

**Requirement to give information or document for investigation**

**s 37** amd 2007 No. 22 s 3 sch 1

**Decisions about primary licence not to be justiciable**

**prov hdg** amd 2007 No. 22 s 3 sch 1  
**s 39** amd 2007 No. 22 s 3 sch 1

**PART 2B—LOTTERY OPERATION AGREEMENTS**

**pt 2B (ss 39A–39E)** ins 2007 No. 22 s 37

**PART 3—KEY EMPLOYEES AND OPERATORS****Meaning of “key employee”**

**s 40** amd 2007 No. 22 ss 38, 3 sch 1

**Obligation to hold licence**

**s 41** amd 2007 No. 22 s 39

**Prohibition of employment of unlicensed persons as key employees**

**s 42** amd 2007 No. 22 s 3 sch 1

**Meaning of “key operator”**

**s 43** amd 2007 No. 22 s 3 sch 1

**Requirement that key operator apply for licence or end role**

**s 44** amd 2007 No. 22 s 3 sch 1

**Requirement that key operator end role**

**s 45** amd 2007 No. 22 s 3 sch 1

**Requirement to end key operator’s role**

**s 46** amd 2007 No. 22 s 3 sch 1

**Application for key person licence**

**s 47** amd 2007 No. 22 s 3 sch 1

**Conditions for granting application**

**s 49** amd 2007 No. 22 s 3 sch 1

**Decision on application**

s 51            amd 2002 No. 43 s 96; 2007 No. 22 s 3 sch 1

**Lapsing of key person licence**

s 54            amd 2007 No. 22 s 3 sch 1

**Conditions**

s 55            amd 2007 No. 22 s 3 sch 1

**Changing conditions of key person licence**

s 56            amd 2004 No. 21 s 89; 2007 No. 22 s 3 sch 1

**Replacement of key person licence**

s 57            amd 2007 No. 22 s 3 sch 1

**Surrender of key person licence**

s 58            amd 2007 No. 22 s 3 sch 1

**Division 4—Suspension and cancellation of key person licences, and other action by chief executive**

div hdg        sub 2004 No. 21 s 90

**Subdivision 1—Suspension and cancellation**

sdiv hdg       ins 2004 No. 21 s 90

**Grounds**

s 59            sub 2004 No. 21 s 90  
                  amd 2007 No. 22 s 3 sch 1

**Show cause notice**

s 60            sub 2004 No. 21 s 90  
                  amd 2007 No. 22 ss 40, 3 sch 1

**Consideration of representations**

s 61            sub 2004 No. 21 s 90

**Immediate suspension**

s 62            sub 2004 No. 21 s 90  
                  amd 2007 No. 22 s 3 sch 1

**Suspension and cancellation of licence after show cause process**

s 63            sub 2004 No. 21 s 90  
                  amd 2007 No. 22 s 3 sch 1

**Subdivision 2—Other action by chief executive**

sdiv hdg       ins 2004 No. 21 s 90

**Ending show cause process without further action**

s 64            amd 2002 No. 43 s 97  
                  sub 2004 No. 21 s 90  
                  amd 2007 No. 22 s 3 sch 1

**Censuring key person licensee**

s 65            sub 2004 No. 21 s 90  
                  amd 2007 No. 22 s 3 sch 1

