

Queensland



KENO ACT 1996

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Information about this reprint

This Act is reprinted as at 5 January 1998. 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.**

Queensland



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KENO ACT 1996

[as amended by all amendments that commenced on or before 5 January 1998]

An Act to provide for the conduct of certain keno games, and for other purposes

PART 1—PRELIMINARY

Division 1—Introduction

Short title

1. This Act may be cited as the *Keno Act 1996*.

Definitions—the dictionary

2. The dictionary in schedule 4 defines particular words used in this Act.¹

¹ In some Acts, definitions are contained in a dictionary that appears as the last schedule and forms part of the Act—*Acts Interpretation Act 1954*, section 14(4). Words defined elsewhere in the Act are generally signposted by entries in the dictionary. However, if a section has a definition that only applies to the section, or a part of the section, it is generally not signposted by an entry in the dictionary. If this type of definition is set out in a separate subsection, the subsection is generally the last subsection of the section. Signpost definitions in the dictionary alert the reader to the terms defined elsewhere in the Act and tell the reader where these definitions can be found. For example, the definition ‘“keno agreement” see section 14’ tells the reader that the term “keno agreement” is defined in section 14.

Division 2—Interpretation**References to operations of keno licensees and appointed agents**

3.(1) In this Act, a reference to the operations of a keno licensee is a reference to the licensee's operations as a keno licensee.

(2) In this Act, a reference to the operations of an appointed agent is a reference to the agent's operations as an appointed agent.

References to particular agency agreements

4. In this Act, a reference to an agency agreement in association with a reference to a keno agent is a reference to the agency agreement providing for the keno agent's appointment.

References to particular approved keno games

5.(1) In this Act, a reference to an approved keno game in association with a reference to a keno licensee is a reference to an approved keno game conducted by the keno licensee.

(2) In this Act, a reference to an approved keno game in association with a reference to an appointed agent is a reference to an approved keno game conducted by the principal keno licensee.

References to particular associated keno agreements

6. In this Act, a reference to an associated keno agreement in association with a reference to a keno licence is a reference to the keno agreement in relation to which the keno licence is issued.

References to particular keno agents

7.(1) In this Act, a reference to a keno agent in association with a reference to an agency agreement is a reference to the keno agent appointed under the agency agreement.

(2) In this Act, a reference to a keno agent in association with a reference

to a keno subagent is a reference to the keno agent by whom the keno subagent was appointed.

References to particular keno employee licences

8. In this Act, a reference to a keno employee licence in association with a reference to a licensed keno employee is a reference to the keno employee licence held by the licensed keno employee.

References to particular keno licences

9. In this Act, a reference to a keno licence in association with a reference to a keno licensee is a reference to the keno licence held by the keno licensee.

References to particular keno licensees

10.(1) In this Act, a reference to a keno licensee in association with a reference to a keno licence is a reference to the keno licensee who holds the keno licence.

(2) In this Act, a reference to a keno licensee in association with a reference to a keno agent is a reference to the keno licensee by whom the keno agent was appointed.

(3) In this Act, a reference to a principal keno licensee in association with a reference to a keno subagent is a reference to the keno licensee who is the principal keno licensee for the keno subagent.

(4) In this Act, a reference to a keno licensee in association with a reference to an agency agreement is a reference to the keno licensee by whom a keno agent is appointed under the agreement.

PART 2—LAWFULNESS OF KENO GAMES

Lawful activities

11. The following activities are lawful—

- (a) the conduct of a keno game by a keno licensee under a keno licence in accordance with this Act and the associated keno agreement;
- (b) the carrying on of operations as an appointed agent in accordance with this Act and any agency agreement in relation to a keno game conducted, or purporting to be conducted, by a keno licensee under a keno licence;
- (c) the playing of a keno game conducted, or purporting to be conducted, by a keno licensee under a keno licence;
- (d) the use by a keno licensee of keno equipment in the conduct of a keno game by the licensee under the keno licence;
- (e) the use by an appointed agent of keno equipment in the conduct, or purported conduct, of a keno game by a keno licensee under a keno licence;
- (f) the use of keno equipment in playing a keno game conducted, or purporting to be conducted, by a keno licensee under a keno licence;
- (g) the doing of anything else required or authorised to be done under this Act.

Relationship with other laws

12. Section 11 has effect despite any other law dealing with gaming.

PART 3—KENO LICENSEES

Division 1—Issue of keno licences

Minister may issue licence

13. The Minister may issue a keno licence to a person.

Issue of licence conditional on keno agreement

14. The Minister may issue a keno licence to a person only if—

- (a) a written agreement (a “**keno agreement**”) has been entered into between the Minister on behalf of the State and the person about the proposed conduct of keno games by the person under a keno licence; and
- (b) any terms or conditions stated in the agreement or this Act required to be complied with by the person before a keno licence is issued have been complied with.

Conditions for entering into keno agreement

15. Before entering into a keno agreement, the Minister must be satisfied that—

- (a) the person with whom the agreement is proposed to be entered into (the “**proposed keno licensee**”) is a suitable person to hold a keno licence; and
- (b) each business and executive associate of the proposed keno licensee is a suitable person to be associated with a keno licensee’s operations.

Suitability of proposed keno licensee

16.(1) In deciding whether a proposed keno licensee is a suitable person to hold a keno licence, the Minister may have regard to the following issues—

- (a) the person's character;
- (b) the person's financial position and background;
- (c) if the person is not an individual—whether the person has, or has arranged, a satisfactory ownership, trust or corporate structure;
- (d) whether the person has, or is able to obtain, appropriate resources and appropriate services;
- (e) whether the person has the appropriate business ability to successfully conduct keno games under a keno licence;
- (f) if the person has a business association with another entity—the entity's character and financial position and background;
- (g) any other issues prescribed under a regulation.

(2) In subsection (1)—

“appropriate resources” means financial resources the Minister considers are adequate to ensure the financial viability of operations conducted under a keno licence.

“appropriate services” means the services of persons who have appropriate experience—

- (a) in the conduct or operation of keno games; or
- (b) to enable keno games to be successfully conducted or operated.

Suitability of business and executive associates

17. In deciding whether a business or executive associate of a proposed keno licensee is a suitable person to be associated with a keno licensee's operations, the Minister may have regard to the following issues—

- (a) the person's character and financial position and background;
- (b) if the person has a business association with another entity—the entity's character and financial position and background;
- (c) any other issues prescribed under a regulation.

Investigations about suitability of persons

18.(1) The chief executive may make investigations about a proposed keno licensee to help the Minister to decide whether the person is a suitable person to hold a keno licence.

(2) The chief executive may make investigations about a business or executive associate of a proposed keno licensee to help the Minister to decide whether the person is a suitable person to be associated with a keno licensee's operations.

Conditions of licence

19. The Minister may issue a keno licence on conditions the Minister considers necessary or desirable—

- (a) in the public interest; or
- (b) for the proper conduct of keno games by the keno licensee.

*Division 2—Dealings with keno licences***Transfer of licence prohibited**

20. A keno licensee must not transfer the keno licence to another person.

Mortgage of licence prohibited

21. A keno licensee must not mortgage, or encumber in another way, the keno licence, or the rights or benefits under the associated keno agreement.

Amendment of licence

22.(1) This section applies if, after the issue of a keno licence, the parties to the associated keno agreement amend the agreement in a way that affects the accuracy of a matter stated in the licence.

(2) The keno licensee must return the licence to the Minister for amendment.

(3) The Minister must return the amended licence to the licensee after making the appropriate amendment.

Surrender of licence

23. A keno licensee may surrender the keno licence only after giving written notice of the proposed surrender to the Minister—

- (a) at least 3 months before the surrender; or
- (b) if the Minister, by written notice given to the licensee approves a shorter period of notice—before the time approved by the Minister.

Division 3—Suspension and cancellation of keno licences

Grounds for suspension or cancellation

24.(1) Each of the following is a ground for suspending or cancelling a keno licence—

- (a) the keno licensee is not, or is no longer, a suitable person to hold a keno licence;
- (b) a business or executive associate of the keno licensee is not, or is no longer, a suitable person to be associated with a keno licensee's operations;
- (c) the keno licensee has been convicted of an offence against this Act or a Gaming Act;
- (d) the keno licensee has been convicted of an indictable offence;
- (e) the keno licensee has breached the associated keno agreement in a way that entitles the State to terminate the agreement;
- (f) the keno licensee has contravened a condition of the licence;
- (g) the keno licensee has contravened a provision of this Act (being a provision a contravention of which does not constitute an offence against this Act);
- (h) the associated keno agreement was entered into by the Minister on behalf of the State because of a materially false or misleading

representation or declaration;

- (i) the keno licensee has failed to discharge the licensee's financial commitments for the licensee's operations;
- (j) the keno licensee is bankrupt, has compounded with creditors or otherwise taken, or applied to take, advantage of any law about bankruptcy;
- (k) the keno licensee is the subject of a winding-up, either voluntarily or under a court order, appointment of a liquidator or appointment of a receiver or receiver and manager under the Corporations Law.

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

(3) For forming a belief that the ground mentioned in subsection (1)(b) exists, the Minister may have regard to the same issues to which the Minister may have regard in deciding whether a business or executive associate of a proposed keno licensee is a suitable person to be associated with a keno licensee's operations.

Show cause notice

25.(1) This section applies if the Minister believes—

- (a) a ground exists to suspend or cancel a keno 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 keno games by the keno licensee may be jeopardised in a material way; or
 - (ii) the public interest may be affected in an adverse and material way.

(2) The Minister must give the keno 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 licence—states the proposed suspension period; and
- (e) invites the licensee to show within a stated period (the “**show cause period**”) why the proposed action should not be taken.

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

Copy of show cause notice to be given to interested persons

26.(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 keno licence if the Minister considers—

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

(3) 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.

Consideration of representations

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

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

Immediate suspension

28.(1) The Minister may suspend a keno licence immediately if the Minister believes—

- (a) a ground exists to suspend or cancel the licence; and
- (b) the circumstances are so extraordinary that it is imperative to suspend the licence immediately to ensure—
 - (i) the public interest is not affected in an adverse and material way; or
 - (ii) the integrity of the conduct of keno games by the keno licensee is not jeopardised in a material way.

(2) The suspension—

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

Censuring keno licensee

29.(1) This section applies if the Minister—

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

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

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

warranted.

(3) The Minister may, by written notice given to the keno licensee, censure the licensee for a matter relating to the ground for suspension or cancellation.

Direction to rectify

30.(1) This section applies if, after considering the accepted representations for a show cause notice, the Minister—

- (a) still believes a ground exists to suspend or cancel a keno 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 keno licensee an opportunity to rectify the matter.

(2) The Minister may, by written notice given to the keno 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.

Notice by Minister

31.(1) This section applies if, after considering the accepted representations for a show cause notice, the Minister still believes—

- (a) a ground exists to suspend or cancel a keno 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 keno games by the keno licensee 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 a keno licensee fails to comply with a direction to rectify a matter within the period stated in the relevant notice.

(3) The Minister must give written notice of the Minister's belief, or of the keno licensee's failure to comply with the direction, to the Governor in Council.

Suspension, cancellation and appointment of administrator

32.(1) If a notice is given by 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 keno 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 keno licence—
 - (i) suspend the licence for a period; or
 - (ii) cancel the licence; or
 - (iii) appoint an administrator to conduct the operations of the keno licensee under the licence.

(2) The Minister must promptly give written notice of the decision of the Governor in Council to the keno licensee.

