

Queensland



Interactive Gambling (Player Protection) Act 1998

INTERACTIVE GAMBLING (PLAYER PROTECTION— DISQUALIFIED PERSONS) REGULATION 1999

**Reprinted as in force on 1 September 2000
(includes amendments up to SL No. 213 of 2000)**

Reprint No. 1A

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the Office of the Queensland Parliamentary Counsel
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Information about this reprint

This regulation is reprinted as at 1 September 2000. The reprint shows the law as amended by all amendments that commenced on or before that day (Reprints Act 1992 s 5(c)).

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

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

Also see endnotes for information about—

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

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**INTERACTIVE GAMBLING (PLAYER
PROTECTION—DISQUALIFIED
PERSONS) REGULATION 1999**

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**INTERACTIVE GAMBLING (PLAYER
PROTECTION—DISQUALIFIED PERSONS)
REGULATION 1999**

[as amended by all amendments that commenced on or before 1 September 2000]

PART 1—PRELIMINARY

Short title

1. This regulation may be cited as the *Interactive Gambling (Player Protection—Disqualified Persons) Regulation 1999*.

Commencement

2. Part 3 commences on the due day as defined under section 261A of the Act.¹

Definitions

3. The dictionary in the schedule defines particular words used in this regulation.

¹ *Interactive Gambling (Player Protection) Act 1998*, section 261A (Cancellation of Gocorp's interactive gambling licence)

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PART 2—DISQUALIFIED PERSONS

Disqualified persons—Act, sch 3

4.(1) This section prescribes persons under paragraph (g) of the definition “disqualified person” in schedule 3 of the Act.

(2) The following persons are disqualified persons—

- (a) a person by the name of William Theodore D’Arcy who, at the commencement of the amendment Act, was a member of the Legislative Assembly;
- (b) a person by the name of Donald Wallace Livingstone who, at the commencement of the amendment Act, was a staff member of a member of the Legislative Assembly;
- (c) a person by the name of Paul John Pisasale who, at the commencement of the amendment Act, was a councillor of a local government;
- (d) a person who is the spouse or a child of a person mentioned in paragraphs (a) to (c);
- (e) a person by the name of Reginald Austin who, on 26 October 1997, was a director of Hadacon Pty Ltd (ACN 005 648 206).

(2A) Also, a person is a disqualified person if the person is mainly employed or otherwise engaged for the purpose of the electoral, Ministerial or parliamentary functions of a particular member of the Legislative Assembly.

(2B) Subsection (2A) does not apply to the clerk of the Parliament.

(3) If, at any time, a person mentioned in subsection (2) or (2A) is a person of a type mentioned in paragraphs (a) to (f) of the definition “disqualified person” in schedule 3 of the Act, subsection (2) does not apply to the person at that time.

(4) In this section—

“**amendment Act**” means the *Interactive Gambling (Player Protection) Amendment Act 1999*.

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PART 3—RESTRICTIONS APPLYING TO CERTAIN DISQUALIFIED PERSONS

Division 1—Preliminary

Disqualified persons to whom pt 3 applies

5. This part applies to each of the disqualified persons mentioned in section 4(2) (the “**declared persons**”), whether the person is a disqualified person because of the operation of the subsection or because the person is of a type mentioned in paragraphs (a) to (f) of the definition “disqualified person” in schedule 3 of the Act.

Application to Gocorp

6. This part applies to Gocorp while it is a licensed corporation.

Reference to “holding” a share

7.(1) A reference in this part to a person holding a share is a reference to the person holding the share for himself or herself, or for someone else.

(2) Also, for this part, a person is taken to hold a share if someone else holds the share for the person.

References to “knowingly acquiring” a share

8. For this part, a person knowingly acquires a share if the person starts holding the share through an act or omission of the person.