**Direction to rectify matter after show cause process**

s 65A ins 2004 No. 21 s 90  
amd 2007 No. 22 s 3 sch 1

**Cancellation or reduction of period of suspension**

s 65B ins 2004 No. 21 s 90  
amd 2007 No. 22 s 3 sch 1

**Notice of start of licensed employee's employment**

s 70 amd 2007 No. 22 s 3 sch 1

**Returns about employees**

s 71 amd 2007 No. 22 s 3 sch 1

**Notice of end of licensed employee's employment**

s 72 amd 2007 No. 22 s 3 sch 1

**Requirement to end licensed employee's employment**

s 73 amd 2007 No. 22 s 3 sch 1

**Notice to end key operator's role**

s 74 amd 2007 No. 22 s 3 sch 1

**Requirement to end key operator's role**

s 75 amd 2007 No. 22 s 3 sch 1

**Meaning of "agency agreements"**

s 78 amd 2007 No. 22 s 3 sch 1

**Conditions for entering into agency agreement**

s 79 amd 2001 No. 45 s 29 sch 3; 2002 No. 43 s 98; 2007 No. 22 ss 41, 3 sch 1

**Notice of agency agreement**

s 80 om 2007 No. 22 s 42

**Amendment of agency agreement**

s 81 om 2007 No. 22 s 42

**Returns about agents**

s 82 amd 2007 No. 22 ss 43, 3 sch 1

**Grounds for termination**

s 83 amd 2004 No. 21 s 123 sch; 2007 No. 22 s 3 sch 1

**Show cause notice**

s 84 amd 2007 No. 22 s 3 sch 1

**Suspending lottery agent's operations**

s 85 amd 2007 No. 22 s 3 sch 1

**Censuring lottery agent**

s 86 amd 2007 No. 22 s 3 sch 1

**Direction to rectify**

s 87 amd 2007 No. 22 s 3 sch 1

**Directions to terminate affecting lottery agents**

s 88 amd 1999 No. 77 s 210 sch 2; 2007 No. 22 s 3 sch 1



**Termination of agreement**

s 89            amd 2007 No. 22 s 3 sch 1

**Notice of termination of agreement**

s 90            amd 2007 No. 22 s 3 sch 1

**Liability to tax**

s 94            amd 2007 No. 22 s 3 sch 1

**Liability to licence fees**

s 95            amd 2007 No. 22 s 3 sch 1

**Returns for calculation of lottery tax**

s 96            amd 2007 No. 22 s 3 sch 1

**Penalty for late payment**

s 97            amd 2007 No. 22 s 3 sch 1

**Liability of lottery operator's holding companies for unpaid tax, fee or penalty**

s 97A          ins 2007 No. 22 s 44

**Revenue offences**

s 99            amd 2007 No. 22 s 3 sch 1

**Application of lottery tax**

s 99A          ins 2000 No. 51 s 96

**Lottery to be conducted under an approved control system**

s 100          sub 2002 No. 43 s 99  
amd 2007 No. 22 s 3 sch 1

**Control system submission**

s 101          amd 2004 No. 21 s 91; 2005 No. 12 s 88 sch; 2007 No. 22 s 3 sch 1

**Control system (change) submission**

s 102          amd 2005 No. 12 s 88 sch; 2007 No. 22 s 3 sch 1

**Dealing with submissions**

prov hdg    sub 2005 No. 12 s 71(1)  
s 103          amd 2005 No. 12 s 71(2)–(5); 2007 No. 22 s 3 sch 1

**Direction to change approved control system**

prov hdg    amd 2005 No. 12 s 88 sch  
s 104          amd 2005 No. 12 s 88 sch; 2007 No. 22 s 3 sch 1