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

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

Terms of appointment, and role, of administrator

33.(1) This section applies to an administrator appointed by the Governor in Council to conduct operations under a keno 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 keno licensee conducted under the keno licence; and
- (b) subject to any directions of the Minister, must conduct the

operations in accordance with this Act and the associated keno agreement as if the administrator were the keno licensee.

(4) The costs of and incidental to the conduct and administration of a keno licensee's operations by an administrator under this section are payable by the keno licensee.

Cancellation or reduction of period of suspension

34.(1) If a keno licence is suspended, at any time the suspension is in force, the Governor in Council may, for any remaining period of suspension—

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

(2) The Minister must promptly give written notice of the decision of the Governor in Council to the keno licensee.

Division 4—Investigations about suitability of persons

Audit program

35.(1) The Minister may approve an audit program for investigating keno licensees, or business or executive associates of keno licensees.

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

(3) A person may be investigated under an audit program only once every 2 years.

Investigations

36.(1) The chief executive may investigate a keno licensee to help the Minister to decide whether the person is a suitable person to hold, or to continue to hold, a keno licence.

(2) The chief executive may investigate a business or executive associate of a keno licensee to help the Minister to decide whether the person is, or

continues to be, a suitable person to be associated with a keno licensee's operations.

(3) However, the chief executive may investigate a keno licensee only if—

- (a) the Minister reasonably suspects the licensee is not, or is no longer, a suitable person to hold a keno licence; or
- (b) the investigation is made under an audit program for keno licensees approved by the Minister.

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

- (a) the Minister reasonably suspects the person is not, or is no longer, a suitable person to be associated with a keno licensee's operations; or
- (b) the investigation is made under an audit program for business and executive associates of keno licensees approved by the Minister; or
- (c) the person—
 - (i) became a business or executive associate of the licensee after the issue of the keno licence; and
 - (ii) has not been investigated previously under an audit program mentioned in paragraph (b).

Requirement to give information or material for investigation

37.(1) In investigating a keno licensee, or business or executive associate of a keno licensee, the chief executive may, by written notice given to the person, require the person to give the chief executive information or material the chief executive considers is relevant to the investigation.

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

(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 material sought by the chief executive is not in fact relevant to the investigation.

Division 5—General provisions about keno licences

Form of licence

38.(1) A keno licence must be in the approved form.

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

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

Term of licence

39.(1) A keno licence is for the term stated in the associated keno agreement.

(2) Subsection (1) applies subject to this Act.

Reports about person's criminal history

40.(1) If the chief executive, in making an investigation about a person under section 18 or 36² 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 Section 18 (Investigations about suitability of persons)
Section 36 (Investigations)

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

Justiciability of decisions about licence

41.(1) A decision of the Governor in Council or Minister made, or appearing to be made, under this Act about a keno licence, or person with an interest or potential interest in a keno licence—

- (a) is final and conclusive; and
- (b) cannot be challenged, appealed against, reviewed, quashed, set aside, or called in question in another way, 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 4—LICENSED KENO EMPLOYEES

Division 1—Licensing requirements

Exempt keno employee

42.(1) The chief executive may declare—

- (a) a keno employee to be an exempt keno employee; or
- (b) a class of keno employees to be an exempt class of keno employees.

(2) The chief executive may make a declaration only if the chief executive is satisfied—

- (a) the functions of the employee, or of each employee included in the class, relating to the conduct of approved keno games, are minor; and
- (b) the licensing of the employee, or of each employee included in the class, is not warranted.

(3) A declaration must be made in writing.

Carrying out functions as keno employee

43. A person must not, as an employee of a keno licensee, carry out functions relating to the conduct of approved keno games unless—

- (a) the person is a licensed keno employee; or
- (b) in relation to the functions, the person is an exempt keno employee.

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

Employing keno employees

44. A keno licensee must not employ a person as a keno employee unless—

- (a) the person is a licensed keno employee; or

- (b) in relation to the person's functions, the person is an exempt keno employee.

Division 2—Key operators

Requirement that key operator apply for licence or end role

45.(1) If the chief executive reasonably believes a person is a key operator for a keno licensee, the chief executive may, by written notice given to the person, require the person either to apply for a keno employee licence, or to stop being a key operator of the licensee, within 7 days of receiving the notice.

(2) The person must comply with the 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 keno licensee.

(4) A requirement under this section is called a “**key operator's requirement**”.

Requirement that key operator end role

46.(1) If the chief executive refuses to approve an application for a keno employee 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 keno 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 for subsection (2)—100 penalty units 1 year's imprisonment.

Requirement to end key operator's role

47.(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 keno employee licence made by the person.

(2) The chief executive may, by written notice given to the keno licensee for whom the person is a key operator, require the licensee to end the association with the person within the time stated in the notice.

(3) The keno licensee must comply with the requirement.

(4) This section applies to a keno licensee despite another Act or law.

(5) A keno licensee does not incur any liability because the licensee ends an association with a person under this section.

Division 3—Applications for, and issue of, keno employee licences

Subdivision 1—General applications

Application of subdivision

48. This subdivision does not apply to an application for a keno employee licence to which subdivision 2 applies.

Application for licence

49.(1) An application for a keno employee licence must be made to the chief executive in the approved form.

(2) An application must be accompanied by—

- (a) a letter from a keno licensee addressed to the chief executive stating that the licensee intends to employ the applicant as a keno employee on the applicant being issued with a keno employee licence; and
- (b) any documents prescribed under a regulation; and
- (c) the application fee prescribed under a regulation.

(3) Subsection (2)(a) does not apply to an application made by a person of whom a key operator's requirement has been made.

Consideration of application

50.(1) The chief executive must consider an application for a keno employee 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.

Conditions for granting application

51.(1) The chief executive may grant an application for a keno employee 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 keno employee licence.

(2) In deciding whether the applicant is a suitable person to hold a keno employee licence, the chief executive may have regard to the following issues—

- (a) the applicant's character;
- (b) the applicant's financial position and background;
- (c) the applicant's general suitability to carry out the functions of a keno employee or to be a key operator for a keno licensee.

Investigation about suitability of applicant

52. The chief executive may make investigations about an applicant for a keno employee licence to help the chief executive to decide whether the applicant is a suitable person to hold a keno employee licence.

Decision about application

53.(1) If the chief executive decides to grant an application for a keno

employee licence, the chief executive must promptly issue the licence to the applicant.

(2) If the chief executive decides to refuse to grant an application for a keno employee licence, the chief executive must—

- (a) promptly give the applicant an information notice about the decision; and
- (b) as soon as practicable, cause the fingerprints of the applicant taken under section 51(1) for the application to be destroyed.

Subdivision 2—Applications by licensed casino employees

Application of subdivision

54. This subdivision applies to an application for a keno employee licence if—

- (a) the application is made by a person who is a licensed casino employee; and
- (b) the casino key employee licence or casino employee licence held by the licensed casino employee is not suspended.

Application for licence

55. An application for a keno employee licence must—

- (a) be made to the chief executive; and
- (b) be in the approved form; and
- (c) be accompanied by a letter from a keno licensee addressed to the chief executive stating the licensee intends to employ the applicant as a keno employee on the applicant being issued with a keno employee licence.

Issue of licence

56. On an application being made under this subdivision, the chief executive must promptly issue a keno employee licence to the applicant.

Subdivision 3—Conditions of licences**Conditions**

57.(1) The chief executive may issue a keno employee licence on conditions the chief executive considers necessary or desirable—

- (a) in the public interest; or
- (b) for the proper conduct of keno games by a keno licensee.

(2) If the chief executive decides to issue a keno employee licence on conditions, the chief executive must promptly give the applicant an information notice about the decision.

Division 4—Dealings with keno employee licences**Changing conditions of licence**

58.(1) The chief executive may decide to change the conditions of a keno employee licence if the chief executive considers it is necessary or desirable to make the change—

- (a) in the public interest; or
- (b) for the proper conduct of keno games by a keno licensee.

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

(3) The licensed keno employee must return the licence to the chief executive within 7 days of receiving the information notice, unless the employee 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 licensed keno employee; or
- (b) if the chief executive does not consider it is practical to amend the licence—issue another keno employee licence, incorporating the

changed conditions, to the licensed keno employee to replace the licence returned to the chief executive.

(5) The change of the conditions of a keno employee licence under this section 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.

Replacement of licence

59.(1) A licensed keno employee may apply to the chief executive for the replacement of a lost, stolen, destroyed or damaged keno employee licence.

(2) The chief executive must consider an application and either grant or refuse to grant the application.

(3) The chief executive must grant an 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 keno employee 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 give the applicant an information notice about the decision.

Surrender of licence

60.(1) A licensed keno employee may surrender the keno employee licence by written notice given to the chief executive.

(2) The surrender takes effect on the later of the following—

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

(3) If, at the time of the surrender, the chief executive believes the

licensed keno employee was employed by a keno licensee, the chief executive must give written notice of the surrender to the licensee.

Division 5—Suspension and cancellation of keno employee licences

Grounds for suspension or cancellation

61.(1) Each of the following is a ground for suspending or cancelling a keno employee licence—

- (a) the licensed keno employee is not, or is no longer, a suitable person to hold a keno employee licence;
- (b) the licensed keno employee has been convicted of an offence against this Act or a Gaming Act;
- (c) the licensed keno employee has been convicted of an indictable offence;
- (d) the licensed keno employee has contravened a condition of the licence;
- (e) the licensed keno employee has contravened a provision of this Act (being a provision a contravention of which does not constitute an offence against this Act);
- (f) the licence was issued because of a materially false or misleading representation or declaration.

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

Show cause notice

62.(1) If the chief executive believes a ground exists to suspend or cancel a keno employee licence, the chief executive must give the licensed keno employee a written notice under this section (a “**show cause notice**”).

(2) The show cause notice must—

- (a) state the action (the “**proposed action**”) the chief executive

proposes taking under this division; and

- (b) state the grounds for the proposed action; and
- (c) outline the facts and circumstances forming the basis for the grounds; and
- (d) if the proposed action is suspension of the licence—state the proposed suspension period; and
- (e) invite the employee to show within a stated period (the “**show cause period**”) why the proposed action should not be taken.

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

(4) If the chief executive believes the employee is currently employed by, or a key operator of, a keno licensee—

- (a) the chief executive must promptly give a copy of the show cause notice to the licensee; and
- (b) the licensee may make representations about the notice to the chief executive in the show cause period.

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

- (a) the employee; or
- (b) a keno licensee to whom a copy of the show cause notice is given.

Immediate suspension

63.(1) The chief executive may suspend a keno employee 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 keno games is not jeopardised.

(2) The suspension—

- (a) must be effected by written notice (a “**suspension notice**”) given to the licensed keno employee 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) The suspension notice must state the reason for the decision to suspend the licence immediately.

(4) If the chief executive believes the employee is currently employed by, or a key operator of, a keno licensee, the chief executive must promptly give a copy of the suspension notice to the licensee.

Censuring licensed keno employee

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

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

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

(3) The notice must state the reason for the decision to censure the licensed keno employee.

(4) If the chief executive believes the employee is currently employed by, or a key operator of, a keno licensee, the chief executive must promptly give a copy of the notice to the licensee.

Direction to rectify

65.(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 keno employee 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 licensed keno employee an opportunity to rectify the matter.

(2) The chief executive may, by written notice given to the licensed keno employee, direct the employee 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) If the chief executive believes the employee is currently employed by, or a key operator of, a keno licensee, the chief executive must promptly give a copy of the notice to the licensee.

Suspension and cancellation of licence

66.(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 keno employee licence; and

(b) believes suspension or cancellation of the licence is warranted.