Examples—

1. A person knowingly acquires a share if—
 - (a) the person buys the share; or
 - (b) someone else buys the share for the person at the person’s request; or
 - (c) the share is gifted to the person in circumstances where the person is able to decline the gift before it is made but does not do so.

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2. A person does not knowingly acquire a share if the share is gifted or bequeathed to the person without the person's knowledge.

What is a beneficial interest

9.(1) For this part, a person is taken to have a beneficial interest in Gocorp if the person—

- (a) holds a share in Gocorp; or
- (b) holds a share in a corporation that has a beneficial interest in Gocorp; or
- (c) is a beneficiary of a trust for which the trust property includes—
 - (i) a share in Gocorp; or
 - (ii) a share in a corporation that has a beneficial interest in Gocorp.

(2) For this part, a person is taken to have a beneficial interest in a share if the person—

- (a) holds the share; or
- (b) holds a share in a corporation that has a beneficial interest in the share; or
- (c) is a beneficiary of a trust for which the trust property includes—
 - (i) the share; or
 - (ii) a share in a corporation that has a beneficial interest in the share.

(3) Subsections (1) and (2) do not limit the ways a person may have a beneficial interest in Gocorp or a share.

Prohibited shares

10. Shares held by a declared person are “**prohibited shares**” if—

- (a) the shares are Gocorp shares; or
- (b) the person—

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- (i) has a beneficial interest in Gocorp; and
- (ii) would not have a beneficial interest in Gocorp if the person did not hold the shares.

***Division 2—Involvement of declared persons with Gocorp through
shareholding***

Declared person not to knowingly acquire or hold prohibited shares

11.(1) A declared person must not knowingly acquire—

- (a) shares in Gocorp; or
- (b) other shares that the person knows, or ought reasonably to know, will be prohibited shares if the person holds them.

Maximum penalty—20 penalty units.

(2) If a declared person becomes aware that the person is holding prohibited shares, the person must—

- (a) dispose of the shares within 14 days after becoming aware; or
- (b) take other action to ensure that, within 14 days after becoming aware, the person ceases to hold prohibited shares.

Maximum penalty—20 penalty units.

Example for subsection (2)—

A declared person has shares in ABC Pty Ltd, which acquires shares in XYZ Ltd. The declared person becomes aware that XYZ Ltd has shares in Gocorp and that, therefore, the person's shares in ABC Pty Ltd are prohibited shares. The person may comply with this subsection by—

- (a) disposing of the person's shares in ABC Pty Ltd; or
- (b) ensuring that ABC Pty Ltd disposes of its shares in XYZ Ltd; or
- (c) ensuring that XYZ Ltd disposes of its shares in Gocorp.

(3) Without limiting the ways a declared person may become aware that shares held by the person are prohibited shares, the chief executive may give the person a written notice of that fact.

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Forfeiture of prohibited shares

12.(1) This section applies if a declared person acquires shares in contravention of section 11(1).

(2) This section also applies if—

- (a) a declared person holds prohibited shares; and
- (b) it is at least 15 days after the person first became aware that the person was holding prohibited shares.

(3) The chief executive, by written notice given to the person, may forfeit the shares to the State.

Declared person not to profit on disposal of beneficial interest in Gocorp

13.(1) This section applies if—

- (a) a person (the “**first person**”) disposes of shares; and
- (b) because of the disposal, a declared person—
 - (i) no longer has a beneficial interest in Gocorp; or
 - (ii) has less of a beneficial interest in Gocorp than the declared person had before the disposal; and
- (c) there is an amount (the “**sale profit**”) by which the consideration received by the first person in disposing of the shares is more than the consideration given by the first person in acquiring the shares.

(2) If the consideration received or given for the shares by the first person consists wholly or partly of something other than money, a reference in subsection (1)(c) to the consideration is a reference to the monetary value of the consideration.

(3) On a written demand from the chief executive, the declared person must pay to the chief executive an amount equal to the proportion of the sale profit that the chief executive considers, on reasonable grounds, reflects the declared person’s beneficial interest in the shares.