**Application of div 2 to former primary licensees**

s 104A        ins 2007 No. 22 s 45

**Notices about keeping lottery records**

s 105          amd 2007 No. 22 s 3 sch 1

**Lottery records to be kept at certain place**

s 106          amd 2007 No. 22 s 3 sch 1

**Lottery records to be kept for required period**

s 107          amd 2007 No. 22 ss 46, 3 sch 1

**Keeping of accounts**

s 108      amd 2007 No. 22 s 3 sch 1

**Preparation of financial statements and accounts**

s 109      amd 2007 No. 22 s 3 sch 1

**Submission of reports**

s 110      amd 2007 No. 22 s 3 sch 1

**Keeping of accounts**

s 111      amd 2007 No. 22 s 3 sch 1

**Use of accounts**

s 112      amd 2007 No. 22 s 3 sch 1

**Audit of primary licensee's operations**

prov hdg    amd 2007 No. 22 s 3 sch 1

s 113      amd 2007 No. 22 s 3 sch 1

**Completion of audit**

s 114      amd 2007 No. 22 s 3 sch 1

**Further information following audit**

s 115      amd 2007 No. 22 s 3 sch 1

**PART 7—CONDUCT OF APPROVED LOTTERIES****Ancillary lottery agreement**

s 116      amd 2007 No. 22 ss 47, 3 sch 1

**Approval of ancillary lottery agreements**

s 117      amd 2007 No. 22 s 3 sch 1

**Review of related agreements**

s 118      amd 2007 No. 22 s 3 sch 1

**Show cause notice for related agreement**

s 119      amd 2007 No. 22 s 3 sch 1

**Direction to terminate related agreement**

s 120      amd 2007 No. 22 s 3 sch 1

**Division 2—Operations of lottery operators and agents**

div hdg    amd 2007 No. 22 s 3 sch 1

**Rules**

s 121      amd 2007 No. 22 s 3 sch 1

**Rules to be made available**

s 121A     ins 2007 No. 22 s 48

**General responsibilities of lottery operator**

prov hdg    amd 2007 No. 22 s 3 sch 1

s 122      amd 2007 No. 22 s 3 sch 1

**Responsibility of lottery operator for acts of lottery agents**

prov hdg    amd 2007 No. 22 s 3 sch 1

s 123      amd 2007 No. 22 s 3 sch 1

**Responsibility of lottery agent for agent's acts**

s 124      amd 2007 No. 22 s 3 sch 1

**Places of operation**

s 125      amd 2007 No. 22 s 3 sch 1

**Acceptance of entry form**

s 125A     ins 2004 No. 21 s 92  
            amd 2007 No. 22 s 3 sch 1

**Price of lottery tickets**

s 126      amd 2007 No. 22 s 3 sch 1

**Presence of inspector at certain operations**

s 128      amd 2007 No. 22 s 3 sch 1

**Claims for prizes**

s 129      amd 1999 No. 77 s 196; 2004 No. 21 s 93; 2007 No. 22 ss 49, 3 sch 1

**Payment of prizes**

s 130      amd 2004 No. 21 s 94; 2007 No. 17 s 54; 2007 No. 22 s 3 sch 1

**Disposal of unclaimed prizes that are property**

s 131      amd 2007 No. 22 s 3 sch 1

**Payment of unclaimed major prizes into the Treasurer's unclaimed moneys fund**

s 131A     ins 2007 No. 22 s 50

**Payment of other unclaimed prizes into the consolidated fund**

s 131B     ins 2007 No. 22 s 50

**Unclaimed prizes generally**

s 132      amd 2007 No. 22 s 3 sch 1

**Former lottery operators**

s 132AA    ins 2007 No. 22 s 51

**Relationship of provisions about unclaimed prizes with Public Trustee Act**

s 132A     ins 1999 No. 8 s 134  