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

(3) The chief executive may—

(a) if the proposed action stated in the show cause notice was to suspend the licence for a stated period—suspend the licence for not longer than the stated period; or

(b) if the proposed action stated in the show cause notice was to cancel the licence—either cancel the licence or suspend it for a period.

(4) The chief executive must promptly give an information notice about the decision to—

(a) the licensed keno employee; and

- (b) if the chief executive believes the employee is currently employed by, or a key operator of, a keno licensee—the licensee.
- (5) The decision takes effect on the later of the following—
 - (a) the day the information notice is given to the licensed keno employee;
 - (b) the day of effect stated in the notice.

Cancellation or reduction of period of suspension

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

- (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 promptly give written notice of the decision to—

- (a) the licensed keno employee; and
- (b) if, when the keno employee licence was suspended, the employee was employed by, or a key operator of, a keno licensee—the licensee.

Division 6—Investigation of licensed keno employees

Audit program

68.(1) The chief executive may approve an audit program for investigating licensed keno employees.

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

(3) A licensed keno employee may be investigated under an audit program only once every 2 years.

Investigations about suitability of licensed keno employees

69.(1) The chief executive may investigate a licensed keno employee to help the chief executive to decide whether the employee is a suitable person to hold, or to continue to hold, a keno employee licence.

(2) However, the chief executive may investigate a licensed keno employee only if—

- (a) the chief executive reasonably suspects the employee is not, or is no longer, a suitable person to hold a keno employee licence; or
- (b) the investigation is made under an audit program for licensed keno employees approved by the chief executive.

Requirement to give information or material for investigation

70.(1) In investigating a licensed keno employee, the chief executive may, by written notice given to the employee, require the employee to give the chief executive information or material the chief executive considers is relevant to the investigation.

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

(3) The employee must comply with the requirement, unless the employee has a reasonable excuse.

Maximum penalty—200 penalty units or 2 years imprisonment.

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

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

Division 7—General provisions about keno employee licences**Requirement for additional information or documents to support applications**

71.(1) The chief executive may, by written notice given to an applicant under this part, require the applicant to give the chief executive further information or another document about the application.

(2) The requirement must relate to information or a document the giving of which is necessary and reasonable to help the chief executive decide the application.

(3) The chief executive may refuse to grant the application if the applicant fails to comply with the requirement without a reasonable excuse.

Form of licence

72.(1) A keno employee licence must be in the approved form.

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

- (a) the employee's name;
- (b) a recent photograph of the employee;
- (c) the date of issue of the licence;
- (d) the conditions of the licence;
- (e) other particulars prescribed under a regulation.

Term of licence

73. A keno employee licence remains in force unless it lapses or is cancelled or surrendered.

Lapsing of licence

74.(1) A keno employee licence held by a keno employee lapses—

- (a) 1 year after the licensed keno employee last ceased to be

employed as a keno employee by a keno licensee; or

- (b) if the licensed keno employee is not employed as a keno employee by a keno licensee for 1 year after being issued with the licence—at the end of the year.

(2) A keno employee licence held by a key operator lapses 1 year after the key operator last ceased to be a key operator for a keno licensee.

Destruction of fingerprints of former licence holders

74A.(1) This section applies if—

- (a) a person ceases to be a licensed keno employee; and
(b) the keno employee licence was issued under section 53.³

(2) As soon as practicable after the person ceases to be a licensed keno employee, the chief executive must cause the fingerprints of the person taken under section 51(1)⁴ for the person's application for the keno employee licence to be destroyed.

Reports about person's criminal history

75.(1) If the chief executive, in making an investigation about a person under section 52⁵ or 69⁶ 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.

³ Section 53 (Decision about application)

⁴ Section 51 (Conditions for granting application)

⁵ Section 52 (Investigation about suitability of applicant)

⁶ Section 69 (Investigations about suitability of licensed keno employees)

Division 8—Requirements about employment of keno employees**Notice of start of keno employee's employment**

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

Maximum penalty—40 penalty units.

Returns about keno employees

77.(1) The chief executive may, by written notice given to a keno 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 keno licensee is given a notice under subsection (1), the licensee must give a return as required by this section listing the licensed and exempt keno employees currently employed by the licensee.

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.

Notice of end of keno employee's employment

78.(1) This section applies if—

- (a) a keno licensee ends the employment of a licensed or exempt keno employee; or
- (b) a licensed or exempt keno employee ends the employee's employment with a keno licensee; or
- (c) a licensed or exempt keno employee otherwise ceases to be employed by a keno licensee.

(2) Within 7 days after the licensed or exempt keno employee stops being employed by the keno licensee, the licensee must notify the chief executive of the end of the employment by notice in the approved form.

Maximum penalty—40 penalty units.

Requirement to end licensed keno employee's employment

79.(1) This section applies if—

- (a) a keno employee licence held by a keno employee employed by a keno licensee is cancelled or suspended; or
- (b) a keno employee employed by a keno licensee ceases to hold a keno employee licence for another reason.

(2) The chief executive may, by written notice given to the keno licensee, require the licensee to end the keno employee's employment as a keno employee within the time stated in the notice.

(3) The keno licensee must comply with the requirement.

(4) This section applies to a keno licensee despite another Act or law or any industrial award or agreement.

(5) A keno licensee does not incur any liability because the licensee ends the employment of a person under this section.

Division 9—Requirements about association with key operators

Notice of end of key operator's role

80.(1) This section applies if a person holds a keno employee licence as a key operator and the person stops being a key operator for a keno licensee.

(2) Within 7 days after the person stops being a key operator for the keno licensee, the licensee must notify the chief executive of that fact by notice in the approved form.

Maximum penalty—40 penalty units.

Requirement to end key operator's role

81.(1) This section applies if—

- (a) a keno employee licence held by a person as a key operator of a keno licensee is cancelled or suspended; or
- (b) a key operator of a keno licensee ceases to hold a keno employee licence for another reason.

(2) The chief executive may, by written notice given to the keno licensee, require the licensee to end the association with the person within the time stated in the notice.

(3) The keno licensee must comply with the requirement.

(4) This section applies to a keno licensee despite another Act or law.

(5) A keno licensee does not incur any liability because the licensee ends an association with a person under this section.

Division 10—General offences**False statements by applicants**

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

Maximum penalty—40 penalty units.

Display of identification

83. A licensed keno employee carrying out functions relating to the conduct of approved keno games must—

- (a) if asked by another person—produce an approved form of identification for the other person's inspection; or
- (b) have an approved form of identification displayed so it is clearly visible to other persons.

Maximum penalty—40 penalty units.

PART 5—KENO AGENTS AND SUBAGENTS

Division 1—Agency agreements

Entering into agency agreements

84. A keno licensee may enter into an agreement (an “**agency agreement**”) with a person providing for the following—

- (a) the appointment of the person as an agent of the licensee for the conduct of keno games by the licensee under the keno licence;
- (b) the person’s authority as an agent;
- (c) the conditions under which the person acts as, and remains, an agent of the licensee;
- (d) other matters agreed between the licensee and person.

Conditions for entering into agency agreement

85.(1) A keno licensee may enter into an agency agreement only with a person prescribed under a regulation as a person eligible to be a keno agent.

(2) A keno licensee may enter into an agency agreement only if the agreement—

- (a) is in a form approved by the chief executive; and
- (b) includes a provision stating the appointed person may not start operating as a keno agent until the qualifying period for the agreement ends; and
- (c) states the agent’s place of operation; and
- (d) includes any other provisions required by the chief executive.

Notice of agency agreement

86. Within 7 days after entering into an agency agreement, the keno licensee must inform the chief executive of the keno agent’s name and place of operation.

Condition for amending agency agreement

87. A keno licensee may agree to amend an agency agreement only with the written approval of the chief executive.

Notice delaying start of keno agent's operations

88.(1) The chief executive may, by written notice (a “**qualification notice**”) given to a keno agent, extend the basic qualifying period for the agency agreement until a day (the “**final qualification day**”) stated in the notice.

(2) The chief executive may give the notice only if the chief executive reasonably believes—

- (a) the keno agent is not a suitable person to be a keno agent; or
- (b) a business or executive associate of the keno agent is not a suitable person to be associated with a keno agent's operations.

(3) The notice must be given before the basic qualifying period for the agreement ends.

(4) The final qualification day must be a day within 28 days after the end of the basic qualifying period.

(5) At any time before the final qualification day, the chief executive may withdraw the qualification notice by written notice given to the keno agent.

(6) The chief executive must give a copy of the qualification notice and a notice under subsection (5) to the keno licensee with whom the agency agreement is entered into.

Start of keno agent's operations

89. A keno agent must not start operating as a keno agent until the qualifying period for the agency agreement ends.

Returns about keno agents

90.(1) A keno licensee must give a return as required by this section listing the current keno agents of the licensee.

Maximum penalty—40 penalty units.

(2) The return must—

- (a) be in the approved form; and
- (b) be given to the chief executive at least once every 6 months.

Notice of change of keno agent's place of operation

91.(1) This section applies if a keno agent changes, or proposes to change, the agent's place of operation and the keno licensee becomes aware of the change or proposed change.

(2) Within 7 days after the keno licensee becomes aware of the change or proposed change, the licensee must inform the chief executive of the keno agent's new, or proposed new, place of operation.

Division 2—Appointment of subagents

Appointment

92.(1) A keno agent may appoint a person (a “**keno subagent**”) as an agent of the keno agent for the conduct of keno games by the keno licensee for whom the keno agent acts.

(2) However, a keno agent may appoint a keno subagent only if the keno agent is authorised under the agency agreement to make the appointment.

Notice of keno subagent's appointment

93. Within 7 days after a keno licensee becomes aware of the appointment of a keno subagent by a keno agent of the licensee, and of the subagent's name and place of operation, the licensee must inform the chief executive of the subagent's name and place of operation.

Returns about keno subagents

94.(1) A keno licensee must give a return as required by this section listing the current keno subagents appointed by keno agents of the licensee.
Maximum penalty—40 penalty units.

(2) The return must—

- (a) be in the approved form; and
- (b) be given to the chief executive at least once every 6 months.

(3) Subsection (1) applies to a keno licensee, in relation to a keno subagent, only—

- (a) if the licensee is aware of the subagent's appointment; and
- (b) to the extent the particulars about the subagent required to be stated in the approved form are known to the licensee.

Notice of change of keno subagent's place of operation

95.(1) This section applies if a keno subagent changes, or proposes to change, the subagent's place of operation and the principal keno licensee becomes aware of the change or proposed change.

(2) Within 7 days after the principal keno licensee becomes aware of the change or proposed change, the licensee must inform the chief executive of the keno subagent's new, or proposed new, place of operation.

Division 3—Terminating agency agreements and appointment of keno subagents

Grounds for termination

96.(1) Each of the following is a ground for directing the termination of an agency agreement or the appointment of a keno subagent—

- (a) the appointed agent is not, or is no longer, a suitable person to be an appointed agent;
- (b) a business or executive associate of the appointed agent is not, or is no longer, a suitable person to be associated with an appointed agent's operations;
- (c) the appointed agent has been convicted of an offence against this Act or a Gaming Act;
- (d) the appointed agent has been convicted of an indictable offence;

- (e) the appointed 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 keno agent is not, or is no longer, a person who is eligible to be a keno agent.

(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 appointed agent's character;
- (b) the appointed agent's financial position and background;
- (c) the appointed agent's general suitability to act as an appointed agent.

(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 and financial position and background.