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(4) The chief executive may recover an amount demanded under subsection (3) as a debt payable to the State.

Division 3—Miscellaneous

Gocorp to ensure declared persons are not business or executive associates

14. Gocorp must ensure that a declared person is not a business or executive associate of Gocorp.

Chief executive may require information or document

15.(1) The chief executive may, by written notice given to a person, require the person to give the chief executive, within the reasonable time stated in the notice (but not less than 14 days), information or a document that is necessary and reasonable to help the chief executive decide—

- (a) whether a declared person is holding prohibited shares; or
- (b) what shares, if any, may be forfeited under section 12; or
- (c) what amount, if any, may be demanded under section 13.

(2) A person must comply with a requirement made under subsection (1) unless the person has a reasonable excuse.

Maximum penalty—20 penalty units.

(3) 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.

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PART 4—RESTRICTIONS APPLYING TO MEMBER DECLARED PERSONS

Division 1—Preliminary

Disqualified persons to whom pt 4 applies

16. This part applies to the following disqualified persons (the “**member declared persons**”)—

- (a) a member of the Legislative Assembly;
- (b) a spouse or child of a member of the Legislative Assembly;
- (c) a disqualified person mentioned in section 4(2A),² whether the person is a disqualified person because of the operation of the subsection or because the person is of a type mentioned in paragraphs (a) to (f) of the definition “disqualified person” in schedule 3 of the Act.

Reference to “holding” a share

17.(1) A reference in this part to a person holding a share is a reference to the person holding the share for himself or herself, or for someone else.

(2) However, a reference in this part to a person holding a share does not include the holding of a share by a Minister under an Act.

(3) Also, for this part, a person is taken to hold a share if someone else holds the share for the person.

References to “knowingly acquiring” a share

18. For this part, a person knowingly acquires a share if the person starts holding the share through an act or omission of the person.

² Section 4 (Disqualified persons—Act, sch 3)

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Examples—

1. A person knowingly acquires a share if—
 - (a) the person buys the share; or
 - (b) someone else buys the share for the person at the person's request; or
 - (c) the share is gifted to the person in circumstances where the person is able to decline the gift before it is made but does not do so.
2. A person does not knowingly acquire a share if the share is gifted or bequeathed to the person without the person's knowledge.

What is a beneficial interest

19.(1) For this part, a person is taken to have a beneficial interest in a licensed corporation if the person—

- (a) holds a share in the licensed corporation; or
- (b) holds a share in a corporation that has a beneficial interest in the licensed corporation; or
- (c) is a beneficiary of a trust for which the trust property includes—
 - (i) a share in the licensed corporation; or
 - (ii) a share in a corporation that has a beneficial interest in the licensed corporation.

(2) For this part, a person is taken to have a beneficial interest in a share (the “**first share**”) if the person—

- (a) holds the first share; or
- (b) holds a share in a corporation that has a beneficial interest in the first share; or
- (c) is a beneficiary of a trust for which the trust property includes—
 - (i) the first share; or
 - (ii) a share in a corporation that has a beneficial interest in the first share.

(3) Subsections (1) and (2) do not limit the ways a person may have a beneficial interest in a licensed corporation or a share.

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(4) However, a person is not taken to have a beneficial interest in a licensed corporation, or in a share, if the person would otherwise have the beneficial interest only because of the person's interest in a managed investment scheme or superannuation fund.

(5) In this section—

“managed investment scheme” has the same meaning as in section 9³ of the Corporations Law.

“superannuation fund” means a regulated superannuation fund, approved deposit fund, pooled superannuation trust or public sector superannuation scheme within the meaning of the *Superannuation Industry (Supervision) Act 1993* (Cwlth), sections 10(1) and 19.⁴

Prohibited shares

20. For this part, shares held by a member declared person are **“prohibited shares”** if—

- (a) the shares are a licensed corporation's shares; or
- (b) the person—
 - (i) has a beneficial interest in a licensed corporation; and
 - (ii) would not have a beneficial interest in the corporation if the person did not hold the shares.