            amd 2007 No. 22 s 52

**Approval of regulated lottery equipment**

s 133      amd 1999 No. 77 s 197; 2007 No. 22 s 3 sch 1

**Use of regulated lottery equipment**

s 134      amd 2004 No. 21 s 95; 2007 No. 22 s 3 sch 1

**Approved evaluators**

s 134A     ins 1999 No. 77 s 198

**Inquiries about complaints**

s 137      amd 2007 No. 22 s 3 sch 1

**Claims for payment**

s 138      amd 2007 No. 22 s 3 sch 1

**Reporting improper behaviour**

s 139      amd 2007 No. 22 s 3 sch 1

**Key officials**

s 145 amd 2007 No. 22 s 3 sch 1

**Relationship of key officials with primary licensees and lottery agents**

prov hdg amd 2007 No. 22 s 3 sch 1

s 146 amd 2007 No. 22 s 3 sch 1

**Relationship of key officials with prospective licensees**

s 147 amd 2007 No. 22 ss 53, 3 sch 1

**Relationship of primary licensees and lottery agents with key officials**

prov hdg amd 2007 No. 22 s 3 sch 1

s 148 amd 2007 No. 22 s 3 sch 1

**Obscene etc. terms prohibited**

s 150 amd 2007 No. 22 s 3 sch 1

**Offences by certain persons**

s 151 amd 2007 No. 22 s 3 sch 1

**Lottery operator not to publish identity of participant in certain cases**

prov hdg amd 2007 No. 22 s 3 sch 1

s 152 amd 2007 No. 22 s 3 sch 1

**PART 8—INVESTIGATION AND ENFORCEMENT****Division 1—Inspectors**

div hdg sub 2004 No. 21 s 96

**Subdivision 1—Appointment of inspectors**

sdiv hdg ins 2004 No. 21 s 96

**Appointment and qualifications**

s 153 sub 2004 No. 21 s 96

amd 2005 No. 12 s 72

**Subdivision 2—Other matters about inspectors**

sdiv hdg prev sdiv 2 hdg ins 2004 No. 21 s 96

om 2005 No. 12 s 73

pres sdiv 2 hdg (prev sdiv 3 hdg) ins 2004 No. 21 s 96

renum 2005 No. 12 s 88 sch

**Conditions and limit on powers**

s 154 prev s 154 sub 2004 No. 21 s 96

om 2005 No. 12 s 73

pres s 154 (prev s 155) sub 2004 No. 21 s 96

amd 2005 No. 12 s 88 sch

renum 2005 No. 12 s 88 sch

**Issue of identity card**

s 155 (prev s 156) sub 2004 No. 21 s 96

amd 2005 No. 12 s 88 sch

renum 2005 No. 12 s 88 sch

**Production or display of identity card**

s 156 (prev s 157A) ins 2004 No. 21 s 96

renum 2005 No. 12 s 88 sch

**When inspector ceases to hold office**

- s 157** prev s 157 om 2005 No. 12 s 74  
 pres s 157 (prev s 157B) ins 2004 No. 21 s 96  
 amd 2005 No. 12 s 75  
 renum 2005 No. 12 s 88 sch

**Resignation**

- s 157A** (prev s 157C) ins 2004 No. 21 s 96  
 amd 2005 No. 12 s 88 sch  
 renum 2005 No. 12 s 88 sch

**Return of identity card**

- s 157B** (prev s 157D) ins 2004 No. 21 s 96  
 amd 2005 No. 12 s 76  
 renum 2005 No. 12 s 88 sch

**Subdivision 3—Audit program and report about criminal history**

- sdiv hdg** (prev sdiv 4 hdg) ins 2004 No. 21 s 96  
 renum 2005 No. 12 s 88 sch

**Audit program**

- s 157C** (prev s 157E) ins 2004 No. 21 s 96  
 amd 2005 No. 12 s 77  
 renum 2005 No. 12 s 88 sch

**Report about criminal history**

- s 157D** (prev s 157F) ins 2004 No. 21 s 96  
 amd 2005 No. 12 s 88 sch  
 renum 2005 No. 12 s 88 sch