Show cause notice

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

- (a) a ground exists for directing the termination of an agency agreement or the appointment of a keno subagent; 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 keno games by the principal keno licensee may be jeopardised; or
 - (ii) the public interest may be affected adversely.

(2) The chief executive must give the appointed agent a written notice (a "**show cause notice**") that—

- (a) states that the chief executive proposes to take action (the "**proposed action**")—
 - (i) if the appointed agent is a keno agent—to direct the keno licensee to terminate the agency agreement; or

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- (ii) if the appointed agent is a keno subagent—to direct the keno agent to terminate the subagent’s appointment; 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 appointed 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 end not less than 21 days after the show cause notice is given to the appointed agent.

(4) The chief executive must promptly give a copy of the show cause notice to—

- (a) the appointed agent’s principal; and
- (b) if the appointed agent is a keno subagent—the principal keno licensee.

(5) A keno licensee or agent 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 appointed agent; or
- (b) a keno licensee or agent to whom a copy of the show cause notice is given.

Suspending appointed agent’s operations

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

- (a) a ground exists to direct the termination of an agency agreement or the appointment of a keno subagent; and
- (b) it is necessary to suspend the appointed agent’s operations—
 - (i) in the public interest; or
 - (ii) to ensure the integrity of the conduct of keno games by the

principal keno licensee is not jeopardised.

(2) The chief executive may suspend the appointed agent's operations.

(3) The suspension—

- (a) must be effected by written notice (a “**suspension notice**”) given to the appointed 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 appointed agent's operations.

(5) The chief executive must promptly give a copy of the suspension notice to—

- (a) the appointed agent's principal; and
- (b) if the appointed agent is a keno subagent—the principal keno licensee.

(6) A keno agent must not carry on operations as a keno agent while the agent's operations are suspended.

Maximum penalty—200 penalty units or 2 years imprisonment.

(7) A keno subagent must not carry on operations as a keno subagent while the subagent's operations are suspended.

Maximum penalty for subsection (7)—200 penalty units or 2 years imprisonment.

Censuring appointed agent

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

- (a) believes a ground exists to direct the termination of an agency agreement or the appointment of a keno subagent; but
- (b) does not believe the giving of a show cause notice to the appointed agent is warranted.

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

- (a) still believes a ground exists to direct the termination of an agency agreement or the appointment of a keno subagent; but
- (b) does not believe termination of the agreement or appointment is warranted.

(3) The chief executive may, by written notice given to the appointed agent, censure the agent for a matter relating to the ground for directing the termination of the agreement or appointment.

(4) The notice must state the reason for the decision to censure the appointed agent.

(5) The chief executive must promptly give a copy of the notice to—

- (a) the appointed agent's principal; and
- (b) if the appointed agent is a keno subagent—the principal keno licensee.

Direction to rectify

100.(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 direct the termination of an agency agreement or the appointment of a keno subagent; but
- (b) considers a matter relating to the ground is capable of being rectified and that it is appropriate to give the appointed agent an opportunity to rectify the matter.

(2) The chief executive may, by written notice given to the appointed 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—

- (a) the appointed agent's principal; and
- (b) if the appointed agent is a keno subagent—the principal keno licensee.

Directions to terminate affecting appointed agents

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

- (a) a ground exists to direct the termination of an agency agreement or the appointment of a keno subagent; 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 keno games by the principal keno licensee may be jeopardised; or
 - (ii) the public interest may be affected adversely.

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

(3) If the ground mentioned in subsection (1)(a), or direction to rectify, relates to an agency agreement, the chief executive must, by written notice given to the keno licensee, direct the licensee to terminate the agreement within the time stated in the notice.

(4) If the ground mentioned in subsection 1)(a), or direction to rectify, relates to a keno subagent's appointment, the chief executive must, by written notice given to the subagent's principal, direct the principal to terminate the subagent's appointment within the time stated in the notice.

(5) If the chief executive decides to give a direction under this section, the chief executive must promptly give written notice of the decision to—

- (a) the appointed agent affected by the decision; and
- (b) if the appointed agent is a keno subagent—the principal keno licensee.

(6) A notice under subsection (3), (4) or (5) 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 a Magistrates Court within 28 days.

Termination of agreement

102.(1) If the chief executive directs a keno licensee to terminate an agency agreement, the licensee 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 keno licensee 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 keno licensee under subsection (1) or by this Act.

(4) A keno licensee does not incur any liability because the licensee terminates an agency agreement under subsection (1).

Termination of appointment

103.(1) If the chief executive directs a keno agent to terminate a keno subagent's appointment, the agent must—

- (a) terminate the appointment 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 appointment.

(2) If the keno agent does not terminate the appointment as required by subsection (1), the appointment is terminated by this Act.

(3) The State does not incur any liability if a keno subagent's appointment is terminated by a keno agent under subsection (1) or by this Act.

(4) A keno agent does not incur any liability because the agent terminates a keno subagent's appointment under subsection (1).

Notice of termination of agreement

104.(1) This section applies if an agency agreement is terminated otherwise than because of a direction to terminate the agreement given to the

keno licensee by the chief executive.

(2) The keno licensee must notify the chief executive in writing of the termination within 7 days after the agreement is terminated.

Maximum penalty—40 penalty units.

Notice of termination of appointment

105.(1) This section applies if a keno subagent's appointment is terminated otherwise than because of a direction to terminate the appointment given to the keno agent by the chief executive.

(2) The keno agent must notify the chief executive in writing of the termination within 7 days after the appointment is terminated.

Maximum penalty—40 penalty units.

Division 4—Investigations about suitability of persons

Investigations

106.(1) The chief executive may investigate an appointed agent to help the chief executive to decide whether the person is, or continues to be, a suitable person to be an appointed agent.

(2) The chief executive may investigate a business or executive associate of an appointed agent to help the chief executive to decide whether the person is, or continues to be, a suitable person to be associated with an appointed agent's operations.

(3) However, the chief executive may investigate an appointed agent, or business or executive associate of an appointed agent, only if the chief executive reasonably suspects the person is not, or is no longer, a suitable person to be an appointed agent, or to be associated with an appointed agent's operations, as the case requires.

Requirement to give information or material for investigation

107.(1) In investigating an appointed agent or business or executive associate of an appointed agent, the chief executive may, by written notice

given to the person, require the person to give the chief executive information or material the chief executive considers is relevant to the investigation.

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

(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 material sought by the chief executive is not in fact relevant to the investigation.

Reports about person's criminal history

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

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

PART 6—KENO TAX AND LICENCE FEE

Requirement to pay keno tax

109.(1) A keno licensee must pay to the chief executive a tax (a "keno tax") for each month for the keno licence.

(2) The keno tax must be paid on or before the seventh day of the month immediately following the month for which the keno tax is payable.

Calculating keno tax

110.(1) The amount of keno tax to be paid is a percentage of the keno licensee's gross revenue for the month for which the keno tax is payable.

(2) The percentage for subsection (1) is the percentage that applies under the associated keno agreement for the relevant keno licence.

Monthly gross revenue return

111.(1) A keno licensee must give the chief executive a return (a "**monthly gross revenue return**") as required by this section each month stating details of the licensee's gross revenue for the previous month.

Maximum penalty—40 penalty units.

(2) The return must—

- (a) be in the approved form; and
- (b) be given not later than the day prescribed under a regulation.

Keno licence fee

112.(1) A keno licensee must pay to the chief executive a fee (a "**keno licence fee**") for the keno licence for each period (a "**licence payment period**") stated in the associated keno agreement.

(2) The keno licence fee for each licence payment period—

- (a) is the amount stated in, or decided under, the associated keno agreement; and
- (b) must be paid at the time stated in the agreement.

Application of keno tax and licence fee

113.(1) The chief executive must, for an amount of keno tax or keno licence fee received under this part—

- (a) pay a proportion of the amount into the sport and recreation benefit fund established under the *Gaming Machine Act 1991*,

section 166;⁷ and

- (b) pay a proportion of the amount into the charities and rehabilitation benefit fund established under the *Gaming Machine Act 1991*, section 167;⁸ and
- (c) pay any balance of the amount into the consolidated fund.

(2) The proportion of the amount of keno tax or keno licence fee to be paid into a fund mentioned in subsection (1)(a) or (b) is the proportion prescribed under a regulation for the fund.

Penalty for late payment

114.(1) A keno licensee must pay to the chief executive a penalty for an amount (the “**unpaid amount**”) of keno tax or keno licence fee remaining unpaid after the day the amount becomes payable.

(2) The penalty is the percentage prescribed under a regulation of the unpaid amount, calculated immediately the amount becomes payable but is not received by the chief executive.

(3) An additional penalty is payable by the keno licensee to the chief executive for any part of the unpaid amount, and any previous penalty, remaining unpaid—

- (a) at the end of 1 month starting on the day the unpaid amount first became payable; 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 amount for which the penalty is payable.

(5) A penalty, or a part of a penalty, is not payable if the chief executive,

⁷ Section 166 (Sport and recreation levy)

⁸ Section 167 (Charities and rehabilitation levy)

for a reason the chief executive considers appropriate, decides the penalty, or the part of the penalty, need not be paid.

Recovery of amounts

115. An amount of keno tax or keno licence fee, or penalty for a keno tax or keno licence fee, payable to the chief executive under this part and remaining unpaid is a debt payable to the Crown and may be recovered by action in a court of competent jurisdiction.

Revenue offences

116.(1) A keno licensee must not—

- (a) evade the payment of an amount payable by the licensee for a keno tax or keno licence fee; or
- (b) give the chief executive a monthly gross revenue return containing information the licensee knows is 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 keno licensee if the licensee, when giving the monthly gross revenue 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 against a person for an offence against subsection (1) to state that the document was false, misleading or incomplete to the person's knowledge.

PART 7—COMPLIANCE REQUIREMENTS

Division 1—Control system for conducting keno games

Keno games to be conducted under approved control system

117.(1) A keno licensee may conduct a keno game under the keno licence only if—

- (a) the licensee has an approved control system that relates to keno agents, or each class of keno agents, appointed by the licensee; and
- (b) the game is conducted under the system.

(2) A keno licensee may change the licensee's approved control system only—

- (a) if directed by, or with the approval of, the chief executive; and
- (b) in the way directed or approved by the chief executive.

Control system submission

118.(1) A keno licensee may make a submission (a “**control system submission**”) to the chief executive for approval of the licensee's proposed control system.

(2) A control system submission must be made in writing not later than—

- (a) 90 days before the keno licensee proposes to start conducting keno games under the keno licence; or
- (b) if the chief executive considers it is appropriate to allow a submission to be made at a later time—the time allowed by the chief executive.

(3) A control system submission must describe and explain the licensee'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 keno games—
 - (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 keno games; and
- (c) the procedures and standards for the maintenance, security, storage and transportation of equipment to be used for the conduct of keno games; and
- (d) the procedures for paying and recording amounts won at keno games; and
- (e) the procedures for using and maintaining security facilities.

(5) A control system submission may include information additional to the information mentioned in subsection (4).

Control system (change) submission

119.(1) A keno licensee may make a submission (a “**control system (change) submission**”) to the chief executive for approval to change the licensee’s approved control system.

(2) A control system (change) submission must be made in writing not later than—

- (a) 90 days before the keno licensee proposes to start conducting keno games under the approved control system, as proposed to be changed; or
- (b) if the chief executive considers it is appropriate to allow a submission to be made at a later time—the time allowed by the chief executive.

(3) A control system (change) submission must contain particulars of the proposed changes of the licensee’s approved control system.