Division 2—Involvement of member declared persons with licensed corporations through prohibited shareholding

Member declared person not to knowingly acquire or hold prohibited shares

21.(1) A member declared person must not knowingly acquire—

³ Corporations Law, section 9 (Dictionary)

⁴ *Superannuation Industry (Supervision) Act 1993* (Cwlth), sections 10 (Definitions) and 19 (Regulated superannuation fund)

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- (a) a licensed corporation's shares; or
- (b) other shares that the person knows, or ought reasonably to know, will be prohibited shares if the person holds them.

Maximum penalty—20 penalty units.

(2) If a member declared person becomes aware that the person is holding prohibited shares, the person must—

- (a) dispose of the shares within 14 days after becoming aware; or
- (b) take other action to ensure that, within 14 days after becoming aware, the person ceases to hold prohibited shares.

Maximum penalty—20 penalty units.

Example for subsection (2)—

A member declared person has shares in ABC Pty Ltd, which acquires shares in XYZ Ltd. The person becomes aware that XYZ Ltd has shares in a licensed corporation and that, therefore, the person's shares in ABC Pty Ltd are prohibited shares. The person may comply with this subsection by—

- (a) disposing of the person's shares in ABC Pty Ltd; or
- (b) ensuring that ABC Pty Ltd disposes of its shares in XYZ Ltd; or
- (c) ensuring that XYZ Ltd disposes of its shares in the licensed corporation.

(3) Without limiting the ways a member declared person may become aware that shares held by the person are prohibited shares, the chief executive may give the person a written notice of that fact.

Forfeiture of prohibited shares

22.(1) This section applies if a member declared person acquires shares in contravention of section 21(1).

(2) This section also applies if—

- (a) a member declared person holds prohibited shares; and
- (b) it is at least 15 days after the person first became aware that the person was holding prohibited shares.

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(3) The chief executive, by written notice given to the person, may forfeit the shares to the State.

Member declared person not to profit on disposal of beneficial interest in licensed corporation

23.(1) This section applies if—

- (a) a person (the **“first person”**) disposes of shares; and
- (b) because of the disposal, a member declared person—
 - (i) no longer has a beneficial interest in a licensed corporation; or
 - (ii) has less of a beneficial interest in a licensed corporation than the member declared person had before the disposal; and
- (c) there is an amount (the **“sale profit”**) by which the consideration received by the first person in disposing of the shares is more than the consideration given by the first person in acquiring the shares.

(2) If the consideration received or given for the shares by the first person consists wholly or partly of something other than money, a reference in subsection (1)(c) to the consideration is a reference to the monetary value of the consideration.

(3) On a written demand from the chief executive, the member declared person must pay to the chief executive an amount equal to the proportion of the sale profit that the chief executive considers, on reasonable grounds, reflects the member declared person’s beneficial interest in the shares.

(4) The chief executive may recover an amount demanded under subsection (3) as a debt payable to the State.

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Division 3—Miscellaneous

Licensed corporations to ensure member declared persons are not business or executive associates

24. A licensed corporation must ensure that a member declared person is not a business or executive associate of the corporation.

Chief executive may require information or document

25.(1) The chief executive may, by written notice given to a person, require the person to give the chief executive, within the reasonable time stated in the notice (but not less than 14 days), information or a document that is necessary and reasonable to help the chief executive decide—

- (a) whether a member declared person is holding prohibited shares;
or
- (b) what shares, if any, may be forfeited under section 22; or
- (c) what amount, if any, may be demanded under section 23.

(2) A person must comply with a requirement made under subsection (1) unless the person has a reasonable excuse.

Maximum penalty—20 penalty units.

(3) 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.