**Division 2—Powers of inspectors****Entry without consent or warrant**

- s 158** amd 2007 No. 22 s 3 sch 1

**Role of police officers**

- s 169** om 2000 No. 5 s 461 sch 3

**Forfeiture**

- s 176** amd 1999 No. 77 s 210 sch 2

**Subdivision 5—Power to give directions**

- sdiv hdg** amd 2002 No. 43 s 112 sch 2

**Requirements about stop directions**

- s 180** amd 2007 No. 22 s 3 sch 1

**Direction about conduct of approved lottery**

- s 181A** ins 2002 No. 43 s 100  
 amd 2004 No. 21 s 97; 2007 No. 22 s 54

**Power to require name and address**

- s 182** amd 2000 No. 5 s 461 sch 3

**Steps police officer may take for failure to give name and address**

- s 184** om 2000 No. 5 s 461 sch 3

**Power to require production of documents**

s 185      amd 2007 No. 22 s 55

**Power to require attendance of persons**

s 188      amd 2007 No. 22 ss 56, 3 sch 1

**Power to require financial records**

s 190      amd 2007 No. 22 s 3 sch 1

**Direction about management practice**

s 193      amd 2007 No. 22 ss 57, 3 sch 1

**Obstructing inspectors**

s 201      amd 2000 No. 5 s 461 sch 3

**Steps police officer may take against obstruction**

s 202      om 2000 No. 5 s 461 sch 3

**Appointments and authority**

s 204      amd 2004 No. 21 s 123 sch

**Evidentiary aids**

s 206      amd 2004 No. 21 s 123 sch; 2007 No. 22 s 58

**Appeals by lottery operators**

prov hdg    amd 2007 No. 22 s 3 sch 1

s 214      amd 1999 No. 77 s 210 sch 2; 2007 No. 22 s 3 sch 1

**Appeals by applicants for key person licences**

s 215      amd 1999 No. 77 s 210 sch 2

**Appeals by licensees under key person licences**

s 216      amd 1999 No. 77 s 210 sch 2

**Appeals by lottery agents**

s 217      amd 1999 No. 77 s 210 sch 2

**Appeals by other persons**

s 218      amd 1999 No. 77 s 210 sch 2; 2007 No. 22 s 59

**Court to which appeal may be made**

s 219      om 1999 No. 77 s 199

**Starting appeal**

s 220      amd 1999 No. 77 s 210 sch 2; 2002 No. 43 s 101; 2007 No. 22 s 60

**Stay of operation of decisions**

s 221      amd 1999 No. 77 s 210 sch 2

**Hearing procedures**

s 222      amd 1999 No. 77 s 210 sch 2

**Power to gather evidence**

s 222A     ins 1999 No. 77 s 200

**Powers of Gaming Commission**

prov hdg    sub 1999 No. 77 s 210 sch 2

s 223      amd 1999 No. 77 s 210 sch 2

**Notice of decision**

s 223A ins 2004 No. 21 s 98

**Appeals to District Court**

s 224 amd 1999 No. 19 s 3 sch; 1999 No. 77 s 210 sch 2

**Confidentiality of information**

s 225 amd 2004 No. 21 ss 99, 123 sch

**Golden Casket Lottery Corporation Limited exemption from application of Freedom of Information Act 1992**s 225A ins 2005 No. 28 s 67  
amd 2007 No. 22 s 61**Delegations**

s 226 amd 2002 No. 43 s 102; 2005 No. 12 s 78

**Regulation-making power**

s 228 amd 2005 No. 12 s 79

**PART 11A—TRANSACTION INVOLVING GCLC**

pt hdg ins 2007 No. 22 s 62

**Division 1—Preliminary**

div 1 (ss 228A–228B) ins 2007 No. 22 s 62

**Division 2—Share transfer, licences and other matters for the transaction**

div 2 (ss 228C–228I) ins 2007 No. 22 s 62

**Division 3—Constitutions of GCLC companies and related matters**

div 3 (ss 228J–228Q) ins 2007 No. 22 s 62

**PART 12—REPEALS AND TRANSITIONAL PROVISIONS**

pt hdg amd 1999 No. 77 s 210 sch 2

**Division 2—Transitional provisions for Lotteries Act 1997**div hdg prev div 2 hdg om R1 (see RA s 40)  
pres div 2 hdg (prev div 3 hdg) sub 1999 No. 77 s 210 sch 2**Amendment of Art Unions Act 1992**

s 231 om R1 (see RA s 40)

**Amendment of Casino Control Act 1982**

s 232 om R1 (see RA s 40)

**Amendment of Gaming Machine Act 1991**

s 233 om R1 (see RA s 40)

**Amendment of Keno Act 1996**

s 234 om R1 (see RA s 40)

**Transitional regulations**

s 245 exp 1 August 1998 (see s 245(4))