Consideration of, and decisions about, submissions

120.(1) This section applies to a control system submission or control system (change) submission made to the chief executive by a keno licensee.

(2) The chief executive must consider the submission and either approve, or refuse to approve, the licensee's proposed control system or proposed change of the licensee's approved control system.

(3) In considering the submission, the chief executive may, by written notice given to the keno licensee, require the licensee to give the chief executive further information about the submission that is necessary and reasonable to help the chief executive make a decision about the submission.

(4) In considering whether to give an approval, the chief executive must have regard to the following issues—

- (a) whether the submission satisfies the requirements under this division for the submission;
- (b) whether the licensee'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 keno games.

(5) The chief executive may refuse to give an approval if the keno licensee fails to comply with a requirement under subsection (3) without a reasonable excuse.

(6) The chief executive must promptly give the keno licensee a written notice of the chief executive's decision to give, or to refuse to give, an approval.

(7) If the chief executive decides to refuse to give an approval, the notice must state the reasons for the decision and, if the chief executive believes the submission can easily be rectified to enable the chief executive to give an approval, the notice also must—

- (a) explain how the submission may be changed; and
- (b) invite the keno licensee to resubmit the submission after making the appropriate changes.

Direction to change approved control system

121.(1) The chief executive may, by written notice given to a keno licensee, direct the licensee to change the licensee's approved control system within the time, and in the way, stated in the notice.

(2) The keno licensee must comply with the direction.

(3) If the keno licensee does not comply with the direction, at the end of the time stated in the notice, the licensee's approved control system is taken to have been changed in the way stated in the notice.

Division 2—Keno records**Notices about keeping keno records**

122.(1) The chief executive may, by written notice given to a keno 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 keno records; or
- (b) specify a keno record of the licensee (an **“exempt keno record”**) that is not required to be kept at the approved place; or
- (c) specify a keno record of the licensee that may be kept temporarily at a place other than the approved place, and the period for which, or circumstances in which, the record may be kept at the other place; or
- (d) approve the keeping of information contained in a keno record of the licensee 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 keno record of the licensee the chief executive considers need not be kept.

(2) A keno record mentioned in subsection (1)(c) is also an **“exempt keno 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 keno record for subsection (1)(b) only if the chief executive considers there is sufficient reason for the keno 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 keno record.

Keno records to be kept at certain place

123.(1) A keno licensee must keep the licensee's keno records at—

- (a) 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, at its registered office; or
- (b) at an approved place for the records.

Maximum penalty—40 penalty units.

(2) Subsection (1) does not apply to an exempt keno record of the licensee.

Keno records to be kept for required period

124.(1) A keno licensee must keep a keno record of the licensee for 5 years after the end of the transaction to which the record relates.

Maximum penalty—40 penalty units.

(2) Subsection (1) does not apply to a keno record of the licensee if the information previously contained in the record is kept in another way in accordance with an approval of the chief executive.

(3) Also, subsection (1) does not apply to a keno record of the licensee that has been destroyed in accordance with an approval of the chief executive.

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

Division 3—Financial accounts, statements and reports**Keeping of accounts**

125. A keno licensee must—

- (a) keep accounting records that correctly record and explain the transactions and financial position for the licensee's operations conducted under the keno 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.

Preparation of financial statements and accounts

126.(1) A keno 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 keno 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.

Submission of reports

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

Maximum penalty—40 penalty units.

(2) The reports must be given at the times stated in a written notice given

to the keno 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 keno 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 keno 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 keno licensee must not give the chief executive a report containing information, or further information about a report, the licensee knows is false, misleading or incomplete in a material particular.

Maximum penalty—40 penalty units.

(7) Subsection (6) does not apply to a keno 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 against a person for an offence against subsection (6) to state that the report or information was false, misleading or incomplete to the person's knowledge.

Division 4—Financial institution accounts

Keeping of accounts

128. A keno 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 keno licence.

Maximum penalty—40 penalty units.

Use of accounts

129. A keno 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

Audit of keno licensee's operations

130. As soon as practicable after the end of a financial year, a keno 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 keno licence for the financial year to be audited by a registered company auditor approved by the chief executive.

Maximum penalty—40 penalty units.

Completion of audit

131.(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 keno 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.

Further information following audit

132.(1) On receiving a copy of the audit report, the chief executive may, by written notice given to the keno licensee, require the licensee to give the chief executive, within a reasonable time stated in the notice, further information about a matter relating to the licensee's operations mentioned in the audit report.

(2) A keno 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 8—CONDUCT OF APPROVED KENO GAMES*Division 1—Agreements relating to keno licensee's operations***Approval of ancillary keno agreements**

133.(1) A keno licensee may apply to the Minister for approval to enter into an ancillary keno agreement.

(2) The Minister may give the approval if the Minister considers it is appropriate or desirable in all the circumstances for the licensee to enter into the agreement.

(3) An approval must be in writing.

Entering into ancillary keno agreements

134. A keno licensee must not enter into, or be a party to, an ancillary keno agreement without the written approval of the Minister.

Maximum penalty—40 penalty units.

Review of related agreements

135.(1) The Minister may, by written notice given to a keno licensee, require the licensee 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 licensee 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 keno licensee must comply with the requirement within the time stated in the notice, unless the licensee has a reasonable excuse.

Show cause notice for related agreement

136.(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 keno games by the keno licensee who is a party to the agreement; or
- (b) may affect the public interest adversely.

(2) The Minister must give the keno licensee 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 licensee to show within a stated period (the “**show cause period**”) why the proposed action should not be taken.

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

(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 keno licensee or an interested person.

Direction to terminate related agreement

137.(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 keno games by the keno licensee 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 keno licensees and agents

Keno rules

138.(1) For this Act, the Minister may make rules for the playing of a game commonly known as keno.

(2) The rules are subordinate legislation.

Responsibility of keno licensee for licensee's acts

139. A keno licensee, in doing an act for the conduct of a keno game by the licensee under the keno licence, must ensure the act is done in accordance with the rules for the playing of the game.

Maximum penalty—40 penalty units.

Responsibility of keno licensee for acts of appointed agents

140.(1) This section applies to the doing of an act by an appointed agent for the conduct of a keno game by the keno licensee who is the principal keno licensee for the agent.

(2) The keno licensee must take reasonable steps to ensure the act is done in accordance with the rules for the playing of the game.

Maximum penalty—40 penalty units.

Responsibility of appointed agent for agent's acts

141. An appointed agent, in doing an act for the conduct of a keno game by the principal keno licensee, must ensure the act is done in accordance with the rules for the playing of the game.

Maximum penalty—40 penalty units.

Places of operation

142.(1) A keno licensee must not carry on the licensee's operations at a place other than a place that—

- (a) the licensee has, by notice given to the chief executive, nominated as being the licensee's proposed place of operation; and
- (b) has been approved by the chief executive.

Maximum penalty—200 penalty units or 2 years imprisonment.

(2) An appointed agent must not carry on the agent's operations at a place other than a place that—

- (a) is prescribed under a regulation as an approved place for the agent; and
- (b) is stated in a notice given to the chief executive as being the agent's place of operation.

Maximum penalty—200 penalty units or 2 years imprisonment.

(3) The notice mentioned in subsection (2) may be given by—

- (a) the appointed agent; or
- (b) the appointed agent's principal; or
- (c) if the appointed agent is a keno subagent—the principal keno licensee.

Times of conduct of approved keno games

143.(1) A keno licensee must not conduct a keno game under the keno licence during a period prescribed under a regulation for this subsection.

Maximum penalty—200 penalty units or 2 years imprisonment.

(2) An appointed agent must not carry on operations for the conduct of a keno game by the principal keno licensee during a period prescribed under a regulation for this subsection.

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

Claims for prizes

144. A claim for payment of a prize for an approved keno game must be made within 5 years after the day on which the game was conducted.

Approval of regulated keno equipment

145.(1) A keno licensee may apply to the chief executive—

- (a) for an approval for regulated keno equipment proposed to be used in the conduct of keno games by the licensee under the keno licence; or
- (b) for approval to modify regulated keno equipment used in the conduct of keno games by the licensee under the keno licence.

(2) The chief executive must—

- (a) consider an application; and
- (b) if the chief executive believes it is necessary for the chief executive to evaluate the equipment, or the equipment as proposed to be modified, to decide the application—carry out the evaluation as soon as practicable; and
- (c) after completing the consideration of the application and carrying out any necessary evaluation—approve, or refuse to approve, the equipment or modification.

(3) Despite subsection (2)(b) and (c), the chief executive is not required to carry out the evaluation, or decide the application, unless the fee prescribed under a regulation for the evaluation has been paid.

(4) The chief executive must promptly give the keno licensee written notice of the chief executive's decision.

(5) If the chief executive decides to refuse to give an approval, the notice must state the reasons for the decision.

Use of regulated keno equipment

146.(1) A keno licensee must not use any regulated keno equipment in conducting a keno game under the keno licence unless the equipment is approved keno equipment.

Maximum penalty—40 penalty units.

(2) An appointed agent must not use any regulated keno equipment for the conduct of a keno game by the principal keno licensee unless the equipment is approved keno equipment.

Maximum penalty—40 penalty units.

(3) A keno licensee or appointed agent must not modify approved keno equipment unless the modification is approved by the chief executive in writing.

Maximum penalty—40 penalty units.

(4) In this section—

“approved keno equipment” means regulated keno equipment approved by the chief executive under section 145 or the *Casino Control Act 1982*, section 62.⁹

Deposit advance accounts

147.(1) A keno licensee may establish a deposit advance account for a person for use by the person in playing keno games conducted by the licensee under the keno licence.

(2) The person may deposit amounts into the account in advance of playing a keno game.

(3) The keno licensee may issue keno tickets to the person for keno games conducted by the licensee under the keno licence of a value, or pay cash to the person, up to the amount for the time being standing to the person’s credit in the account.

(4) In working out the amount for the time being standing to a person’s credit in a deposit advance account, the amount of a cheque deposited in the account must not be taken into account until it has been cleared.

Extending credit

148. An authorised keno operator must not make a loan or extend credit

⁹ Section 62 (Gaming equipment and chips)

in any form to a person to enable the person or another person to take part in an approved keno game.

Maximum penalty—200 penalty units or 2 years imprisonment.

Keno advertising

149. A person who advertises the conduct of approved keno games must take reasonable steps to ensure the advertisement—

- (a) is not indecent or offensive; and
- (b) is based on fact; and
- (c) is not false, deceptive or misleading in a material particular.

Directions about keno advertising

150.(1) If the chief executive reasonably believes an advertisement about the conduct of approved keno games does not comply with section 149, 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) if the direction is a direction to change the advertisement—state how the advertisement is required 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.

Inquiries about complaints

151.(1) A keno licensee must inquire into—

- (a) a complaint made to the licensee by a person about—

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- (i) the conduct of a keno game by the licensee under the keno licence; or
 - (ii) if the licensee is the principal keno licensee for an appointed agent—the carrying on of the appointed agent’s operations relating to the conduct of a keno game by the licensee; or
- (b) a complaint referred to the licensee by the chief executive under subsection (3).

(2) Within 21 days after the complaint is received by, or referred to, the keno licensee, the licensee must give written notice of the result of the inquiry to—

- (a) the complainant; and
- (b) if the complaint was referred to the licensee 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 keno game, or the conduct of an appointed agent’s operations relating to an approved keno game, 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 keno licensee who conducted the keno game and that it is appropriate to refer the complaint to the licensee—refer the complaint to the keno licensee.

(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 keno licensee.

(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.