SCHEDULE

DICTIONARY

section 3

“beneficial interest” means—

- (a) for part 3—see section 9; or
- (b) for part 4—see section 19.

“declared person” see section 5.

“Gocorp” means GOCORP Limited (ACN 083 201 923).

“holding”, for a share, means—

- (a) for part 3—see section 7; or
- (b) for part 4—see section 17.

“knowingly acquire”, for a share, means—

- (a) for part 3—see section 8; or
- (b) for part 4—see section 18.

“member declared person” see section 16.

“prohibited shares” means—

- (a) for part 3—see section 10; or
- (b) for part 4—see section 20.

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ENDNOTES

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2 Date to which amendments incorporated

This is the reprint date mentioned in the Reprints Act 1992, section 5(c). Accordingly, this reprint includes all amendments that commenced operation on or before 1 September 2000. Future amendments of the Interactive Gambling (Player Protection—Disqualified Persons) Regulation 1999 may be made in accordance with this reprint under the Reprints Act 1992, section 49.

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3 Key

Key to abbreviations in list of legislation and annotations

AIA	=	Acts Interpretation Act 1954	(prev)	=	previously
amd	=	amended	proc	=	proclamation
amdt	=	amendment	prov	=	provision
ch	=	chapter	pt	=	part
def	=	definition	pubd	=	published
div	=	division	R[X]	=	Reprint No.[X]
exp	=	expires/expired	RA	=	Reprints Act 1992
gaz	=	gazette	reloc	=	relocated
hdg	=	heading	renum	=	renumbered
ins	=	inserted	rep	=	repealed
lap	=	lapsed	s	=	section
notfd	=	notified	sch	=	schedule
o in c	=	order in council	sdiv	=	subdivision
om	=	omitted	SIA	=	Statutory Instruments Act 1992
orig	=	original	SIR	=	Statutory Instruments Regulation 1992
p	=	page	SL	=	subordinate legislation
para	=	paragraph	sub	=	substituted
prec	=	preceding	unnum	=	unnumbered
pres	=	present			
prev	=	previous			

4 Table of earlier reprints

TABLE OF EARLIER REPRINTS

[If a reprint number includes a roman letter, the reprint was released in unauthorised, electronic form only.]

Reprint No.	Amendments included	Reprint date
1	none	1 October 1999

5 List of legislation

Interactive Gambling (Player Protection—Disqualified Persons) Regulation 1999
SL No. 212

made by the Governor in Council on 9 September 1999

notfd gaz 10 September 1999 pp 180–3

pt 3 commenced 19 September 1999 (see s 2 and 1999 No. 37)

remaining provisions commenced on date of notification

exp 1 September 2010 (see SIA s 54)

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as amended by—

**Interactive Gambling (Player Protection—Disqualified Persons) Amendment
Regulation (No. 1) 2000 SL No. 213**

notfd gaz 18 August 2000 pp 1394–5
commenced on date of notification

6 List of annotations

Disqualified persons—Act, sch 3

s 4 amd 2000 SL No. 213 s 3

PART 4—RESTRICTIONS APPLYING TO MEMBER DECLARED PERSONS

pt hdg ins 2000 SL No. 213 s 4

Division 1—Preliminary

div 1 (ss 16–20) ins 2000 SL No. 213 s 4

**Division 2—Involvement of member declared persons with licensed
corporations through prohibited shareholding**

div 2 (ss 21–23) ins 2000 SL No. 213 s 4

Division 3—Miscellaneous

div 3 (ss 24–25) ins 2000 SL No. 213 s 4

SCHEDULE—DICTIONARY

def “**beneficial interest**” sub 2000 SL No. 213 s 5

def “**holding**” sub 2000 SL No. 213 s 5

def “**knowingly acquire**” sub 2000 SL No. 213 s 5

def “**member declared person**” ins 2000 SL No. 213 s 5

def “**prohibited shares**” sub 2000 SL No. 213 s 5