**Division 3—Transitional provision for Gaming Machine and Other Legislation Amendment Act (No. 2) 1999**

div hdg ins 1999 No. 77 s 201

**Continuation of appeals**

s 247 ins 1999 No. 77 s 201

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

div 4 (ss 248–251) ins 2004 No. 21 s 100

**Division 5—Transitional provision for Community Ambulance Cover and Other Acts Amendment Act 2007**

div 5 (s 252) ins 2007 No. 17 s 55

**Division 6—Transitional provisions for Lotteries Amendment Act 2007**

div 6 (ss 253–256) ins 2007 No. 22 s 63

**SCHEDULE 1—DECISIONS NOT SUBJECT TO APPEAL**

amd 2007 No. 22 ss 64, 3 sch 1

**SCHEDULE 2—DECISIONS OF CHIEF EXECUTIVE SUBJECT TO APPEAL**

amd 1999 No. 77 s 202; 2004 No. 21 s 101; 2007 No. 22 ss 65, 3 sch 1

**SCHEDULE 3—DICTIONARY**def “**accepted representations**” sub 2004 No. 21 s 102(1)–(2)  
amd 2007 No. 22 s 66(3)def “**agency payment period**” om 2004 No. 21 s 102(1)def “**appointed inspector**” ins 2004 No. 21 s 102(2)  
om 2005 No. 12 s 80(1)def “**approved evaluator**” ins 1999 No. 77 s 203def “**approved lottery**” amd 2007 No. 22 s 3 sch 1def “**business associate**”, of an applicant for a primary licence, amd 2007 No.  
22 s 3 sch 1def “**business associate**”, of a primary licensee, amd 2007 No. 22 s 3 sch 1def “**closure**” amd 2007 No. 22 s 3 sch 1def “**commencement**” ins 2004 No. 21 s 102(2)def “**commencement day**” ins 2007 No. 22 s 66(2)def “**computer system**” amd 2007 No. 22 s 3 sch 1def “**constitution**” ins 2007 No. 22 s 66(2)def “**control system**” amd 2007 No. 22 s 3 sch 1def “**conviction**” amd 2004 No. 21 s 102(3)def “**criminal history**” ins 2004 No. 21 s 102(2)def “**current lottery licence**” ins 2007 No. 22 s 66(2)def “**employee**” amd 2007 No. 22 s 3 sch 1def “**executive associate**”, of an applicant for a primary licence, amd 2007  
No. 22 ss 66(4), 3 sch 1def “**executive associate**”, of a primary licensee, amd 2007 No. 22 s 3 sch 1def “**gaming Act**” sub 1998 No. 14 s 268(4); 1999 No. 26 s 196 sch 1def “**Gaming Commission**” ins 1999 No. 77 s 210 sch 2def “**GCLC**” ins 2007 No. 22 s 66(2)def “**GCLC company**” ins 2007 No. 22 s 66(2)def “**identity card**” sub 2004 No. 21 s 102(1)–(2)def “**indictable offence**” ins 2004 No. 21 s 102(2)def “**information notice**” amd 1999 No. 77 s 210 sch 2def “**inspector**” sub 2004 No. 21 s 102(1)–(2); 2005 No. 12 s 80def “**lottery employee**” amd 2007 No. 22 s 3 sch 1def “**lottery licence**” sub 2007 No. 22 s 66(1)–(2)



- def “**lottery operation agreement**” ins 2007 No. 22 s 66(2)  
def “**lottery operator**” ins 2007 No. 22 s 66(2)  
def “**lottery operator’s licence**” ins 2007 No. 22 s 66(2)  
def “**lottery record**” amd 2007 No. 22 s 3 sch 1  
def “**mandatory constitutional requirements**” ins 2007 No. 22 s 66(2)  
def “**official lottery document**” amd 2007 No. 22 s 66(5)  
def “**pre-amended Act**” ins 2004 No. 21 s 102(2)  
def “**primary licence**” ins 2007 No. 22 s 66(2)  
def “**primary licensee**” ins 2007 No. 22 s 66(2)  
def “**proposed action**” ins 2004 No. 21 s 102(2)  
def “**public office**” amd 2007 No. 22 s 3 sch 1  
def “**registered company auditor**” amd 2001 No. 45 s 29 sch 3  
def “**registrar**” ins 1999 No. 77 s 210 sch 2  
    amd 2001 No. 50 s 18 sch; 2002 No. 43 s 112 sch 2  
def “**related agreement**” amd 2007 No. 22 ss 66(6), 3 sch 1  
def “**share**” ins 2007 No. 22 s 66(2)  
def “**show cause notice**” sub 2004 No. 21 s 102(1)–(2)  
    amd 2007 No. 22 s 66(7)  
def “**show cause period**” sub 2004 No. 21 s 102(1)–(2); 2007 No. 22 s  
    66(1)–(2)  
def “**State company**” ins 2007 No. 22 s 66(2)  
def “**subsidiary**” ins 2007 No. 22 s 66(2)  
def “**transaction**” ins 2007 No. 22 s 66(2)