Claims for payment

152.(1) If a claim for payment of a prize for an approved keno game is made to an authorised keno operator, the operator must—

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

(2) If the person’s claim is not resolved by the authorised keno operator, the person may ask the chief executive—

- (a) if the person did not receive a claim result notice—to resolve the claim; or
- (b) if the person received a claim result notice—to review the operator’s decision.

(3) A request to the chief executive under subsection (2)—

- (a) must be in the approved form; and
- (b) if the person 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.

Banning excessive gamblers from playing approved keno games

153.(1) This section applies to an authorised keno operator if the operator reasonably believes the peace and happiness of a person’s family are endangered because of excessive keno gaming by the person.

(2) For 1 month after the authorised keno operator first forms the belief, the operator must not—

- (a) accept a completed entry form or subscription for an approved keno game from—

- (i) the person; or
 - (ii) another person the operator reasonably suspects is acting for the person; or
- (b) issue a keno ticket for an approved keno game to—
- (i) the person; or
 - (ii) another person the operator reasonably suspects is acting for the person; or
- (c) otherwise allow—
- (i) the person to take part in keno gaming; or
 - (ii) another person the operator reasonably suspects is acting for the person to take part in keno gaming.

(3) If the authorised keno operator is a keno licensee, subsection (2) applies to an act or thing done by the licensee only if it is done directly by the licensee at a place at which the licensee is entitled to carry on the licensee's operations.

Reporting improper behaviour

154.(1) This section applies if a keno licensee 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 a keno game conducted by the licensee under the keno licence; or
- (b) a keno agent, or an employee of a keno agent, of the licensee has contravened a provision of this Act.

(2) This section also applies if an appointed 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 a keno game conducted by the principal keno licensee; or
- (b) if the appointed agent is a keno agent—a keno subagent, or an employee of a keno subagent, of the agent has contravened a provision of this Act.

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(3) Within 3 days of becoming aware of, or suspecting, the dishonest act or contravention, the keno licensee or appointed agent must give the chief executive a written notice advising the chief executive of all facts known to the licensee 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 3—Keno gaming offences

Cheating

155.(1) A person must not, in relation to an approved keno game, dishonestly obtain a benefit by—

- (a) an act, practice or scheme; or
- (b) the use of a thing of a type used, or appearing to be of a type used, in the conduct of keno games; or
- (c) the use of another 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.

Forgery and deception

156.(1) A person must not—

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

Impersonating licensed keno employees or officials

157.(1) A person must not pretend to be a licensed keno employee or keno 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.

Bribery

158.(1) A keno 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 keno official or another person for an improper purpose.

Maximum penalty—200 penalty units or 2 years imprisonment.

(3) A keno 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.

Keno gaming by licensed keno or casino employees

159.(1) A licensed keno employee must not, while carrying out functions relating to the conduct of approved keno games, take part in keno gaming.

Maximum penalty—40 penalty units.

(2) A licensed casino employee directly involved in the draw for, or the recording of the results of, an approved keno game in a casino must not take part in the game.

Maximum penalty—40 penalty units.

(3) A person is not eligible to win a prize for an approved keno game if the person is prohibited under subsection (1) or (2) from taking part in the game.

Key officials

160.(1) The chief executive may declare a keno official to be a key official.

(2) The chief executive may direct a key official—

- (a) not to take part in keno gaming; or
- (b) not to take part in keno gaming except in stated circumstances or for stated purposes; or
- (c) not to have a financial relationship with an authorised keno operator.

(3) A declaration or direction—

- (a) must be made or given by written notice given to the keno official; and
- (b) may only be made or given if the chief executive considers it is appropriate to take the action in the public interest.

Keno gaming by key officials

161. A key official must not take part in keno gaming in contravention of a direction given to the official by the chief executive.

Maximum penalty—40 penalty units.

Relationship of key officials with authorised keno operators

162.(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 an authorised keno operator.

(2) A key official must not—

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

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 an authorised keno operator;
or
- (b) be an employee in any capacity of an authorised keno operator; or
- (c) knowingly have, directly or indirectly—
 - (i) a business or financial association with an authorised keno operator; or
 - (ii) a business or financial interest in something together with an authorised keno operator.

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

Relationship of key officials with prospective keno licensees

163.(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 keno licensee; or
- (b) a business or financial interest in something together with another person who is a prospective keno 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 an authorised keno operator.

(3) Immediately after the key official becomes aware that the other person is a prospective keno 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 is 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 keno licensee” means a person who has entered into a keno agreement with the intention of becoming a keno licensee but to whom a keno licence has not yet been issued.

Relationship of authorised keno operators with key officials

164.(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 an authorised keno operator.

(2) Also, this section applies only if the authorised keno operator knows,

or ought reasonably to know, that the key official is a key official to whom this section applies.

- (3) The authorised keno operator must not—
- (a) employ in any capacity, or have as an employee, the key official; or
 - (b) knowingly have, directly or indirectly—
 - (i) a business or financial association with the key official; or
 - (ii) a business or financial interest in something together with the key official.

Maximum penalty—40 penalty units.

(4) The authorised keno operator 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) have the person as an employee; or
- (c) knowingly have, directly or indirectly—
 - (i) a business or financial association with the person; or
 - (ii) a business or financial interest in something together with the person.

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

Keno gaming by minors

165. A minor must not take part in keno gaming.

Maximum penalty—10 penalty units.

Allowing minors to take part in keno gaming

166.(1) A person involved in the conduct of an approved keno game (an “involved person”) must not—

- (a) accept a completed entry form or subscription for the game from a minor; or
- (b) issue a keno ticket for the game to a minor; or

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(c) otherwise allow a minor to take part in keno gaming.

Maximum penalty—20 penalty units.

(2) If an involved person suspects a person attempting to take part in keno gaming is a minor, the involved person may ask the person to give the involved person acceptable evidence of the person's age.

(3) If a person is asked to give acceptable evidence of the person's age, the person must not—

(a) further attempt to take part in keno gaming without giving acceptable evidence; or

(b) give acceptable evidence that is false or misleading in a material particular.

Maximum penalty—20 penalty units.

(4) In a prosecution for an offence against subsection (1), it is a defence to prove that—

(a) the defendant had no reason to believe, and did not believe, that the person whose age is material to the offence was a minor; or

(b) at the time of the contravention constituting the offence, the defendant had obtained from the person whose age is material to the offence acceptable evidence of the person's age indicating the person was an adult.

(5) In the application of a defence on the ground mentioned in subsection (4)(a), the operation of the Criminal Code, section 24¹⁰ is excluded.

(6) In this section, a reference to acceptable evidence of a person's age is a reference to a document that is acceptable evidence of the person's age for the *Liquor Act 1992*.¹¹

¹⁰ Criminal Code, section 24 (Mistake of fact)

¹¹ See *Liquor Act 1992*, section 6 (Acceptable evidence of age).

PART 9—INVESTIGATION AND ENFORCEMENT

Division 1—Inspectors

Persons who are inspectors

167. A person who is an inspector under a Gaming Act is an inspector for this Act.

Powers

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

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

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

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

Term of office

169. An inspector ceases to hold office if the inspector is no longer an inspector under at least 1 Gaming Act.

Identity cards

170.(1) An inspector must have an identity card.

(2) An inspector's identity card is the identity card given to the person as an inspector under a Gaming Act.

(3) The identity card must identify the person as an inspector for this Act.

Production or display of identity card

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

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

(2) However, if for any reason it is not practicable to comply with subsection (1) before exercising the power, the inspector must produce the identity card for the other person's inspection at the first reasonable opportunity.

Division 2—Powers of inspectors

Subdivision 1—Power to enter places

Entry without consent or warrant

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

- (a) a public place; or
- (b) a keno gaming place when—
 - (i) approved keno games, or parts of approved keno games, are being conducted at the place; or
 - (ii) the place is open for conducting approved keno games, or parts of approved keno games; or
 - (iii) the place is open for carrying on business; or
 - (iv) the place is otherwise open for entry; or
- (c) the land around premises to ask its occupier for consent to enter the premises.

Entry with consent or warrant

173. Unless an inspector is authorised to enter a place under section 172, 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

Consent to entry

174.(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.¹²

(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 was 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.

Evidence of consent

175.(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;

¹² This section does not apply if entry is authorised by section 172 or 173(b).

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.

Application for warrant

176.(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.

Issue of warrant

177.(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.

Special warrants

178.(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.

Evidence about special warrants

179.(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

General powers after entering places

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

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

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

- (a) search any part of the place; or
- (b) inspect, measure, test, photograph or film any part of the place or anything at the place; or
- (c) take a thing, or a sample of or from a thing, at the place for analysis or testing; or
- (d) copy a document at the place; or
- (e) for a keno gaming place—access, electronically or in another way, a system used at the place for conducting approved keno games, or administrative purposes related to the conduct of

approved keno games; or

- (f) take into or onto the place any persons, equipment and materials the inspector reasonably requires for exercising a power under this part; or
- (g) require the occupier of the place, or a person at the place, to give the inspector reasonable help to exercise the inspector's powers under paragraphs (a) to (f); or
- (h) require the occupier of the place, or a person at the place, to give the inspector information to help the inspector ascertain whether this Act is being complied with.

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

Failure to help inspector

181.(1) A person required to give reasonable help under section 180(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.

Failure to give information

182.(1) A person of whom a requirement is made under section 180(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.

Role of police officers

183.(1) An inspector may ask a police officer to help the inspector in the exercise of a power under this part.

(2) The police officer must give the inspector the reasonable help the inspector requires, if it is practicable to give the help.

Subdivision 4—Power to seize evidence**Seizing evidence at keno gaming places**

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

Seizing evidence at places other than keno gaming places

185.(1) This section applies if an inspector enters a place under this part and the place is not a keno gaming place.

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

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

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

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

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

(5) Also, the inspector may seize a thing at the place if the inspector

reasonably believes it has just been used in committing an offence against this Act.

Securing seized things

186. Having seized a thing, an inspector may—

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

Example of restricting access to a thing—

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

Tampering with seized things

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

Maximum penalty—40 penalty units.

Powers to support seizure

188.(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.

Receipt for seized things

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

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

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

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

Forfeiture of seized things

190.(1) A seized thing is forfeited to the Crown if the inspector who seized the thing—

- (a) cannot find its owner, after making reasonable inquiries; or
- (b) cannot 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 cannot 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 a Magistrates Court 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.

Return of seized things

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

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

(2) Despite subsection (1), unless 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.

Access to seized things

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

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

Subdivision 5—Power to give directions to stop using things

Direction to stop using thing

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

- (a) a thing used in the conduct of approved keno games 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 keno games; 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 keno games.

Requirements about stop directions

194.(1) A direction given to a person under section 193 (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 an authorised keno operator or another person involved in the conduct of an approved keno game.

(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.

Failure to comply with stop direction

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

Maximum penalty—40 penalty units.

Subdivision 6—Power to obtain information

Power to require name and address

196.(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 to reasonably suspect the person has just committed an offence against this Act.

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

(3) When making the requirement, the inspector must warn the person it is an offence to fail to state the person's name or residential address, unless the person has a reasonable excuse.

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

reasonably suspects the stated name or address is false.

(5) Without limiting section 183,¹³ an inspector may ask a police officer to help with the enforcement of this section.

(6) A requirement under subsection (2) or (4) is called a “**personal details requirement**”.

Failure to give name or address

197.(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.

Steps police officer may take for failure to give name and address

198. A police officer may take the following steps if a person fails to comply with a personal details requirement—

- (a) the police officer may ask the person whether the person has a reasonable excuse for not complying with the requirement;
- (b) if the person gives an excuse, the police officer may ask for details or further details of the excuse;
- (c) if the person does not answer the question or gives an excuse the police officer reasonably believes is not a reasonable excuse, the officer may—
 - (i) tell the person that the officer is considering arresting the person for failing to comply with the requirement; and
 - (ii) require the person to state the person’s name and residential address (or, if the person has no residential address, an

¹³ Section 183 (Role of police officers)

- address at which the person can most likely be contacted); and
- (iii) if the officer reasonably suspects a stated name or address is false—require the person to give evidence of the correctness of the stated name or address;
- (d) the police officer may arrest the person without a warrant if the officer reasonably believes—
- (i) the person has not complied with a requirement of the officer under paragraph (c)(ii) or (iii); and
 - (ii) proceedings by way of complaint and summons against the person for an offence against section 197 would be ineffective.

Power to require production of documents

199.(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 keno licensee—a document kept by the person about the conduct of keno games by the licensee under the keno licence; or
- (d) if the person is an appointed agent—a document kept by the person about the conduct of keno games by the principal keno licensee.

(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**”.

Failure to produce document

200.(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.

Failure to certify copy of document

201. 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.

Power to require attendance of persons

202.(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 keno licensee conducted under the keno licence—

- (a) the licensee or, if the licensee is a corporation, an executive officer of the licensee;
- (b) a licensed keno employee employed by the licensee;
- (c) an appointed agent for whom the licensee is the principal keno licensee or, if the appointed agent is a corporation, an executive

officer of the agent;

- (d) an employee of an appointed agent mentioned in paragraph (c);
- (e) another person associated with the operation or management of the operations of—
 - (i) the licensee; or
 - (ii) an appointed 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 an appointed agent's operations—

- (a) the agent or, if the agent is a corporation, an executive officer of the agent;
- (b) an employee of the agent;
- (c) the principal keno licensee or, if the licensee is a corporation, an executive officer of the licensee;
- (d) another person associated with the operation or management of the operations of—
 - (i) the agent; or
 - (ii) the principal keno licensee.

(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 it is an offence to fail to comply with the requirement, unless the person has a reasonable excuse.

Failure to comply with requirement about attendance

203.(1) A person of whom a requirement is made under section 202 must not, unless the person has a reasonable excuse—

- (a) fail to attend before the inspector at the time and place stated in the notice imposing the requirement; or

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

Maximum penalty—40 penalty units.

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

Power to require financial records

204.(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 keno licensee keeps an account in relation to the licensee's operations under the keno licence; or
- (b) an appointed 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) (a “**financial records requirement**”) only with the written approval of the chief executive.

Effect of compliance with financial records requirement

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

financial records requirement.

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

Failure to comply with financial records requirement

206. 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

Direction about management practices

207.(1) This section applies if the Minister reasonably believes—

- (a) the management, supervision or control of a part of a keno licensee's or appointed agent's operations (the “**management practice**”) is unsatisfactory; and
- (b) the management practice may result in—
 - (i) the integrity of the conduct of keno games by the keno licensee under the keno licence being jeopardised; or
 - (ii) the public interest being affected adversely.

(2) The Minister may direct the keno licensee or appointed 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 direction is to change the management practice—clearly describe how the practice is required 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

Forfeiture on conviction

208.(1) On the conviction of a person for an offence against this Act, the court may order the forfeiture to the Crown 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.

Dealing with forfeited things

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

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

Notice of damage

210.(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 it in the notice.

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

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

(6) In this section—

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

Compensation

211.(1) A person may claim compensation from the Crown 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 2¹⁴—

- 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.

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

¹⁴ Division 2 (Powers of inspectors)

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

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

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

Protecting officials from liability

212.(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 Crown.

Division 5—General enforcement offences

False or misleading statements

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

Maximum penalty—40 penalty units.

(2) It is enough for a complaint against a person for an offence against subsection (1) to state that the statement made was false or misleading to the person’s knowledge.

False, misleading or incomplete documents

214.(1) A person must not give an inspector a document containing information the person knows is 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 against a person 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.

Obstructing inspectors

215.(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 is an obstruction.

(3) If, after an inspector has warned the person, the person continues with the conduct or repeats the conduct, the inspector may ask a police

officer to help with the enforcement of this section.

(4) Subsection (3) does not limit section 183.¹⁵

Steps police officer may take for obstruction

216. A police officer may take the following steps if a person has obstructed an inspector—

- (a) the police officer may ask the person whether the person has a reasonable excuse for the conduct;
- (b) if the person gives an excuse, the police officer may ask for details or further details of the excuse;
- (c) if the person does not answer the question or gives an excuse the police officer reasonably believes is not a reasonable excuse, the officer may—
 - (i) tell the person that the officer is considering arresting the person for obstruction; and
 - (ii) require the person to stop, or not repeat, the conduct;
- (d) the police officer may arrest the person without a warrant if the officer reasonably believes—
 - (i) the person has not complied with a requirement of the officer under paragraph (c)(ii); and
 - (ii) proceedings by way of complaint and summons against the person for an offence against section 215 would be ineffective.

¹⁵ Section 183 (Role of police officers)

PART 10—LEGAL PROCEEDINGS

Division 1—Evidence

Application of division

217. This division applies to a proceeding under this Act.

Appointments and authority

218. 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.

Signatures

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

Evidentiary aids

220.(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)

Keno Act 1996

- 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 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 keno licence or keno employee licence.

Division 2—Proceedings

Indictable and summary offences

221.(1) An offence against section 155,¹⁶ 156¹⁷ or 158¹⁸ is an indictable offence.

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

¹⁶ Section 155 (Cheating)

¹⁷ Section 156 (Forgery and deception)

¹⁸ Section 158 (Bribery)

Proceedings for indictable offences

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

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

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

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

(3) If subsection (2) applies—

- (a) the magistrate must proceed by way of an examination of witnesses for an indictable offence; and
- (b) a plea of the person charged at the start of the proceeding must be disregarded; and
- (c) evidence brought in the proceeding before the magistrate decided to act under subsection (2) is taken to be evidence in the proceeding for the committal of the person for trial or sentence; and
- (d) before committing the person for trial or sentence, the magistrate must make a statement to the person as required by the *Justices Act 1886*, section 104(2)(b).¹⁹

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

Limitation on who may summarily hear indictable offence proceedings

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

- (a) for the summary conviction of a person on a charge for an

¹⁹ Section 104 (Proceedings upon an examination of witnesses in relation to an indictable offence)

indictable offence; or

- (b) for an examination of witnesses for a charge for an indictable offence.

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

Limitation on time for starting summary proceedings

224. A proceeding for an offence against this Act by way of summary proceeding under the *Justices Act 1886* must start—

- (a) within 1 year after the commission of the offence; or
- (b) at any later time but within 6 months after the offence comes to the complainant's knowledge.

Responsibility for acts or omissions of representatives

225.(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.

Executive officers must ensure corporation complies with Act

226.(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.

Attempts to commit offences

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

Maximum penalty—half the maximum penalty for committing the offence.

(2) The Criminal Code, section 420 applies to subsection (1).

PART 11—APPEALS

Appeals by keno licensees

228. A keno licensee may appeal against a decision of the chief executive mentioned in schedule 2, part 1.

Appeals by applicants for keno employee licences

229. An applicant for a keno employee licence may appeal against a decision of the chief executive under section 50²¹ to refuse to grant the application.

Appeals by licensed keno employees

230. A licensed keno employee may appeal against a decision of the chief executive mentioned in schedule 2, part 2.

Appeals by keno agents

231. A keno agent may appeal against a decision of the chief executive mentioned in schedule 2, part 3.

Appeals by keno subagents

232. A keno subagent may appeal against a decision of the chief executive mentioned in schedule 2, part 4.

²⁰ Section 4 (Attempts to commit offences)

²¹ Section 50 (Consideration of application)

Appeals by other persons

233. The owner of a thing seized by an inspector may appeal against a decision of the inspector under section 190²² to forfeit the thing.

Court to which appeal may be made

234.(1) An appeal by a licensed keno employee, or applicant for a keno employee licence, may be made to the Magistrates Court nearest the place where the employee or applicant resides or carries on, or proposes to carry on, employment, or activities as a key operator, under the keno employee licence.

(2) An appeal by a keno licensee may be made to the Magistrates Court nearest the place where the licensee resides or carries on operations under the keno licence.

(3) An appeal by an appointed agent may be made to the Magistrates Court nearest the place where the agent resides or carries on operations.

(4) An appeal by another person may be made to the Magistrates Court nearest the place where the person resides or carries on business.

Starting appeal

235.(1) An appeal is started by—

- (a) filing a written notice of appeal with the clerk of the court of the Magistrates Court; and
- (b) serving a copy of the notice on the person (the “**decision maker**”) who made the decision appealed against.

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

(3) The court 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.

²² Section 190 (Forfeiture of seized things)

Stay of operations of decisions

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

(2) A stay—

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

(3) The period of a stay under this section must not extend past the time when the court decides the appeal.

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

Hearing procedures

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

- (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 court or chambers.

(2) An appeal is by way of rehearing.

Powers of Court on appeal

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

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

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

Appeal to District Court

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

PART 12—MISCELLANEOUS**Confidentiality of information**

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

Maximum penalty—200 penalty units or 2 years imprisonment.

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

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

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

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

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

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

(5) If information is disclosed to an entity or person under an approval given by the chief executive, the entity or person, and any employee or other person under the control of the entity or person, are taken to be persons to whom subsection (1) applies and to have gained the information in performing functions under this Act.

Delegations

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

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

(3) In this section—

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

Example of ‘standing’—

a person's classification level in the public service.

Approval of forms

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

Regulation-making power

243. The Governor in Council may make regulations under this Act.

SCHEDULE 1

DECISIONS NOT SUBJECT TO APPEAL

section 41

PART 1—DECISIONS OF GOVERNOR IN COUNCIL

Section	Description of decision
32	Suspending a keno licence
32	Cancelling a keno licence
32	Appointing an administrator to conduct the operations of a keno licensee under a keno licence
34	For a keno licence that is suspended—cancelling or reducing any remaining period of suspension

PART 2—DECISIONS OF MINISTER

Section	Description of decision
13	Issuing a keno licence
14	Entering into, or not to enter into, a keno agreement with a person
13 and 14	Not to issue a keno licence to a person who is a party to a keno agreement
19	Imposing a condition on a keno licence
28	Suspending a keno licence
29	Censuring a keno licensee

SCHEDULE 1 (continued)

- 30 Directing a keno licensee to rectify a matter
- 133 Refusing to give an approval for a keno licensee to enter into an ancillary keno agreement
- 137 Directing the termination of a related agreement
- 207 Directing a keno licensee to stop or change a management practice

SCHEDULE 2

DECISIONS OF CHIEF EXECUTIVE SUBJECT TO APPEAL

sections 228, 230, 231 and 232

PART 1—DECISIONS AFFECTING KENO LICENSEES

Section	Description of decision
66	Suspending or cancelling a keno employee licence held by a keno employee or key operator of the keno licensee
101	Directing the keno licensee to terminate an agency agreement
101	Directing a keno agent of the keno licensee to terminate a subagent's appointment

PART 2—DECISIONS AFFECTING LICENSED KENO EMPLOYEES

Section	Description of decision
57	Imposing a condition on the keno employee licence
58	Changing a condition of the keno employee licence
59	Refusing to grant an application to replace the keno employee licence
66	Suspending or cancelling the keno employee licence

SCHEDULE 2 (continued)

PART 3—DECISIONS AFFECTING KENO AGENTS

Section	Description of decision
101	Directing a keno licensee to terminate the agency agreement
101	Directing the keno agent to terminate a subagent's appointment

**PART 4—DECISIONS AFFECTING KENO
SUBAGENTS**

Section	Description of decision
101	Directing a keno agent to terminate the subagent's appointment
101	Directing a keno licensee to terminate an agency agreement entered into by the keno subagent's principal

SCHEDULE 4

DICTIONARY

section 2

“accepted representations”, for part 3, division 3, see section 27.

“accepted representations”, for part 4, division 5, see section 62.

“accepted representations”, for part 5, division 3, see section 97.

“accepted representations”, for part 8, division 1, see section 136.

“agency agreement” see section 84.

“ancillary keno agreement” means an agreement (other than an agency agreement or agreement providing for a subagent’s appointment), contract, lease or arrangement (whether written or unwritten) under which a person agrees to provide to a keno licensee a thing or service in return for a direct or indirect interest in, or percentage or share of—

- (a) amounts received by the licensee in conducting keno games under the keno licence; or
- (b) the revenue, profit or earnings derived by the licensee in conducting keno games under the keno licence.

“appointed agent” means a keno agent or subagent.

“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 form” see section 242.²³

“approved form of identification”, for a licensed keno employee, means a card or other thing that—

- (a) contains a recent photograph of the employee; and

²³ Section 242 (Approval of forms)

SCHEDULE 4 (continued)

- (b) is signed by the employee; and
- (c) identifies the person as a licensed keno employee; and
- (d) complies with any other requirements prescribed under a regulation.

“approved keno game” means a keno game conducted by a keno licensee under the keno licence.

“approved place” see section 122.

“associated keno agreement”, for a keno licence, means the keno agreement for which the licence is issued.

“authorised keno operator” means a keno licensee or appointed agent.

“basic qualifying period”, for an agency agreement, means the period starting when the agreement is entered into and ending on the day immediately before the intended operation day for the agreement.

“business associate”, of an appointed agent, means a person whom the chief executive reasonably believes is associated with the ownership or management of the agent’s operations.

“business associate”, of a keno licensee, means a person whom the Minister reasonably believes is associated with the ownership or management of the licensee’s operations.

“business associate”, of a proposed keno licensee, means a person whom the Minister reasonably believes—

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

SCHEDULE 4 (continued)

“**casino**” see the *Casino Control Act 1982*, section 4.²⁴

“**completed entry form**”, for an approved keno game, means an entry form for the game marked by a person to show the person’s selection of a number or numbers for the game.

“**conduct**”, by a keno licensee, includes promote, organise and operate.

“**consent acknowledgment**” see section 174.

“**control system**” means a system of internal controls and administrative and accounting procedures for the conduct of keno games by a keno licensee under a keno licence.

“**control system (change) submission**” see section 119.

“**control system submission**” see section 118.

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

“**document certification requirement**” see section 199.

“**document production requirement**” see section 199.

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

“**entry form**”, for an approved keno game, means a card or other thing made available by the keno licensee conducting the game for use by a person intending to take part in the game for marking the person’s selection of a number or numbers for the game.

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

²⁴ *Casino Control Act 1982*, section 4—

“**casino**” means the areas of a hotel-casino complex identified in the casino licence as the areas of the casino, and includes, for example, if identified in the licence, not only the areas for the conduct and playing of games but also areas for money counting, surveillance, accounting, storage and other activities related to the operation and functioning of the casino.

SCHEDULE 4 (continued)

“executive associate”, of a keno licensee, means an executive officer of a corporation, partner or trustee, or another person stated by the Minister, whom the Minister reasonably believes is associated with the ownership or management of the operations of the keno licensee.

“executive associate”, of a proposed keno licensee, 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 proposed keno licensee’s operations; or
- (b) will, if a keno licence is issued to the proposed keno licensee, be associated with the ownership or management of the licensee’s operations.

“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 keno employee” means—

- (a) a keno employee declared by the chief executive under section 42 to be an exempt keno employee; or
- (b) a keno employee included in a class of keno employees declared by the chief executive under section 42 to be an exempt class of keno employees.

“exempt keno record” see section 122.

“final qualification day” see section 88.

“financial records requirement” see section 204.

“Gaming Act” means any of the following Acts—

- *Art Unions Act 1992*
- *Casino Control Act 1982*
- *Gaming Machine Act 1991*
- *Lotteries Act 1997*.

SCHEDULE 4 (continued)

“gross revenue”, for a keno licensee for a month, means the amount worked out under the associated keno agreement as being the licensee’s gross revenue for the month.

“identity card”, for an inspector, see section 170(2).

“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 a Magistrates Court within 28 days.

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

“intended operation day”, for an agency agreement, means the day (not earlier than 15 days after the agreement is entered into) stated in the agreement as the day it is intended the keno agent may start operations.

“interested person”, for section 27, see section 26.

“keno agent” means a person appointed under an agency agreement as an agent of a keno licensee.

“keno agreement” see section 14.

“keno employee” means an employee who has functions relating to the conduct of keno games.

“keno employee licence” means a licence issued under section 53 or 56.²⁵

“keno 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 or playing of keno games.

“keno game” means a game for which rules are made by the Minister under section 138.²⁶

²⁵ Section 53 (Decision about application)
Section 56 (Issue of licence)

²⁶ Section 138 (Keno rules)

SCHEDULE 4 (continued)

“keno gaming” means the playing of an approved keno game.

“keno gaming place” means—

- (a) a place occupied by a keno licensee that is used for the conduct of keno games, or parts of keno games, or a purpose relating to the conduct of keno games, by the licensee under the keno licence; or
- (b) a place occupied by an appointed agent that is used for the conduct of keno games, or parts of keno games, or a purpose relating to the conduct of keno games, by the principal keno licensee; or
- (c) if a keno licensee is a body corporate—a place occupied by a related body corporate of the licensee that is used for a purpose relating to the conduct of keno games by the licensee under the keno licence.

“keno licence” means a licence to conduct keno games.

“keno licence fee” see section 112.

“keno licensee” means a person who holds a keno licence.

“keno official” means—

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

“keno record”, of a keno licensee, means a record (including a document) about the operations conducted by the licensee under the keno licence.

“keno subagent” see section 92.

“keno tax” see section 109.

“keno ticket” means a document or other thing that evidences the right of a person to take part in an approved keno game.

“key official” see section 160.

“key operator”, for a keno licensee, means a person who is associated with the licensee in a way in which the person exercises, or is able to exercise—

SCHEDULE 4 (continued)

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

“key operator's requirement” see section 45.

“licensed casino employee” means a person who holds a casino key employee licence or casino employee licence under the *Casino Control Act 1982*.

“licensed keno employee” means a person who holds a keno employee licence.

“monthly gross revenue return” see section 111.

“official keno document” means—

- (a) a keno ticket; or
- (b) a keno licence; or
- (c) a keno employee licence; or
- (d) an inspector's identity card; or
- (e) an approved form of identification for a licensed keno employee.

“personal details requirement” see section 196.

“place of seizure” see section 186.

“principal keno licensee” means—

- (a) for a keno agent—the keno licensee by whom the agent is appointed; or
- (b) for a keno subagent—the keno licensee who appointed the keno agent by whom the subagent is appointed.

“proposed action”, for part 3, division 3, see section 25.

“proposed action”, for part 4, division 5, see section 62.

SCHEDULE 4 (continued)

“proposed keno licensee” see section 15.

“qualification notice” see section 88.

“qualifying period”, for an agency agreement, means the period starting when the agency agreement is entered into and ending—

- (a) on the day immediately before the intended operation day for the agreement; or
- (b) if a qualification notice is given for the agreement—
 - (i) on the final qualification day for the notice; or
 - (ii) if the notice is withdrawn—on the day the notice is withdrawn.

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

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

“registered company auditor” means a person registered as an auditor, or taken to be registered as an auditor, under the Corporations Law, chapter 9, part 9.2.²⁷

“regulated keno equipment” means keno equipment declared under a regulation to be regulated keno equipment.

“related agreement” means—

- (a) an agreement, contract, lease or arrangement (whether written or unwritten) that—
 - (i) is entered into between a keno licensee and another person; and
 - (ii) relates to the operations of the licensee conducted under the keno licence; or
- (b) an ancillary keno agreement.

²⁷ Chapter 9 (Miscellaneous), part 9.2 (Registration of auditors and liquidators)

SCHEDULE 4 (continued)

“related body corporate”, of a keno licensee that is a body corporate, means a body corporate that is related to the licensee because of the Corporations Law, section 50.²⁸

“show cause notice”, for part 3, division 3, see section 25.

“show cause notice”, for part 4, division 5, see section 62.

“show cause notice”, for part 5, division 3, see section 97.

“show cause notice”, for part 8, division 1, see section 136.

“show cause period”, for part 3, division 3, see section 25.

“special warrant” see section 178.

“stop direction” see section 194.

“subscription” includes a contribution to a subscription.

²⁸ Corporations Law, section 50 (Related bodies corporate)

Where a body corporate is:

- (a) a holding company of another body corporate;
 - (b) a subsidiary of another body corporate; or
 - (c) a subsidiary of a holding company of another body corporate;
- the first-mentioned body and the other body are related to each other.

ENDNOTES

1 Index to endnotes

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2 Date to which amendments incorporated

This is the reprint date mentioned in the Reprints Act 1992, section 5(c). Accordingly, this reprint includes all amendments that commenced operation on or before 5 January 1998. Future amendments of the Keno Act 1996 may be made in accordance with this reprint under the Reprints Act 1992, section 49.

3 Key

Key to abbreviations in list of legislation and annotations

AIA	=	Acts Interpretation Act 1954	(prev)	=	previously
amd	=	amended	proc	=	proclamation
ch	=	chapter	prov	=	provision
def	=	definition	pt	=	part
div	=	division	pubd	=	published
exp	=	expires/expired	R[X]	=	Reprint No.[X]
gaz	=	gazette	RA	=	Reprints Act 1992
hdg	=	heading	reloc	=	relocated
ins	=	inserted	renum	=	renumbered
lap	=	lapsed	rep	=	repealed
notfd	=	notified	s	=	section
om	=	omitted	sch	=	schedule
o in c	=	order in council	sdiv	=	subdivision
p	=	page	SIA	=	Statutory Instruments Act 1992
para	=	paragraph	SL	=	subordinate legislation
prec	=	preceding	sub	=	substituted
pres	=	present	unnum	=	unnumbered
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	6 December 1996

5 List of legislation

Keno Act 1996 No. 47

date of assent 15 November 1996

commenced on date of assent

as amended by—

Lotteries Act 1997 No. 34 ss 1–2, 234

date of assent 18 July 1997

ss 1–2 commenced on date of assent

remaining provisions commenced 1 August 1997 (1997 SL No. 230)

Treasury Legislation Amendment Act 1997 No. 57 s 1 pt 4

date of assent 16 October 1997

commenced on date of assent

6 List of annotations

Decision about application

s 53 amd 1997 No. 57 s 25

Destruction of fingerprints of former licence holders

s 74A ins 1997 No. 57 s 26

PART 13—CONSEQUENTIAL AMENDMENTS

pt 13 (s 244) om R1 (see RA s 40)

SCHEDULE 3—CONSEQUENTIAL AMENDMENTS

om R1 (see RA s 40)

SCHEDULE 4—DICTIONARY

def “**Gaming Act**” sub 1997 No. 34 s 234(2)